

S. HRG. 109-360

**OPPORTUNITIES FOR TOO FEW? OVERSIGHT OF  
FEDERAL EMPLOYMENT PROGRAMS FOR PER-  
SONS WITH DISABILITIES**

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**HEARING**  
OF THE  
**COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS**  
**UNITED STATES SENATE**  
**ONE HUNDRED NINTH CONGRESS**  
FIRST SESSION  
ON  
EXAMINING FEDERAL EMPLOYMENT PROGRAMS FOR PERSONS WITH  
DISABILITIES

October 20, 2005

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# **OPPORTUNITIES FOR TOO FEW? OVERSIGHT OF FEDERAL EMPLOYMENT PROGRAMS FOR PERSONS WITH DISABILITIES**

THURSDAY, OCTOBER 20, 2005

U.S. SENATE,  
COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 2:05 p.m., in Room SD-106, Dirksen Senate Office Building, Hon. Mike Enzi (chairman of the committee) presiding.

Present: Senators Enzi, Isakson, DeWine, Kennedy, Ensign, Dodd, and Harkin.

## OPENING STATEMENT OF SENATOR ENZI

The CHAIRMAN. Let me go ahead and order this hearing. We do have a vote scheduled at 2:30, so I am going to go ahead and start. I have a statement that I will make. Senator Kennedy, the ranking member of the committee, will be here shortly. He will make his statement, and then we will get into the testimony and the questions.

There is a nice crowd here today. I would like to thank everyone for their interest in this important oversight hearing today. Before we begin, I want to especially thank the ranking member, Senator Kennedy. He has shown tremendous support through our investigation of this matter.

Senator Kennedy's longstanding interest and involvement in these issues is well-known and greatly appreciated. Senator Kennedy and I are in agreement that these well-intended Federal programs are long overdue for congressional oversight and review.

I would like to thank the witnesses who will testify before us today for taking the time out of their schedules to be here. I know several of you have traveled long distances to be here, and we appreciate your efforts very much. I suspect that many in the audience today have traveled long distances too, and we appreciate you being here to listen to this testimony and the questions.

The programs we will discuss today are critical to the lives of many individuals. I recognize there are strong and differing points of view about how these programs should be managed, and I am looking forward to the testimony we will receive about that. I know it will help the committee develop meaningful and effective solutions that will benefit the maximum number of people. In this regard, I am confident that everyone will be respectful of all points of view as we work through these issues.

The purpose of this hearing is to examine the two main Federal programs intended to provide employment to persons with disabilities. The Randolph-Sheppard Act and the Javits-Wagner-O'Day Act were enacted in the 1930's and revised in the 1970's. Since then, Congress has never conducted significant oversight to see whether these two laws are operating as Congress intended when they were passed and amended.

Now, simply put, have they created more and better employment opportunities for the optimum number of persons with disabilities? It is fitting we should examine these issues today since Congress declared October to be National Disabilities Employment Awareness Month.

Now, there are currently about 15 million unemployed persons with disabilities between the age of 16 and 64. By comparison, the Javits-Wagner-O'Day Act program creates only 45,000 jobs for persons with disabilities. And the Randolph-Sheppard program creates only 3,300 jobs for persons who are blind or otherwise disabled. I think it is clear we can do better than that.

About 2,700 of the 3,300 persons employed by Randolph-Sheppard are called licensed blind vendors. The law gives these 2,700 licensed blind vendors training, support, and rights to certain Federal food service contracts. We see these job opportunities played out across the Nation in vending facilities on Government property everyday. We need to see more of these opportunities played out across the country.

However, the current statutory scheme has produced two bad outcomes. First, the law has enabled a few of the approximately 2,700 licensed blind vendors to capture large financial windfalls. According to the Department of Defense, 39 Randolph-Sheppard vendors currently control military cafeteria contracts with approximate total value dollars of 1.2 billion. Second, the approximately 2,700 licensed blind vendors hire very few employees who are blind. Now, to fulfill many contracts, licensed blind vendors must hire employees, or subcontract to large companies that hire employees.

The 2002 official report of the Department of Education, which administers Randolph-Sheppard at the Federal level, noted that the approximately 2,700 licensed, blind vendors, as a class, hired 7,122 employees. Only 337 of these employees were blind, and only 278 had some other disability; 6,507 had no disability at all. Now, that is less than 5 percent of the employees hired by the licensed blind vendors were blind. This is cause for concern in a program intended to create jobs for persons who are blind.

Now, while I applaud the success of the small number of blind vendors, I am concerned that too few persons who are disabled are getting these jobs. Whereas Randolph-Sheppard provides opportunities only to persons who are legally blind, Javits-Wagner-O'Day, JWOD, targets persons with any severe disability and requires the Federal Government to make its purchases of certain listed goods and services from organizations, 75 percent of whose direct labor is performed by persons with any severe disability. JWOD creates strong incentives to hire and retain persons with disabilities, but JWOD also creates strong disincentives to help people with disabili-

ities move out of JWOD into the supported or competitive employment.

According to statistics from the Committee for Purchase from Persons Who are Blind or Severely Disabled, which sets JWOD program rules, only 5 percent of JWOD workers move into supported or competitive employment each year. While JWOD program jobs grew 22 percent from 2001 to 2004, the rate of placement out of the JWOD programs into supported or competitive employment fell 1 percent. We can do better than this by getting more workers into the employment mainstream.

In addition, the JWOD Act does not restrict nonprofit CEOs from exploiting JWOD contracts to a self-deal, receive excessive compensations and often lavish perks. The national average salary for CEOs of 501(c)(3) nonprofit corporations, in general, is \$91,400. The national average for a CEO of a sheltered, employment nonprofit, with an annual budget of between \$10 million and \$25 million is \$126,701. By contrast, IRS 990 forms show that CEOs of similarly-sized and similarly-situated JWOD nonprofits earn salaries of \$715,000, \$680,00, \$594,000, and \$369,000. One JWOD nonprofit paid its CEO zero salary, but paid his consulting firm \$4.6 million.

We are not talking about the additional millions of dollars the officers, directors and affiliates of these five nonprofits receive through self-dealing or in the form of lavish perks, such as lear jet travel. These details are available in the Majority Staff Report, copies of which are available at the press tables.

Congress intended for the JWOD Act to benefit many persons with disabilities, not just a few nonprofit CEOs. This reminds me a little of the corporate greed and accountability issues that led us to pass the Sarbanes-Oxley Act, and I believe these five nonprofits represent the tip of the iceberg. Today's hearing will prompt us to consider why, when the Sarbanes-Oxley Act requires greater accountability of the public company CEOs, no similar law restricts JWOD nonprofit CEOs from abusing their positions.

The purpose of this hearing is to help reveal and address such problems. The Randolph-Sheppard and the JWOD Acts should be heralded for the advances they have promoted for many Americans over the years; however, we can improve on these laws by creating more and better opportunities for more persons with disabilities. Toward that end, our first three witnesses will share their hopes for the future and their experiences moving out of the institutionalized employment settings into the competitive employment mainstream.

Before recognizing Senator Kennedy for opening remarks, let me say a word about the witnesses who I will introduce momentarily.

The committee did invite a representative of the Department of Education to testify at the hearing this afternoon; however, the Department declined to participate. I am greatly disappointed the Department is not represented today because I believe it is important that it be a part of any discussion about solutions to the matters at issue in this hearing.

Now, let me turn to Senator Kennedy for his opening remarks.

## OPENING STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. Thank you very much, Mr. Chairman. I thank you for having this hearing. I am joined on our side by an old friend and someone who has made such a difference in including those that are physically and mentally challenged in our Nation to be a part of the American family, Tom Harkin, and I am glad to see our colleagues on your side as well attend this hearing because of its importance.

Disabled Americans want to work and contribute to their communities the same way the nondisabled friends and families. They have dreams just like everyone else. For far too long we have been denied the talents and contributions of thousands of our fellow citizens just because they are disabled. So it is a sad day when our committee staff produces clear findings that indicate shameful and serious failures in many aspects of the employment programs for the disabled and flagrant abuses by certain contractors for personal gain.

I am sure Secretary Spellings will be as shocked as we are by these depressing staff findings. These two, long-established, Federal programs may be showing their age. They were designed for another era, and the newer landmark programs, like ADA and IDA, have joined the effort. But there is no excuse for the fraud and abuses that this investigation seems to have uncovered.

The disabled beneficiaries of these two programs face enormous hardships even in the best of circumstance, and the last thing needed was to become victims of major incompetence, outright fraud, abuse and corruption with the Department of Education AWOL on what was happening. Even minimum responsible oversight would have smelled smoke and been alerted to the problem, so I hope these findings will finally sound the congressional alarm.

As Senator Enzi has said, people with disabilities are unemployed at the unacceptable high rate of 70 percent, and when we passed the landmark Americans with Disabilities Act in 1990, that was not the vision we had in mind. The act was about much more than curb cuts. It was about improving access to opportunities, especially jobs for people with disabilities.

The ADA itself build on significant progress over the past 4 decades. In the 1970s, we passed the Section 504, the Rehabilitation Act, to end discrimination in the schoolhouse and promote equal opportunities for people with disabilities. We build on this promise in 1975 by passing the IDA Act, and last year we reauthorized the important civil rights laws for 6.5 million students with disabilities in their families, and we want them to have greater opportunities after they leave the schoolhouse, but in too many cases, they still do not. The promise of IDA and ADA and the powerful vision of lives in the community that developed out of the U.S. Supreme Court's Olmstead decision have failed to penetrate much of the modern workplace.

The JWOD and Randolph-Sheppard programs were both created 70 years ago under Franklin Roosevelt. At that time, they responded brilliantly to the realities of an era when workplaces were inaccessible and when having a disability carried a much greater stigma, and when a quality education was out of reach to most chil-



dren with disabilities. That was before rehabilitation, before IDA, and before ADA.

The evidence Senator Enzi laid out today makes a clear case for reform. Over the past 15 years, since enactment of the Americans Disability Act, real progress has taken place, and ADA has created a revolution in the way society views disabilities, and that revolution is continuing.

If we believe in equality of opportunity and if we believe everyone has something to contribute, then any reform should provide a broad commitment to employ people with disabilities, based on their skills, not their disabilities. It should create entrepreneurs among the disabled and give them the skills and resource they need to operate successful business and employ others. It should give people with disabilities a real choice about where they work and what they do. These are issues of basic human dignity and basic human rights. And most of all, any program should make a genuine commitment to move more people with disability into job settings with nondisabled workers.

We all know that there is a bipartisan willingness to tackle these issues in Congress and that the time is right for reform. I was proud to join recently with Senator Roberts on legislation that has the potential to employ 100,000 more people with disabilities. I think most of our committee members are part of that effort, and I look forward to hearing from our witnesses today and working with Senator Enzi, Senator Harkin, and many other leaders in the disability community and employers to move this debate forward. We can and must do better, and now is the time to do it I think.

The CHAIRMAN. Thank you.

In the tradition of the committee, statements from any members of the committee are accepted to be made a part of the record. We will get right into the testimony, particularly recognizing that we have a vote coming up.

Our first witness today is Mr. Mike Nelson from Colorado. Mr. Nelson served in a sheltered workshop, but now works at Hollywood Video.

Mr. Nelson, thank you very much for traveling so far to share your personal experience.

**STATEMENT OF MICHAEL NELSON, FORMER SHELTERED EMPLOYEE, CURRENT HOLLYWOOD VIDEO EMPLOYEE, GREELEY, CO**

Mr. NELSON. Thank you very much, Mr. Chairman, and welcome, Senator Kennedy.

My document is 100 percent true, and I would like to read it to you; however, I may not be fast. Thank you for this invitation. I would like to share my story. My name is Mike Nelson. I live in Greeley, CO. I attended a segregated school for students with disabilities. I lived with my family, and moved out of our home in the late 1980s.

I am proud of my independence, and I am too independent to be told what to do. I can handle most things on my own. People underestimate me because I use a scooter all the time. Clearly, I am very happy of my employment at Hollywood Video. I work 10.5 hours a week.

My first job was in 1976, and I was bussed to a segregated school in the morning and a sheltered workshop in the afternoon for about 15 years. The kind of work I did at the sheltered workshop was putting fish hooks in bags for Eagle Claw company, and with United Airlines, cleaning headphones, and computer fans for IBM, recyclable.

I have seemed to lost my place here.

The CHAIRMAN. You are doing just fine.

Mr. NELSON. I moved into a real job. It was called prepaid employment. If often means why would you retire from a sheltered workshop job all your life? All of the pay for these jobs are by piece rate and not by hour. But at the beginning, I thought I was getting paid by the hour.

People with disabilities do not get paid minimum wage. To clarify, there would be no pay ratio. None of my paychecks were the same amount every month. When we were paid by piece rate, my check was about \$44 for about almost a month's work. It was not worth the transportation costs, staff time, or my time, and I was not being trained or anything.

I moved to Greeley case managers under the D.D. system, which stands for Development of Disabilities. I had requested for 4 years at each meeting—a real job never came about is what I am trying to say. So sheltered workshop was the only way and all they could find for me. We had individual planning meetings for 4 years, and it was always the same. They said if you wanted to work, it had to be a sheltered workshop.

I continued to request a real job, but nothing ever came about. I met some friends in leadership and public policy training, and they introduced me to a person at the University of Northern Colorado. I worked on a grant there making \$7 an hour. Case managers kept saying I would fail on the job. Anyway, this is what they expected. The grant did run out, so I got lucky and hoped I would never hear another staff person recommend that I work in a sheltered workshop for the rest of my life.

Now I work at Hollywood Video and enjoy meeting other workers, customers, and live in a neighborhood that pays better than the sheltered workshop. I get minimum wage. I could not be happier. If I have questions on the job, other people who work there and my supervisor treated me with respect like I want to be treated and with high expectations.

I appreciate the time and hope that you make some huge changes in the way the system works. People with disabilities need decent wages and benefits. I would like to earn enough money so I would not have to depend on Medicaid and Social Security. Sorry if I read that backwards.

I would like to disperse my copy of my story to you and hope you enjoy it.

The CHAIRMAN. Thank you very much for your presentation, and the full text will be a part of the record of this committee hearing. We will have some questions later. Our next witness, Senator Kennedy will introduce.

[The prepared statement of Mr. Nelson follows:]

## PREPARED STATEMENT OF MIKE NELSON

Mr. Chairman and members of the committee, hello and thank you for the invitation to share my story with the committee. My name is Mike Nelson and I live in Greeley, Colorado and attended a segregated school just for students with disabilities as I lived with my family. I moved out of our home in the late 80's when I was 27 years old. I am a very independent kind of a person and very proud of it. I'm too independent to be told what to do and can handle most situations on my own. People underestimate me all the time because I use this scooter to get around. Currently I am very happy to be employed at Hollywood Video for 10.5 hours a week and earn \$5.85 an hour.

My first sheltered workshop job started around 1976 when I was bussed from a segregated school in the mornings to the workshop every afternoon. The school bus would pick me up at the workshop at the end of the day and take me back home too. I have worked about 15 years in one workshop or another. The kinds of work we did at the workshops included putting fish hooks in bags for Eagle Claw company, cleaning headphones for United Airlines, running heavy machinery to staple bags together, and putting together recycled computer fans for IBM. None of these jobs were really training for work in the community, but just wasted time. I thought I was supposed to get training to move from the workshop into a real job. It was called "pre-vocational" training, but the "pre" part often means never.

Why would you want to retire from a sheltered workshop at 65 after preparing for a community job all your life?

All of the pay for these jobs was piece rate, not by the hour, but at the beginning I thought I was being paid by the hour. Piece rate is allowed so that people with disabilities don't get paid minimum wage, but by the piece of work they perform. If IBM had to return a job to be corrected, there would not be any pay to redo the job. None of my paychecks were the same amount because we were paid piece rate. My check was about \$44 for most months work. It was not worth the transportation costs, staff time, or my time. I was not being trained for anything.

After I moved to Greeley, case managers from the D.D. system promised that I could get a community job as I had requested for 4 years at each planning meeting. The job never came about, so they said that the sheltered workshop was always there and it was all they could find for me. We had an individual planning meeting each year that was always the same—They always said, "If you want to work, it has to be the workshop."

I continued to request a real job, but nothing ever happened until I met some new friends in leadership training on public policy. The people there introduced me to a person at the University of Northern Colorado and I then worked on a grant there and earned \$7.00 an hour. Case managers kept saying that I would fail at the job, that I would have to be at the workshop, and it would not last. Well, the grant did run out, but luckily I have found a job at Hollywood Video and hope to never hear another staff person question my skills or recommend that I work at the workshop the rest of my life.

I now work at Hollywood Video and enjoy meeting other workers and customers who live in the neighborhood. The pay as well as the job is much better than any of the many workshops I spent time in. I get minimum wage and work for 10 hours a week and couldn't be happier with the job. If I have questions on the job, I get it from other people who work there. My supervisor treats me like I would expect to be treated at work—with respect and high expectations.

I appreciate the time from your committee and hope that you are able to make some huge changes in the way the system works. People with disabilities need to be able to have real jobs with a decent wage and benefits. I would like to earn enough money to not depend on social security and Medicaid. I would like to distribute a copy of my story for all of you and hope you enjoy it. Thanks again.

Senator KENNEDY. Thank you, Mr. Chairman. It is a real, real pleasure to introduce Kate Bartlett, who is a 22-year-old young lady from Arlington, MA, and she is testifying on behalf of the National Down Syndrome Society. She graduated from high school at 18, passed the MCAS exam on her first try—that is a real achievement—and now attends Middlesex Community College.

Last year, she attended Lesley College program for students with learning disabilities. She lived in a dorm in Cambridge, MA, went to class 3 days a week, and was an intern in an optical store in Harvard Square.

She is now enrolled in Middlesex College, taking English class, voice class, and she loves to write. She works during the summers and vacations, doing administrative work, which she enjoys making friends, and she enjoys working.

Kate feels strongly about having a good job of her own, talks about vocational aspirations and lifetime goals as a productive member of the workforce. She has won three swimming medals in Special Olympics. She has a bright future ahead of her, and she is a star. We are glad to have her.

Thank you, Kate.

**STATEMENT OF KATE BARTLETT, NATIONAL DOWN  
SYNDROME SOCIETY, ARLINGTON, MA**

Ms. BARTLETT. You are welcome.

Thank you for inviting me here today. My name is Kate Bartlett. I am testifying today on behalf of the National Down Syndrome Society, which advocates to improve the lives of 350,000 children and adults with Down syndrome and their families.

I am a student at Middlesex Community College in Bedford, MA, and working on my associate's degree. I want what everyone wants. I want to be happy, have friends, and be able to live independently in the world.

I grew up in Arlington, MA and attended regular education classes in our neighborhood schools. Growing up, I was a Girl Scout, played on soccer, basketball, and softball teams, sang in the chorus, and took dance classes in high school. The work got harder, but I took college prep classes, and because of that, I was able to pass the MCAS, and graduated with my class in 2004.

In high school, I was on the swim team and got four varsity letters in swimming. I also was a co-captain in my senior year. I performed and traveled with the high school chorus. We went on great trips to Quebec, the Hudson River Valley, and Charleston, SC. I love to sing in the chorus and hope to join another one. I also work out at our local gym, and have since I was a freshman in high school.

Last year I attended Lesley College's Threshold Program for students with learning disabilities. I lived in a dorm room in Cambridge, attended classes 3 days a week, and was an intern in Harvard Square optical store 2 days a week. Although I did well in classes and at work—the owner wanted to hire me last summer but I already had a job—there were roommate issues, and I left after one semester.

In January, I enrolled at Middlesex Community College, and that is working great. Right now I am taking a six-credit English course and a voice class.

I work during summers and school vacations. My jobs included an office support position in the benefits department of a Boston staffing company and a support associate at Macy's. In the office position I put together benefit packets, and I was responsible for labeling, copying, filing and shredding. I enjoy the office position and made some nice friends.

I was fortunate to receive two scholarships from Arlington High and the National Down Syndrome Society's Joshua O'Neill and

Zeshan Tabani Scholarship Fund. College is expensive; it is nice to have help.

I am happy. As you can see, my life is pretty normal. I have a loving family, caring friends, and a life I enjoy. I am not sure what I want to do for a career in the future. I hope to figure that out in college. I know I want to have a career that I enjoy. I want to love going to work everyday and be great at whatever I choose to do. I want to continue making friends, participating in social and cultural activities, and live on my own again someday.

Senator KENNEDY. Very good. Thank you very, very much, Kate. Thank you very much.

[Applause.]

The CHAIRMAN. Thank you.

[The prepared statement of Ms. Bartlett follows:]

PREPARED STATEMENT OF KATE BARTLETT

Hello, my name is Kate Bartlett. I am testifying today on behalf of the National Down Syndrome Society, which advocates to improve the lives of 350,000 children and adults with Down syndrome and their families. I am a student at Middlesex Community College in Bedford Massachusetts and am working on my Associate Degree. I want what everyone wants. I want to be happy, have friends and be able to live independently in the world.

I grew up in Arlington, Massachusetts and attended regular education classes in our neighborhood schools. Growing up, I was a girl scout, played on soccer, basketball and softball teams; sang in a chorus and took dance classes. In high school, the work got harder but I took college prep classes and because of that was able to pass the MCAS and graduate with my class in 2004. In high school, I was on the swim team and got four varsity letters in swimming. I was also a co-captain in my senior year. I performed and traveled with the high school chorus. We went on great trips to Quebec, the Hudson River Valley, and Charleston, South Carolina. I loved singing in the chorus and hope to join another one. I also work out at our local gym and have since I was a freshman in high school.

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I work during summers and school vacations. My jobs included an office support position in the benefits department of a Boston staffing company and a support associate at Macy's. In the office position I put together benefits packages and I was responsible for labeling, copying, filing and shredding. I enjoyed the office position and made some nice friends.

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I am happy. As you can see my life is pretty normal. I have a loving family, caring friends and a life I enjoy. I am not sure what I want to do for a career in the future. I hope to figure that out in college. I know I want to have a career that I enjoy. I want to love going to work everyday and be great at whatever I choose to do. I want to continue making friends, participating in social and cultural activities, and live on my own again some day.

The CHAIRMAN. Our next witness is Mr. Bob Lawhead, the executive director of Employment Link, which is a nonprofit organization in Colorado. Employment Link promotes integrated community employment.

Mr. Lawhead, we really thank you for traveling so far and for being here today. Your testimony.

**STATEMENT OF ROBERT LAWHEAD, EXECUTIVE DIRECTOR,  
EMPLOYMENT LINK, BOULDER, CO**

Mr. LAWHEAD. Thank you, Mr. Chairman, members of the committee.

Good afternoon. I am pleased to be here today to discuss the issue of pervasive segregation within Federally-funded employment programs for people with disabilities. My 9-year-old son, Jess, has Down syndrome. I hope my testimony will result in Jess and other young people with disabilities having regular, integrated jobs and careers when they grow up.

My career, providing employment services to people with severe disabilities, has spanned 3 decades. Between 1976 and 1996, I managed sheltered workshop programs in both Ohio and Colorado. Over the past 10 years, I have served as executive director of an employment agency which works with businesses throughout the Denver metro area to employ people with severe disabilities.

Sheltered employment refers to a wide range of segregated programs, including sheltered workshops, adult activity centers, work activity centers, and day treatment centers. These kinds of programs have expanded over the last few decades because it was previously assumed that employers would not hire people with severe disabilities without intensive pre-employment training.

Sheltered workshops congregate and segregate people within production and/or warehouse-like facilities to complete subcontract work. Pay is typically based on a piece rate, which allows for low compensation, far below the Federal minimum wage.

When the U.S. Department of Labor, DOL, studied children workshops, it was found that these programs did little to assist people in learning the skills needed for placement into real work. In fact, this data showed that a person entering the sheltered workshop upon high school graduation would get their first job at age 65 or later. It is estimated that more than 1 million people with severe disabilities languish in these kind of segregated day services in the U.S. today.

In the late 1970s and early 1980s, professionals developed a process for employing people with very significant disabilities within the regular workforce. This process has been refined over the past 25 years and is referred to as supported employment, which is defined as "integrated paid work within business and industry, with ongoing support."

Presently, it is estimated that nearly 200,000 people with severe disabilities are employed within our business communities through supported employment and similar strategies such as supported self-employment and customized employment. There is a significant body of evidence supporting the enhanced benefit to people with disabilities of these efforts, including increased compensation, social inclusion, marketable work skills, and the dignity that comes from being a contributing member of their community.

This is especially true for individual job placement as opposed to congregate group placements. Research has also shown that people with severe disabilities prefer community employment to segregation in the workplace. People with disabilities and their families are often told by well-meaning professionals that sheltered employ-

ment is the best or only option open to them. This is simply not true.

Evidence-based research, completed over the last 25 years, shows that employment programs placing people into business and industry represent a good taxpayer investment. When one public dollar is spent on supported employment service costs, taxpayers earn more than a dollar in benefits through increased taxes paid, decreased Government subsidies, and foregone program costs. Further, this positive cost benefit relationship for community employment holds true for people with the most significant disabilities, and is stronger when people are employed individually as opposed to within group models of employment. On the other hand, segregated employment does not use public dollars efficiently, always running at a deficit year after year.

Over the past 15 years I have assisted agencies serving urban and rural areas within approximately 20 States to convert their services from segregated, sheltered, employment programs to programs providing community employment outcomes. It is currently estimated that 275 agencies around the United States have changed their missions and are engaged in changeover efforts, with as many as 15 percent of them completing this activity.

It is my experience that once an agency begins this process to change it does not decide to go back to the segregated employment model because the people they serve experience a better quality of life, and those people and their families express higher levels of satisfaction with the service. The changeover process and successful examples of agency conversion are well-documented within the professional literature.

In summary, we know how to assist people with disabilities to achieve individualized job outcomes within the business community. People with disabilities clearly prefer to work alongside non-disabled co-workers when given choice and individualized support. When public dollars are used for employment programs that place one person at a time within local businesses, those dollars are used more cost effectively than with the dominant, segregated program model. And, yet, it has been very difficult to break the hold congregate programs have on public funding.

We know in 1999 that 75 percent of the public funding available for ongoing employment support was used instead for segregated programs. There is little evidence that this trend is changing, and this fact leaves very few resources available for individualized, integrated employment options. Federal law, Federal policy, and the present administration support integrated employment, and we now have experience in changing the current service system, agency by agency and State by State. We exist at a time when Federal policy could be implemented to correct the national shame of our ongoing segregation of workers who experience a severe disability.

Mr. Chairman, I commend this committee for exploring these issues, and thank you for the opportunity to share my perspectives with you today. I hope your leadership will result in real change, due to the large number of individuals who have been waiting for far too long to take their place in the workforce.

The CHAIRMAN. Thank you very much for your testimony.

[The prepared statement of Mr. Lawhead follows:]

## PREPARED STATEMENT OF ROBERT A. LAWHEAD, M.A.

Mr. Chairman and members of the committee, good afternoon. I am pleased to be here today to discuss the issue of pervasive segregation within federally-funded employment programs for people with disabilities. My 9-year-old son, Jess, has Down syndrome. I hope my testimony will result in Jess and other young people with disabilities having regular, integrated jobs when they grow up. My career providing employment services to people with severe disabilities has spanned 3 decades. Between 1976 and 1996 I managed sheltered workshop programs in both Ohio and Colorado. Over the past 10 years I have served as Executive Director of an employment agency which works with businesses throughout the Denver metro area to employ people with severe disabilities.

Sheltered employment refers to a range of segregated programs including sheltered workshops, adult activity centers, work activity centers, and day treatment centers (Kregel & Dean). These kinds of programs have expanded over the last few decades because it was previously assumed that employers would not hire people with severe disabilities without intensive pre-employment training. Sheltered workshops congregate and segregate people within production and/or warehouse-like facilities to complete sub-contract work. Pay is typically based on a piece rate which allows for low compensation, far below the Federal minimum wage. When the U.S. Department of Labor (DOL) studied sheltered workshops it was found that these programs did little to assist people in learning the skills needed for placement into real work. In fact, this data showed that a person entering a sheltered workshop upon high school graduation would get their first job at age 65 or later. It is estimated that more than 1 million people with severe disabilities languish in these kinds of segregated day services in the U.S. today.

In the late seventies and early eighties, professionals developed a process for employing people with very significant disabilities within the regular workforce. This process has been refined over the past 25 years and is referred to as "supported employment" which is defined as integrated paid work, within businesses and industry, with ongoing support. Presently it is estimated that nearly 200,000 people with severe disabilities are employed within our business communities through supported employment and similar strategies such as supported self-employment and customized employment. There is a significant body of evidence supporting the enhanced benefit to people with disabilities of these efforts, including increased compensation, social inclusion, marketable work skills, and the dignity that comes from being a contributing community member (Bellemey, 1988; Bellamy, Rhodes, Bourbeau, & Mank, 1986; Kregel & Dean, 2003; Kregel & Wehman, 1997; Mcgloughlin, Garner, Callahan, 1987; Moon, Inge, Wehman, Brooke & Barcus, 1990; Murphy S. & Rogan, 1995; Shapiro, 1993; Wehman, 1981; Wehman, 1988). This is especially true for individual job placement, as opposed to congregate group placements. Research has also shown that people with severe disabilities prefer community employment to segregation in the workplace (Coker, Osgood & Clouse, 1995; Lawhead, 1996; Test, Hinson, Solow, & Kuel, 1993; Shapiro, 1993; Wilson, 2003). People with disabilities and their families are often told by well-meaning professionals that sheltered employment is the best or only option open to them. This is simply not true.

Evidence-based research completed over the last 25 years shows that employment programs placing people into business and industry represent a good tax-payer investment (Cimera, 2002; Cimera, 2001; Cimera, 2000-2001; Cimera, 2000-2002; Cimera, 1998; Kregel, Wehman, Revell, Hill, & Cimera, 2000). When one public dollar is spent on supported employment service costs, tax-payers earn more than a dollar in benefits through increased taxes paid, decreased Government subsidies, and foregone program costs. Further, this positive cost-benefit relationship for community employment holds true for people with the most significant disabilities and is stronger when people are employed individually as opposed to within group models of employment. On the other hand, segregated employment does not use public dollars efficiently, always running at a deficit year after year.

Over the past 15 years I have assisted agencies serving urban and rural areas within approximately 20 States to convert their services from segregated sheltered employment programs to programs providing community employment outcomes. It is currently estimated that 275 agencies around the United States have changed their missions and are engaged in change-over efforts, with as many as 15 percent of them completing this activity. It is my experience that once an agency begins this process to change it does not decide to go back to the segregated employment model because the people they serve experience a better quality of life and those people and their families express higher levels of satisfaction with the service. The change-over process and successful examples of agency conversion are well documented



within the professional literature (Albin, Rhodes, & Mank, 1994; Butterworth & Fesko, 1998; Butterworth, Sullivan, & Smith, 2001; DiLeo & Hagner, 1990; DiLeo & Rogan, 1999; Dufresne & Laux, 1994; Fesko & Butterworth 2001; Lawhead, 1996; Marrone, Hoff & Gold, 2000; Murphy, Rogan, Hanley, Kincaid & Royce-Davis, 2002; Murphy, S. & Rogan, 1995; Novak, Rogan, Mank, & DiLeo, 2003; Parent & Hill, 1990; Petty, Brickey, Versteegen, & Rutherford, 1999; Rogan, 2005; Rogan, Held, & Rinne, 2001; Rogan, Novak, Mank & Martin, 2002).

Recent Federal law and initiatives have clearly supported that people with disabilities have a right to be employed in integrated settings. The Supreme Court's 1999 Olmstead Ruling clarified this mandate that has been variously expressed by the Americans with Disabilities Act of 1990 (PL 101-336), the Workforce Investment Act of 1998 (PL 105-220), the Ticket to Work and Work Incentive Improvement Act of 1999 (PL 106-170). The Olmstead ruling affirmed that publicly-funded services must utilize the most integrated setting possible. This direction was further supported in 2001 when the Rehabilitation Services Administration (within the U.S. Office of Special Education and Rehabilitation Services, OSERS) decided to no longer allow sheltered workshop employment to be considered a successful employment outcome by State Vocational Rehabilitation Programs (Federal Register, January 22, 2001, p.7254) President Bush's New Freedom Initiative: Community Based Alternatives for Individuals with Disabilities, Executive Order 13217 issued in 2001, has identified community integration as the goal of Federal policy within all aspects of life, including employment.

"By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to place qualified individuals with disabilities in community settings whenever appropriate, it is hereby ordered as follows: The Federal Government must assist States and localities to implement swiftly the Olmstead decision, so as to help ensure that all Americans have the opportunity to live close to their families and friends, to live more independently, to engage in productive employment, and to participate in community life."

President George W. Bush, Executive Order 13217.

Our lack of progress toward this goal for people with severe disabilities was documented in the DOL report, *Delivering on the Promise* in 2003, which states:

"People with the most significant disabilities continue to be viewed as unable to contribute and are instead relegated to dependency on Government programs and isolated from their communities. This view is pervasive despite multiple innovative demonstrations and model programs documenting that people with significant disabilities can work and can contribute to the fabric of community life." (p. II-1); and

"Decades of research, demonstration projects, and other private and public activities, are challenging and changing the stereotypes that the only options for individuals with significant disabilities are segregated or non-work status. There are many successful and promising strategies for securing integrated competitive employment: supported employment and entrepreneurship; individualized job development; job "carving" and restructuring . . ." (p. I-1).

The DOL's Office of Disability Employment Policy in July, 2005, published a detailed brochure describing the concept of "customized employment," which has been characterized as providing strategies to employ people with the most severe disabilities within the Nation's competitive businesses and industries. Customized employment means individualizing the relationship between job seekers and employers in ways that meet the needs of both. It is based upon an individualized determination of the strengths, requirements, and interests of a person with a complex life. The process is designed to meet the workplace needs of the employer, and the discrete tasks of the position. When a customized relationship is developed, a shared employment alliance results (Office of Disability Employment Policy, U.S. Department of Labor Web site). Please find actual examples of this process within the Appendix A and find additional information on customized employment at: <http://www.dol.gov/odep/pubs/custom/index.htm>.

In summary, we know how to assist people with disabilities to achieve individualized job outcomes within the business community. People with disabilities clearly prefer to work alongside non-disabled co-workers when given choice and individualized support. When public dollars are used for employment programs that place one person at a time within local businesses, those dollars are used more cost effectively than with the dominant segregated program model. And yet, it has been very difficult to break the hold congregate programs have on public funding. We know in 1999 that 75 percent of the public funding available for on-going employment sup-

ports was used instead for segregated programs. There is little evidence that this trend is changing, and this fact leaves very few resources available for individualized integrated employment options. Federal law, Federal policy and the present administration support integrated employment and we now have experience in changing the current service system, agency-by-agency and state-by-state. We exist at a time when Federal policy could be implemented to correct the national shame of our ongoing segregation of workers who experience a severe disability.

Mr. Chairman, I commend this committee for exploring these issues and thank you for the opportunity to share my perspectives with you today. I hope your leadership will result in real change due to the large number of individuals who have been waiting for far too long to take their place in the workforce.

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#### *Appendix A: Description of Current Best-Practice Supported Employment Services*

Employment Link and other community employment agencies utilize five steps\* when developing and maintaining job placements for a job-seeker through *supported employment* services. The term *supported employment* refers to paid employment in integrated settings (with regular opportunities for social interaction with non-disabled co-workers), within private businesses and public agencies with ongoing, non-time-limited support.

Initially, an assessment, referred to as a *personal profile*, is conducted by an employment consultant. This *personal profile* is intended to gather information about the job seeker such as his/her interests, hobbies, educational experience, previous

work experience, skills, abilities, task preferences, typical daily schedule, typical responses to various community settings and needed accommodations. This “discovery process” provides insight about potential directions that job development may take.

The next step occurs as an employment consultant hosts an *employment-planning meeting* for the job-seeker, his/her family & friends, and other service providers supporting the job seeker. At the *employment-planning meeting*, the team discusses major work contributions of the job-seeker, work preferences for the job-seeker, job conditions necessary for the job-seeker’s employment success, and tasks the job-seeker enjoys and has competence in or likely can develop competence in. At the end of the meeting, the team lists potential employers who may need the identified tasks performed, and who are within the same locality of the job seeker’s home so the issue of work transportation is minimized. These employers are targeted for initial contact.

Within the third step, the employment consultant engages in *job development/career development* services. The employment consultant works with the job-seeker to contact and meet potential employers, fill out job applications, and job shadow current employees until a successful job match has been found or created. *Job creation/job carving* is utilized when an employer in the community has an existing job opening (or a number of job openings) and the job-seeker’s skills and desires does not match that (those) position(s). This strategy may also be utilized when no job opening exists, but when an employer has an unmet need that can be identified. Job developers, the job-seeker, and the family and friends work together to identify work tasks and characteristics that match the abilities and preferences of the job-seeker and that will fall within an employer’s employment needs. For instance, specific job duties within the position description such as “must understand technical manuals” or “must drive an automobile for deliveries,” may not match the abilities of the job-seeker. Negotiation occurs with the employer to “carve out” those job duties from the position description so that the position better matches the Served Person. At times an entirely new position may be created when duties from a variety of positions and/or previously unidentified employer needs are combined to create a new position. Job creation and job carving activities often improve cost efficiencies for the employer by creating a new, perhaps less technical position, that would be compensated at a rate of pay commensurate with that position’s contribution to the employer’s business activity. These activities are sometimes referred to as job customization.

*Self-employment* may be utilized when a job-seeker may have more significant disabilities and has a passion for a particular vocation. For example, with the assistance of the federally-created State Vocational Rehabilitation Program, one job-seeker purchased a cappuccino machine and had it installed within the break and lunch room of a large community college. Although the individual had total paralysis and severely limited communication abilities, he was able to sit by his machine while his customers operated the machine and made their own change. This allowed that individual to integrate socially with his customers while monitoring his business. Revenues from customers paid the individual and additionally defrayed the costs of supplies and machine maintenance.

A variety of other *job development and accommodation strategies* that have not been fully previously described include: negotiated duties, negotiated job procedures, negotiated daily hours, negotiated weekly schedule, negotiated rate of work, “high technology” (computer assisted communication devices, for instance), “low technology” (raising the level of a desk so a wheel chair user can use the surface, for instance), transportation assistance, personal care attendants, coworker as mentor, demonstrated instructions as opposed to written instructions, picture cue booklets instead of written schedules, programmable PDAs, highly personalized job development, reminder alarm watches, job coaches in a variety of roles, and a variety of others. Individuals who previously may have only been served within segregated settings are thus able to take advantage of individualized, integrated employment within their community.

As a fourth step, the employment consultant provides “job stabilization” services. “Job stabilization” is the process by which an employment consultant assists the employer and the new employee with orientation, job accommodations, initial job training strategies and coworker relationship development. The employment consultant works to involve the employer and other employees in the orientation and training process as much as possible with the employment consultant assisting only when needed. The goal of job stabilization services is to build upon the natural supports (the same support that any co-worker has access to within a team-based work environment, thus the term “natural”) between the new employee and his/her employer and co-workers. While the employment consultant may provide some initial support for the new employee, the new employee’s co-workers/manager should be directly as-

sisting the new employee with learning the job and dealing with job-related questions/concerns as orientation and training progresses. Initial support provided by the employment consultant to the employer may include understanding how to communicate with the new employee and developing specific training techniques effective for teaching job duties. Over time, and as the new employee learns the job and becomes more comfortable with that job, the employer, and the work environment, the time spent by the employment consultant within the work environment decreases to a more or less stable minimum.

The final step in the community employment process is referred to as "follow along" services during which the employment consultant periodically monitors the supported employee's progress and provides employment intervention on an as needed basis. During the "follow-along" stage, the employment consultant checks in with the supported employee and the employer no less than monthly to answer questions or assist with issues and concerns. The level and type of supports provided is customized to fit the needs of that particular employee and employer. The employment consultant continues to provide on-going support for the duration of the supported employee's employment, however the goal is for the employee to utilize his/her co-workers for day-to-day support.

\*The five step process described here is consistent with the process that is considered state-of-the-art by leaders in the field of community employment for people with significant disabilities. Much of the above content is based on the techniques described by Marc Gold & Associates (MG&A), although MG&A personnel have not reviewed nor approved the above description.

#### RESPONSE TO QUESTIONS OF SENATOR ENZI BY BOB LAWHEAD

*Question 1.* In your testimony you stated that there is a significant body of evidence supporting the enhanced benefit to people with disabilities working in integrated environments. What details can you provide about such research?

Answer 1. References pertaining to the enhanced benefits to people with disabilities working in integrated environments:

- Bellemy, G.T. (1988). Supported employment. In G. T. Bellamy, L. Rhodes, D. Mank and J. Albin (Eds.) *Supported employment: A community implementation guide* (pp.1-18). Baltimore: Paul H. Brookes Publishing.
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- Murphy, S. & Rogan, P. (1995). *Closing the shop: Conversion from sheltered to integrated work*. Baltimore: Paul Brookes Publishing Co.
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- Question 2.* You also stated that evidence-based research show that employment programs placing people into business and industry represent a good taxpayer investment. What details can you provide about such research?
- Answer 2.* References supporting that employment programs placing people into business and industry represent a good tax-payer investment:
- Cimera, R.E. (2002). The monetary benefits and costs of hiring supported employees: A primer. *Journal of Vocational Rehabilitation*, 17, 23–32.
- Cimera, R.E. (2001). Utilizing coworkers as “natural supports”: Evidence on cost-efficiency, job retention, and other employment outcomes. *Journal of Disability Policy Studies*, 11, 194–201.
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*Question 3.* Additionally, you have a wealth of experience converting sheltered workshops into supportive employment and other integrated employment environments. Additionally, in your testimony you stated that a non-profit's philosophy and mission must change in order for a conversion to take place. After an organization has decided that it would like to provide its employees with integrated work experiences, what are the steps that a non-profit has to make in order for this to come to fruition?

Answer 3.

PROGRAM CONVERSION: FROM SEGREGATED, SHELTERED WORKSHOPS TO SUPPORTED EMPLOYMENT SERVICES

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## INTRODUCTION

**Conversion: The Customer Service Solution**

In the field of vocational rehabilitation, just as in the broader corporate sector, leaders search for philosophical constructs that provide a framework for interpreting the rapidly changing conditions that seem to swirl around them. It is important to bring some sense of stability to organizations facing the challenge of doing business in significantly different ways. Presently, an increasing number of sheltered workshops are considering converting their vocational services to supported employment. Change in employment service configuration is being called for as a result of the superiority of integrated employment over the traditional sheltered workshop model (The Association for Persons with Severe Handicaps, 1991; Bellamy, Rhodes, Mank, & Albin, 1988; Mcloughlin, Garner & Callahan, 1987; Murphy & Rogan, 1995; Wehman, 1981; Wehman & Kregel, 1994; Whitehead, 1979). The identification of a guiding principle for the implementation of such significant organizational change would be useful. One of the most salient philosophical characteristics of organizational entities that respond successfully to change is a commitment to customer service (Peters, 1987).

In today's business environment, more than in any preceding era, the only constant is change. (Waterman, 1987, p.100)

Conversion from sheltered work to the provision of supported employment services is one of the most difficult changes a vocational rehabilitation agency will face. We feel that a focus on customer service can bring considerable clarity to tactical and strategic decisionmaking as agencies move through the conversion process. The most important customer for any service agency are the people it serves. People with disabilities are speaking out with increasing clarity that they will no longer tolerate the segregated, stigmatizing, typically low paying conditions that exist within sheltered workshops (Byzek, 1995; Kennedy, 1988) and are, along with other advocates, pushing for the rapid expansion of supported employment (Mank, 1994). Disability rights activists have begun to target sheltered workshops as an issue that can be universally understood: segregation in workshops is inconsistent with people's desire to build meaningful careers for themselves (Gwin, 1994; Shapiro, 1993; Steinbring & Smith, 1994). Rehabilitation facilities engaged primarily in sheltered workshop activities will need to increasingly consider conversion if they want to stay in business (Murphy & Rogan, 1995). As Paul Wehman (1994) has so succinctly put it, "Conversion, the time is NOW!"

**Section One: Philosophical Commitment**

**1. Information Gathering:** Initial conversion efforts require current information. Philosophical and values-based discussions begin by becoming well informed about current employment and disability trends, especially since conversion is inconsistent with the status quo.

*Written Material:* As an agency solidifies its commitment to conversion it is valuable to review current writings on the issue. This activity will familiarize the organization with the challenges experienced by others and can serve to initiate conversion planning. Parent and Hill (1990) provide an excellent starting point for reviewing conversion resources. The Employment Network of the University of Oregon has prepared an excellent resource, *Bibliography on Supported Employment* (Cioffi & Renes, 1993), which has a section on organization change and conversion. The recently published, *Closing the Shop: Conversion from Sheltered to Integrated Work* (Murphy & Rogan, 1995) provides solid, practical information and case studies of agencies that have been through the conversion process.

*Policy Initiatives:* The decision to convert is consistent with recent Federal policy initiatives. Familiarity with this legislation can provide additional justification for moving toward full conversion. Especially useful are the Rehabilitation Act Amendments of 1986 and 1992, along with the Americans with Disabilities Act of 1990. Supported employment was initially defined within the Developmental Disabilities Assistance and Bill of Rights Act of 1984. It is interesting to note that the Americans with Disabilities Act Handbook (Equal Employment Opportunity Commission & U.S. Department of Justice, 1991) refers to supported employment within regulatory interpretive guidance related to providing reasonable accommodations (pp. I-59-I-60).

**2. Values:** Agencies engaged in conversion have reported that clear and consistent philosophies and values facilitate the transition from center-based services to supported employment services.

Successful agencies (in the process of converting) have shown a high level of cohesion around shared principles and values. (DiLeo & Hagner, 1990, p. 8).

*Zero Reject—The High Expectation of SE:* Inherent in the definition of supported employment is the assumption that all individuals, regardless of the degree or severity of disability, are able to work when appropriate supports are provided. For some individuals this may mean that a highly specific combination of job characteristics, along with supports from the employer and co-workers, the agency, the home, and the community are necessary for employment success.

For example, John, who has a label of autism, works at a bank where he pours coinage into a coin rolling machine. His manager and co-workers remind him to take a break whenever they observe initial signs of frustration, so he is able to compose himself and come back to his workstation, without the situation escalating to self-injurious behavior. John does not use public transportation and car pools with a co-worker. Without attentive co-workers, a flexible work schedule and transportation assistance, John would have difficulty maintaining his job.

The bottom line is that no one is rejected from consideration for supported employment and no one needs to become “job ready” before accessing supported employment. People who are eliminated from employment consideration due to their disability, or their perceived lack of “readiness,” are being denied basic employment access. This issue may be the central reason sheltered workshops that simply “add-on” supported employment (as an option within an “array” of services) have reported feeling like they have competing philosophies.

According to the thinking of the disabilities rights movement, it is not so much the disabled individual who needs to change, but society. (Shapiro, 1994, p.19).

*Values Clarification:* Many organizations have found it useful to do interactive exercises with groups of individuals associated with the agency in order to clarify basic assumptions about the organization’s activities and purpose. One valuable exercise is to ask groups to identify what they value most about their life or what their personal life goals are. People will list a variety of concepts like “a good job,” “friendship,” “a vacation to Europe,” “a nice home,” etc. This can be followed up with a question about what people with disabilities value in their lives. The point of the exercise is to realize that both lists are the same.

*Quality Litmus Test:* Some organizations have found it useful to discuss and adopt John O’Brien’s five critical service accomplishments for those providing services to people with disabilities (1987). Program consistency with these values provides another measure of whether the organization is on the right track with their conversion efforts. They include “sharing places” (sometimes referred to as integration or community presence), “relationships” (inclusion and participation in community life), “making choices” (empowerment), “reputation” (dignity and respect), and “developing” (an assumption that all individuals have capacity to learn and grow).

We are living in one of those rare times in history when the two crucial elements for social change are present—new values and economic necessity. (Naisbitt & Aburdene, 1985, p.2).

**3. Organizational Commitment:** Successful conversion requires a high degree of commitment on the part of organizational leadership and staff members. The development of commitment within an organization is perhaps most readily initiated by an executive director or other senior management representatives who support conversion. However, a variety of staff-initiated tactics may also serve to develop and expand organizational commitment.

*Vision/Mission:* An organization’s vision describes the future: where it will be and what it will look like at some future point in time. The mission tends to be more descriptive of how the vision will be accomplished. Both are typically defined by the organization’s leadership, but staff, people with disabilities and others can strategically influence the process.

The vision and/or mission of an organization in the process of converting would include reference to phasing out workshop services and the increasing reliance on community employment options. If an effective vision is developed and clearly communicated, staff and leadership are more likely to stay focused and less likely to become side-tracked. Typically, vision and mission statements are brief, memorable, inspirational, and descriptive of the future. Nike’s “Just do it,” and the Starship Enterprise’s, “To boldly go where no man has gone before,” illustrate these concepts.

The main thing is to keep the main thing the main thing. (Covey, 1994, p. 13).

*Staff Tactics:* Staff can do a great deal to develop commitment to supported employment and, over time, commitment to conversion. The following “guerrilla strategies” have been adapted from Dale DiLeo (1991):

a. Refocus problems as opportunities. For example, if residential service staff oppose your initial employment efforts, think strategically about how you can gain their cooperation. If you are successful, they will increase their efforts to assist people in their efforts to come to work dressed for their job and arrive to work on time.

b. Ask “What if . . .” to develop creative thinking in others. Brainstorming, during which all ideas no matter how “far out” are recorded in some fashion, can open up people to new ideas.

c. Frame discussions by stepping into the person’s (individual being served) shoes: what would you feel like if you were in the situation?

d. As a staff person, you are a powerful role model for others on your team: act, think and respond accordingly. For example, if one staff person is exhibiting a negative, “no-can-do” attitude, give that person examples of successful employment experiences of individuals previously thought unemployable.

e. Stay informed about the progress of others around your community, State, region and the Nation: most people don’t and it gives you an advantage. APSE can assist in this through Advance articles and the annual conference. Publications from the Training Resource Network, Virginia Commonwealth University, the University of Oregon and others, are resources for current information.

f. Get close to the action of employment. You can speak with authority about the successful employment of people with severe disabilities when you’re out there doing it!

g. Push for employment priorities that are disability neutral. While prioritizing people perceived as having fewer disability-related employment challenges may seem to make sense, it serves to strengthen the stereotype that people with the most severe disabilities cannot maintain employment.

h. Prove that people with the most significant disabilities can be employed. Success stories go a long way toward convincing disbelievers.

*Strategic Thinking:* Always be thinking in terms of how your actions can influence others in the organization. Later within this narrative, a discussion of stakeholders considers this issue in more detail. How can your advocacy for supported employment and the people you serve get others behind you? Talk to others about the positive changes you have observed within the individuals you serve and within participating businesses. Spread credit for accomplishments around to any who have contributed to a success. A written thank you note lets others know you appreciate their efforts and support. Team approaches, both internally, within the organization, and between agencies make everyone’s efforts more productive.

**4. Customer Service Philosophy:** By utilizing a customer service philosophy, agencies in the process of converting will enhance their efforts significantly. A customer service philosophy can be defined as using customer identified needs, preferences and desires to guide service process and outcomes. When consumers, families, advocates, businesses, staff, service coordination, residential services and others are treated with genuine respect it pays off. Organizations that commit to a customer service philosophy not only develop a reputation for responsiveness and quality, but also create a cooperative atmosphere. When difficult problems and issues arise you have others rallying around the organization to assist in finding solutions.

The revolution is upon us and it isn’t going to stop. Call it the customer revolution, the quality revolution, the service revolution, or whatever you like. (Albrecht, 1992, p. ix).

*Customer Identification:* Obviously, your most important customer is the individual seeking employment. Some individuals with disabilities will indicate that family members are just as important to satisfy. Another primary customer group is the local business community which will supply employment opportunities to your most important customer. During the agency conversion process, other identifiable customers include agency funding sources (State and local disability services funders, vocational rehabilitation, grants/foundations, etc.), the board of directors, agency staff, and other agencies providing essential supports (residential, transportation, attendant care, service coordination and advocacy organizations).

*Customer Satisfaction:* It’s difficult to know whether your service fills a customer’s needs and desires unless you ask the customer first. Customer input obtained during service plan development and prior to critical decisionmaking may provide significant insights into customer needs. Following the delivery of a service or support, customers must be contacted to determine their level of satisfaction. The service can then be improved on the basis of this customer feedback.

Input and feedback can be obtained in a number of ways. Techniques include questionnaires, interviews, open forums, focus groups, or regular contact with any customer group or individual customer. Some agencies are using “business advisory councils” to provide essential information about service development and refine-

ment. By obtaining advice from the business community, the agency can improve its performance in ways that will encourage business commitment to supported employment.

Become customer obsessed . . . To do this, the customer, in spirit and flesh, must pervade the organization—every system in every department, every procedure, every measure, every meeting, every decision. (Peters, 1987, p. 184).

*Consensus and Multiple Customers:* Pleasing the broad array of customers described above can be a challenge, particularly when customer interests compete. The board of directors may want to approve a raise which is less than staff expect. When the board learns that staff wages are considerably lower than in similar agencies, and when staff learn that the cost of health insurance has just increased by 25 percent, each party better understands the position of the other.

The careful cultivation of consensus between customers with competing interests can go a long way toward generating customer satisfaction. By sharing information between customer groups, and sometimes having them sit down together to discuss issues in detail, their understanding of complex decisions is enhanced. Let customers know that organizational decisionmaking is improved when they provide input. The final outcome may not be entirely consistent with their position, but they will be more satisfied knowing that their position was communicated, understood, and considered. They will also become more aware of the reasoning behind competing positions. Keep in mind that a valued, informed customer is often a satisfied one.

*TQM & Continuous Improvement:* Everybody is talking “total quality management” and “continuous quality improvement” these days. These concepts fit well with conversion and the supported employment movement with its emphasis on mission clarity, incremental and continuous improvement, internal and external cooperation, self-directed teams and respect for customers. Managers and staff interested in converting their organization should familiarize themselves with these concepts. Quality service is what your customers are looking for!

## **Section Two: Finances and Funding**

**5. Funding Needs to Follow Individuals:** Sheltered workshops can not convert unless sheltered workshop funding converts. Funding previously allocated for segregated services must move into the community with the individual, as that person is served within the new supported employment service. In some agencies, once a person is served in a community job, their funding is used to serve a new person coming into the sheltered setting (sometimes referred to as “backfilling”). Organizations converting to supported employment need to assure that support dollars follow the individual for ongoing support needs, career development, future reemployment efforts and to help offset the initial intensive service costs related to job development and stabilization.

*Go to the Policymakers:* If service dollars do not follow the individual when their service changes from sheltered services to integrated employment, contact your State and local funders and policymakers. Often APSE will be able to assist in your efforts to change the way funding is allocated and utilized within your area. Policymakers need to understand that the “place and forget” model does not work for people with severe disabilities. Funding must be made available for regular, ongoing employment support and career development.

**6. Alternative Funding Sources:** The funds previously utilized for sheltered employment will be a primary source of funding for an organizational conversion project. However, a number of additional funding sources exist to facilitate conversion efforts.

*Vocational Rehabilitation:* Your local VR office can provide information on grant dollars available to support conversion efforts. Vocational Rehabilitation is often willing to provide grant monies that would support a new pattern of service or would introduce a new population of rehabilitation eligible individuals to an existing service.

Additionally, VR in some instances will provide funding for staff, for onsite assessment, on the job training, and a variety of other services, technology and supports. It is wise to consider your local VR office as an important partner during conversion efforts.

*Grant Resources:* Don’t hesitate to contact a variety of sources in your efforts to locate funding to support conversion efforts. Make a pilot project proposal to the State agency responsible for funding your employment service agency. Contact the State Developmental Disabilities Planning Council to determine interest in funding assistance. The local Job Training Partnership Act (Private Industry Council) may have interest in developing a performance-based contract that will pay the agency for each successful employment outcome achieved. Some communities are develop-

ing corporate partnerships which may provide employment opportunities and training stipends. Finally, don't ignore more traditional sources of funding like foundations and individual donors. The supported employment initiative is consistent with the disability rights movement and the expansion of civil rights for all individuals. Certain donors will find conversion worthy of their support.

*Fee for Service:* Particularly when other forms of funding are not available, fee for service arrangements should be considered. This requires the careful analysis of supported employment costs and charging a fee to the consumer, family, school, business or other funding source. Cost-sharing is another viable option, particularly when funding is available for one service component (initial job training, for instance) but unavailable for other components (for example, transportation or ongoing support). APSE has produced a document describing how supported employment service costs can be reliably determined (Hill, Ruth & Wood, 1990). This concept can also be applied to the primary social security work incentives (PASS and IRWE). APSE can provide information and training related to the access of these work incentives through Project Win (Ellis, 1995). APSE may be able to refer you to a local expert ready to assist in these efforts.

**7. Revenue & Expense Analysis:** The fiscal impact of conversion on an organization is a primary consideration during planning and implementation. It is useful to compare revenues and expenses within sheltered workshop operations with projected revenues and costs related to supported employment services.

Supported employment was much more cost effective than habilitation training . . . (and) was also more cost effective than sheltered employment for the majority of programs studied, with annual returns ranging from \$1.30 to \$4 for every \$1 invested. (Institute on Community Integration study: cited in DiLeo, 1995, p. 3).

*Workshop Analysis:* This analysis requires that cost centers be clearly defined and that shop-related costs (staff and consumer wages and benefits, building costs, all work contract costs, etc.) be separated from administrative costs and other program costs. When agencies compare the total cost of providing sheltered work to the contract revenues received, most will find that contract revenues are not paying for all expenses related to sheltered employment. Sheltered workshops typically need to be subsidized through other program dollars to break even. This difference can, for planning purposes, be directly allocated toward monies needed to operate the new supported employment service.

*SE Analysis:* Future expenses for an agency's supported employment program are best estimated on the basis of existing data. As with any labor intensive service, most monies will go for staffing-related expenses. It seems reasonable to estimate that one direct-service supported employment staff person (job coach, employment training specialist, employment consultant, human resource consultant, etc.) can serve somewhere between 8 to 15 persons within a supported employment program. Support staff such as job developers, secretarial support and managers would also need to be included. Other expenses to consider include increased mileage costs associated with a more mobile work force, and reduced space (100 square feet of office space per staff is reasonable with additional allowances for common areas).

*Operational Expense Reduction:* Complete agency reorganization may be required to make conversion work financially. All positions and all expenses may need to be considered for reduction or elimination. The major savings within operating expenses for workshops that convert will typically derive from reduced consumer wages and reduced operating space. All operating expenses need to be carefully analyzed for potential savings. Budgets should be created from scratch with each item being considered for its necessity and consistency with the conversion project.

*Staffing Expense Reduction:* With the majority of expenses related to staff, staffing reassignment represents the greatest potential for expanding resources for the new supported employment emphasis. Any staff associated with the "readiness model" (work adjustment, adult education, activity programs, etc.) should be considered for eventual reassignment to a supported employment function in direct service positions. In fact, with the exception of direct service SE staff such as job coaches/employment consultants, every staff position should be analyzed for its consistency with the new service. Positions such as nurses, therapists and social workers could typically be converted, as these specialties can be provided through generic services within the community. Planning should reflect the rate that workshop staff positions will be converted to supported employment positions on the basis of the number of consumers projected to be served at any given time.

*Management/Administration Reduction:* In addition, management and administration functions should be considered for simplification and reduction. Each current staff position should be carefully analyzed for what they will functionally bring to

the new reorganized agency. If this is not done, a "hidden" barrier to full conversion may be created. The organizational structure of the new organization should be "flat," having limited, fully-justified levels. This flat structure, besides utilizing staff efficiently, will promote better communication between direct service staff and leadership. Some organizations have switched from as many as six levels within an organizational chart to three: the executive, who provides leadership and support to a management team, who in turn provide leadership and support to direct service teams. This type of simplified organizational structure fits well with the concepts of self-directed teams and total quality management.

*Fiscal Conservatism:* While conversion is considered "progressive," making it work requires a conservative approach when it comes to money management. Capital investments should be made very cautiously since they will need to be depreciated through your operating statement. It is difficult to foresee the capital needs of an organization when it is changing so rapidly; try to assure the need really exists. Remember that a new van loses a significant amount of its value as soon as it's driven off the lot.

Conversion planning should include selling the building or using it in a different fashion. Could the building be leased? Would another agency come in to share expenses after remodeling? Does the Chamber of Commerce know of a business considering moving into the area that needs a facility? Could the building be used to generate revenue and employment opportunities by the initiation of a day care service for children?

### Section Three: Stakeholder Considerations

**8. Primary Stakeholders:** Stakeholders can be considered those customers that have the most to gain or lose as a result of conversion. Primary stakeholders include: (a) customers with disabilities, (b) their family members, (c) agency staff, (d) agency board of directors, (e) other related agencies. Each of these stakeholder groups are important because of their influence over the conversion process.

Supported employment will not succeed without consumer involvement and consumer advocacy. (Wehman & Kregel, 1994, p. 7).

*Individuals Served and Family Members:* In theory, conversion will automatically benefit those people directly served since they will be moving out of low paying, stigmatizing workshop activities into real employment opportunities. However, due to the significant impact of change on individuals receiving services, this stakeholder group should be frequently consulted when solutions to a variety of conversion-related issues are addressed. Consumers and family members should be provided with opportunities (open forums, focus groups, surveys, etc.) to express their input and concerns relative to the organization's plan.

*Staff and Board Members:* Conversion is much easier if staff and the board are behind conversion efforts. The timing and success of a conversion project can be significantly influenced by particular members within these two groups. Up front work with staff on developing consensus around why conversion needs to proceed will pay big morale dividends as the project proceeds. It may be impossible to begin conversion until the board of directors understands and fully supports the conversion plan.

*Related Agencies:* Similarly, conversion efforts can be greatly facilitated when agencies providing other supports to the individuals served (residential, service coordination, transportation, etc.) are kept informed and are made to feel that their input and feedback are considered by the converting agency. When related agencies work with you instead of against you, many conversion-related headaches can be avoided. Agencies that provide funding are, of course, major players and need to be brought into the process.

**9. Stakeholder Issues:** Conversion-related information should be freely provided to all stakeholder groups throughout the entire process. Stakeholders will also provide information related to preferences and concerns that should be used to guide the process.

It (is) imperative that each participant have an active voice in planning his or her future as well as an opportunity to take part in the process of agency conversion. (Murphy & Rogan, 1995, p. 113).

*Service Recipients:* An individual receiving services needs the same information that anyone would need who is obtaining employment. Actual experience in a variety of job situations will benefit people who have had very limited experience working in regular employment environments. The provision of work experience in the community allows service recipients to make a more informed choice about job and career preferences. Organizations should consider committing to the concept that any experience in community job environments will benefit individuals receiving services. A consumer's separation from a community job should not be considered

“a failure” by people served or the staff who provide employment support. It should be valued as a learning experience for the individual and staff. If that learning is applied, the next community employment opportunity will probably be a better match between the job and the individual. In addition, staff will have gained insight into how to better support the individual in future employment situations.

Consumers must wrest control of their vocational destinies from human service bureaucracies by exercising their legal and moral right to direct their own careers. (Wehman & Kregel, 1994, p. 4).

*Family Members:* A primary focus of many family members is related to safety in the work place and the adjacent community. If family members are to buy in, reasonable assurances around this issue will need to be addressed. On the other hand, “dignity of risk” may need to be brought to the attention of certain family members. Another concern that may come up is related to the workshop facility, particularly if family members took part in lobbying for and/or financing the building. Families may feel a loss of long term security that was represented by the facility. All concerns must be acknowledged and openly discussed. Utilize a partnership approach to resolving these issues.

*Staff:* Staff typically want to understand how conversion will impact their current job and how they might contribute to the future organization. Staff issues and techniques for building staff consensus and buy-in will be discussed in more detail within a later section.

*Board of Directors:* The focus of a board of directors considering conversion may include whether the mission will need to be modified, whether an understandable plan has been developed, and whether the plan is financially sound. The board will need to be involved from the beginning of conversion deliberations. If not, there is the risk that an influential constituent will persuade a board member, or the board as a whole, that conversion should not be pursued. Be attentive to the potential for this style of political wrangling!

*Related Agencies:* Agencies providing related services will be concerned about how conversion affects their staffing patterns and will expect their input to be taken seriously. Suggestions by funding agencies will need to be incorporated into the conversion plan in some fashion.

**10. Alliance Development:** The development of alliances with individual stakeholders can be a powerful tool for expanding buy-in by other stakeholders who may not be fully convinced that conversion should proceed.

*Identify Opinion-Leaders:* An effective tactic relative to working effectively with stakeholders is to identify and focus information-sharing efforts on the opinion-leaders within each group. Once the support of these people is obtained, they will assist in persuading others of the positive impact of conversion.

*Identify Experience Sources:* Similar to the preceding consideration, it is useful to locate and utilize the “testimonials” of individuals who have had some experience with the results of conversion and/or supported employment. Family members who have witnessed the positive change following a supported employment situation are powerful allies in efforts to increase the comfort level of other families. When persons with disabilities who have supported employment experience are added to a board of directors, the board will be more likely to support a conversion plan. People served in a sheltered setting will be more willing to increase their expectations for themselves when a successful SE participant explains the benefits he or she has experienced through real employment. People with disabilities who feel strongly about their positive experiences within a community work place are the best source of information that will persuade others that conversion makes sense.

Do you know of anyone who wanted to return to an adult activity center after being successfully employed in a real job? (Wehman & Kregel, 1994, p. 7).

**11. The Conversion Plan:** The written plan is a primary device for communicating with stakeholders about conversion. It will communicate why, how and when conversion will proceed. The plan creates a consistency of understanding that would otherwise be impossible.

*Plan Development and Input:* It is very useful to obtain input from a variety of sources prior to presenting any plan for conversion. In addition to receiving some useful ideas that will guide strategy, this will facilitate the creation of buy-in from the various stakeholder groups. Polling service recipients about their desires for future employment is a powerful way to build conversion support within other groups of stakeholders.

*Plan Changes Through Feedback:* For the same reasons described above, it is useful to obtain information from stakeholders prior to implementing any significant changes in the conversion plan. Nothing can turn people against your conversion

plan as rapidly as when people are told one thing and you do another, particularly when the change is important to them.

Input and feedback . . . are essential for the identification of implementation issues, strategies, and resources that will facilitate systems change from center-based to community-based employment services . . . (Parent & Hill, 1990, p. 331).

*Why Change?* This portion of the plan would describe the philosophies and real benefits of supported employment to those people receiving employment services and supports. The inclusion of information on Title I (Employment) of the Americans with Disabilities Act is useful here as is the concept of civil rights. Reference to the rapidly increasing numbers of people with severe disabilities served by supported employment and descriptions of successful conversion efforts is appropriate within this section. A revised mission statement, agency vision, guiding principles, etc. could also be included within this portion of the document. It could also be mentioned that many self advocates and advocacy organizations are calling for the expansion of supported employment services.

. . . when people realize that community employment is not one option but an opening to many employment options, the demand for workshops will disappear almost completely. Just as institutions are no longer offered in some States, workshops will also be abolished as a viable option. (Murphy & Rogan, 1995, p. 22).

*What is Projected to Change?* A description of the projected outcomes for people served by the organization would be a good starting point. Projected organizational charts and how staff positions might convert to positions consistent with supported employment provision is another piece. This may be the place to summarize the fiscal impact of conversion as well.

*Measurable Goals and Objectives:* The how and when of conversion may be described within targeted accomplishments for the project through goals and objectives. These include grant reception and other fiscal milestones, placement objectives, staff position conversions, the conducting of focus group and open forum meetings. Without the projection of achievable (but challenging) goals and objectives, the "meat" of a conversion plan is absent.

#### **Section Four: Implementation Issues**

**12. Internal Consensus Development:** One of the most significant challenges is managing the disruptive effects of implementing an agency-wide change in mission and staff function. Real change is difficult for anyone. We seem to avoid change whenever possible, almost as if we had a status quo instinct. Bringing internal consensus to the converting agency will usually require some effort and creativity.

*Input and Clarification:* Once the basis for a conversion plan has been identified, preferably with input from various stakeholders, staff will become concerned about what the change will mean to them, their jobs, and their future with the agency. Consumers will have concerns about how the change will effect their work lives and access to their friends with disabilities. This represents an opportunity to build consensus around why, when, and how conversion will be implemented. Of course, detailed information will be unavailable and impossible to project with absolute certainty. There is no "road map" for this process. However, staff and consumers can be involved in a process to help clarify philosophy, values and principles that will guide the change.

*Working Sessions:* It is recommended that leadership develop some basic ground rules for these sessions. A beginning nonnegotiable list might include: a. conversion will proceed (it is not the purpose of these sessions to decide whether conversion will occur, that decision has been made); b. all people with disabilities have the same right as other citizens to access regular employment opportunities within their community; and c. discussions will remain positive and focused on the issue at hand. Leadership will need to determine which content will be developed and drafted prior to the sessions with a request for input. Other issues can be more freely discussed with less structure.

It turns out that sheltered environments "prepare" people best for sheltered environments. (Hagner & DiLeo, 1993, p. 10).

*Exercises:* Internal buy-in can be best fostered by utilizing multiple sessions and multiple techniques. As described previously, a values clarification session which identifies the participants life goals and aspirations as compared to those of people with disabilities may be a good place to begin. Another technique, referred to as SWOT or force field analysis, allows for staff and consumers to brainstorm (remember, there are no wrong answers during brainstorming) strengths, weaknesses, opportunities and threats to the conversion process. This exercise can provide leader-



ship with insights into how internal customers view conversion and can identify areas to focus on during future sessions.

Mission and vision exercises are valuable once a threshold of commitment to the conversion process has been developed. These exercises can be done through consensus within small groups with a reporting out process to compare results. Mission exercises will tend to revolve around what is accomplished and in what fashion. Vision exercises may be portrayed as, "In the future, when we achieve our mission, what will consumers be doing and in what kinds of environments?" A technique sometimes referred to as compression planning, can be used to make decisions through the development of options through brainstorming with those options being narrowed by the numerous votes of participants (referred to as multi-voting). Don't use this technique unless you are willing to abide by the group's decision. The use of an independent facilitator is often beneficial to the creative process.

The more opportunities that staff have to be a part of the change process, the greater their commitment to the resulting change. (DiLeo & Hagner, 1990, p. 10).

*Direct Service Empowerment:* A philosophy of customer service requires responsiveness to customers. Customer responsiveness is enhanced when decisions are made by persons as close to the customer as possible. This translates into a commitment by management to let staff make decisions about daily issues that come up. This is conceptually consistent with management deciding what needs to be done, while allowing staff autonomy in how it gets done. Mistakes will be made at times and may indicate the consideration of customer service standards. These standards or guidelines provide structure to guide staff decisionmaking. Written standards become more useful as staff increasingly disperse into the community with less direct access to management for day in, day out guidance. Although some staff will fear increased autonomy, others will thrive on it, increasing their buy-in to the process. A measure of staff autonomy is unavoidable as conversion proceeds.

*Staff Promotion Ladder:* Some agencies have found that staff will buy into conversion when they realize that new promotional opportunities, with accompanying increases in pay, are present. Workshop staff may promote up to community connectors, job coaches, job developers, etc. It should be made clear that promotions will not be automatic and will occur as a result of being qualified for the position the individual promotes into. Organizations have found it useful to combine internal promotion of qualified individuals with periodic recruitment from outside the organization as staff positions are converted. Externally recruited staff bring new ideas and perspectives essential for creativity. It is essential that staff hired for supported employment positions are well qualified and are willing to commit to ongoing training to increase competence. Some existing staff may not be able to make this transition.

*Commitment to Becoming the Best They Can Be:* Talented staff should be encouraged to convert with the agency. Conversion should be portrayed as an opportunity for staff to learn new skills that will enhance their lives and the lives of the people they serve. Most staff will realize that conversion benefits not only consumers, but themselves as well!

The autonomy granted is real and significant, but it is matched by the psychological pressure to perform up to one's limits and to the highest standards. (Peters, 1987, p. 453).

**13. Staff Training Priorities:** One aspect of conversion that does not seem to vary is the need for a considerable investment in staff training. Without enhanced skills, staff will find difficult barriers in providing supported employment and related services.

*Marketing/Sales/Customer Service:* If staff are to be effective with the business community they need to speak, act, and appear like business persons and be attentive to fitting into the culture of a variety of work places. When staff that are able to make this transformation, they become more effective in developing and supporting jobs opportunities within the business community. Marketing, sales and customer service training may be available through local Chambers of Commerce, or national business seminars that circulate around the country. Don't hesitate to consider a dress and grooming code, particularly for those staff contacting business customers. This issue becomes easier to deal with once you make dress and grooming standards a "condition of employment" when hiring new staff.

*Systematic Instruction:* Systematic instruction refers to the skills necessary to teach someone who has difficulty learning new things. These skills are important not only for the SE professional to utilize directly. Systematic instruction expertise will allow support staff to provide managers and corporate human resource staff with information that will improve their skills in personnel training and develop-

ment. SE professionals who have these skills will be more successful in effectively supporting people with severe disabilities.

*Natural Support:* Without an understanding of natural support development, the SE professional runs the risk of becoming too intrusive and allowing the new employee and his or her employer to become dependent on the professional. This can result in less stable employment for the individual and is an inefficient use of staff resource. When the majority of orientation, training and ongoing support is provided by employers and co-workers (as they do with most new employees), relationships and job security are enhanced. One's job satisfaction has a lot to do with the relationships present in the work place.

Because inclusion in the culture is critical to job success, supported employment professionals need to invest time to better help employees to become full-fledged, accepted members of the culture of the workplace. (Hagner & DiLeo, 1993, p. 45).

*Assistive Technology:* Assistive technologies hold great promise for expanding and enhancing employment opportunities for people with disabilities. Many applications are low cost and can often be utilized without professional consultation. Familiarity with these technologies can be obtained through JAN, the Job Accommodation Network.

*Cooperation and Consensus:* A little bit of TQM can go a long way when it comes to cooperation and teamwork. These concepts provide a basis for working with co-workers and other support agencies. Leadership should emphasize that working cooperatively with others produces efficiencies for all parties and results in better service to customers.

*Create Your Opportunities:* As supported employment has expanded, increased opportunities for training have become available. Funding agencies, vocational rehabilitation, State Developmental Disabilities Planning Councils, and other organizations are interested in the expansion of supported employment. Contact these groups about their interest in funding training in the above and related areas. Contact other similar agencies to see if they might agree to pool monies to bring training opportunities into the region. Don't forget the potential of corporate funding for this kind of training. Corporations are increasingly speaking about issues related to diversity in the work place and may have interest in funding training that would result in an expansion of people with disabilities in their businesses.

**14. Position Conversion:** Staffing will be one of the major challenges related to successful conversion. Decisions in this area should be carefully considered.

*Staff Conversion Opportunities:* When a staff person separates from the organization, it creates an opportunity to utilize personnel resources differently. Instead of automatically filling the position, consider whether supported employment staff should be expanded at this point. Is it time to add another job developer? Would another job coach/employment specialist be a better utilization of the resource? As ratios of staff to people served within the workshop decline (as a result of community employment), staff can be converted from workshop functions to supported employment functions. It makes sense to make these staff conversions in conjunction with staff attrition so that the hiring process can proceed on the basis of present staffing needs.

*Job Development:* Obviously, in order for conversion to progress, people must be provided with community employment opportunities. Staff who develop jobs within the business sector need to be efficient and effective in those efforts. If staff are not able to provide employment outcomes after appropriate orientation and training, they should be replaced with people who can. Some organizations hire people with a proven sales and marketing "track record" to increase the likelihood that job development will proceed. Other organizations closely monitor the productivity of their job development staff to know when they need to add or change personnel resource to this function. The success of this function is paramount to the success of the conversion project. On the other hand, each and every person in the organization should be involved in creating employment opportunities through their personal and business networks.

*Consulting vs. Coaching:* From an inclusion perspective, employment consultation makes more sense than job coaching. The employment consultation approach attempts to utilize the support resources that already exist in the work place so the employee with disabilities is presented with expanded opportunities for meeting and making friends with managers and co-workers. This approach also makes sense from an efficiency stand point. When employers and employees with disabilities become dependent on a job coach, staff time on the site increases proportionately. It is recommended that agencies strongly consider utilizing an employment consultation approach.

*Data:* The agency's progress must be monitored through data so that informed management decisions can be made. Information useful to making conversion-related decisions include the following: jobs developed, jobs intact after 60 days, job coach intervention time (how job coaches utilize their time directly serving consumers), customer satisfaction data, and job characteristics (wages, benefits, hours per week, etc.). While the above list is far from exhaustive, it provides some basis for analyzing whether conversion is proceeding as planned.

If conversion is not progressing, these data should provide you with some perspective relative to your supported employment service. Is the job development function providing enough employment opportunities? Are jobs being developed, but not being maintained? Are employment staff spending adequate levels of time directly serving consumers? Are your various customers expressing a high level of satisfaction with the service? Are jobs being developed that have inadequate hours or low pay? The second question asked in conjunction with any of the above questions is, "Why or why not?" Without data it's difficult to even ask the right questions!

*Hiring and Firing:* Your staff are your organization. Without talented, highly motivated staff, your efforts to provide an excellent service to people with disabilities and related customers will not produce results. Be cautious in hiring staff and cautiously aggressive in firing them. Too many nonprofits make a practice of retaining staff that do not perform their job duties adequately. Create clear expectations and hire staff with the understanding that if they do not perform well, they will be terminated from employment. Job match is a universal concept. Some people who may perform quite well in other service sector positions, will not perform well as a supported employment professional.

Good supported employment management and good conversion management have not required separate skills but simply good management. (DiLeo & Hagner, 1990, p. 7).

### **15. Other Policy & Procedure Issues**

*Watch the Back Door:* Converting organizations will want to consider a policy that does not allow individuals to come back into the work center once they have been employed. This issue should be discussed with stakeholders to better understand the effect such a policy will have on consumers and others who provide support. Instead of returning to the workshop can people be provided with a community access service? Would adult vocational education classes at the local technical school make sense for some individuals? How about tours of local businesses or actual work experience opportunities within those businesses? The risk in opening the "back door" of the workshop is that you may never close the facility.

*Group Employment:* Many agencies in the process of converting are considering group employment options as a way to rapidly employ large numbers of individuals. While it can typically be said that group employment within community businesses offers advantages over sheltered work, this option retains many of the stigmatizing effects. Some organizations initiate group employment options as a transition phase within their conversion plan. However, once these models are relied upon, they tend to be difficult to give up. This model is not recommended. While this model may seem necessary when job opportunities are severely limited, it represents a compromise to the real vision of supported employment.

*Transportation:* When barriers to supported employment are discussed, this issue tends to top the list. Transportation creativity is a critically important aspect of conversion planning. Looking at existing transportation modes within your community is a start. Car pooling, family members, walking, van services, cabs, governmental agencies, and ADA transportation provisions represent possible solutions. Do brainstorming with community members who may be able to assist in creating new transportation solutions. Transportation monies may be available through governmental agencies serving low-income populations. Social security work incentives (PASS and IRWE) have been utilized to pay for transportation services and, in some cases, vehicles. If individuals choose to work close to home and walk or ride a bike they may avoid transportation barriers.

*Decentralization:* As was mentioned previously, an unavoidable result of converting to a supported employment service organization is the decentralization of staff. Staff should be expected to take on additional responsibility to accurately report work hours and other data relative to compensation and reimbursement. Some organizations create report forms that include signed statements relative to the accuracy of recorded information. Clear expectations and written procedures will assist staff in their self-management efforts.

*Safety:* Additional considerations resulting from reduced access of management support is the issue of consumer safety. Staff responsible for working with individuals should go through an investigative process that determines their criminal and

driving records. Any issues related to the safety of consumers and staff should be considered for standardization. The agency's liability insurance should be reanalyzed to assure that appropriate coverage is in place. Administrators should constantly analyze whether exposures exist relative to the safety of consumers and staff as any new initiative is implemented. Some agencies have developed a formal safety audit which is written for each community job opportunity.

*Creativity and Innovation:* Conversion does not come with a road map. It is likely that a variety of new challenges will arise within any organization proceeding through the process. As a result, staff and leaders should be encouraged to develop creative responses to issues as they arise. Supported employment is a rapidly changing service paradigm and will continue to evolve through the creativity of supported employment agencies and the people served by them. Converting organizations should consider the development of a corporate culture that encourages creativity and innovation. Staff should be encouraged to be creative, make mistakes and learn from them as opposed to being fearful.

Support *failure* by actively and publicly rewarding mistakes—failed efforts that were well thought out . . . and thoroughly learned from. (Peters, 1987, p. 258)

*The Role of Management:* Leadership within converting agencies can do much toward reducing the fears that occur when rapid change occurs within their organization. Managers and staff alike tend to fear making mistakes, taking risks, engaging in conflict, losing control, and appearing less than perfect. Leaders and staff must fight these fears if they want to significantly change how their organizations do business. Leaders can begin the process through the example they set. Leaders should do their best to support staff to move beyond fears that can harm the entire organization's morale. Celebrating staff accomplishments that are consistent with the agency's new orientation let's people know that their efforts are important and appreciated.

*Self Advocacy:* It is important that self advocates define outcomes and express their concerns related to conversion. If an active group does not presently exist, try to locate volunteers who will assist in the development and coordination of a local group of self advocates. People First and local independent living centers can be contacted for organizational assistance. Empowered and organized, people with disabilities are an extremely valuable resource in resolving many of the issues that arise during the conversion process.

### Summary

Conversion from facility-based to supported employment is challenging. Converting organizations need to come from a solid philosophical base to provide stability as internal conditions become chaotic and change rapidly. A written mission, a clearly stated vision, and shared values are critical tools that keep the conversion process on track. Accurate financial and funding information and well thought out fiscal projections go a long way toward easing the fears of stakeholders. The creation of forums that seek out and utilize input and feedback from stakeholders will provide invaluable information that improves planning and implementation. Innovative problem-solving throughout, with a focus on customer service, will create an atmosphere in which solutions will be identified.

Keep your eyes on the prize. —Martin Luther King.

We are often defined as much by "what we do" as "who we are." Work within ordinary careers must no longer be denied to citizens with disabilities. The driving force behind conversion must come from people with disabilities who have every right to expect the good things in life. As conversion progresses, always remember the purpose of your efforts: to provide equal access to real employment opportunities for all people with disabilities. It is up to each of us to make the vision a reality.

The CHAIRMAN. Our next witness is Mr. Gashel. Mr. Gashel is the executive director of the strategic programs for the National Federation of the Blind. The National Federation of the Blind is the largest member organization of persons who are blind. We also look forward to receiving testimony for the record from the American Council of the Blind and other interested parties.

Mr. Gashel, you can make your statement for the record.

**STATEMENT OF JAMES GASHEL, EXECUTIVE DIRECTOR, STRATEGIC PROGRAMS, NATIONAL FEDERATION FOR THE BLIND, BALTIMORE, MD**

Mr. GASHEL. Thank you very much, Mr. Chairman. I am James Gashel. I will proceed to summarize the written statement which I have submitted. I am appearing here today on behalf of the National Federation of the Blind. I really thank you for caring enough to hold this hearing, which is a very important event in the employment life of blind and disabled people in years to come.

I am very pleased to comment on employment under the Randolph-Sheppard and Javits-Wagner-O'Day acts. These are two laws with distinctively different purposes and they achieve distinctly different results. I will describe the programs very briefly.

The Randolph-Sheppard Act is used to create small businesses for blind people on public property. It is not a sheltered program or a segregated program. The self-employed vendors earn average profits of about \$40,000 a year, with responsibilities for financial and personnel management, sales, marketing, and business development, all the things that you do in a small business.

The Javits-Wagner-O'Day program is a labor jobs law, where the people who work in the program, blind and disabled workers, earn average wages of about \$8,000 a year, from production, assembly, light manufacturing, and maintenance work, which they perform under Federal contracts.

Returning to the Randolph-Sheppard Act, in 1974, Congress sought to double the number of Randolph-Sheppard businesses over the next 5 years, but 30 years after that, this has never happened. I will just point to a few reasons why.

The first one would be indifference by the Department of Education, and the absence of their official here today I guess tells the story. Maybe I could just skip the rest of those points on that one. By the way, I was going to beg your indulgence to take some of Mr. Hager's time, but I guess I will not necessarily do that. Maybe he wants us to speak for him.

The problem is that the 1974 amendments to the Randolph-Sheppard Act required staffing of 13 full-time positions in the Rehabilitation Services Administration to administer and expand the program. But in 31 years, the Department of Education has never really kept faith with that required staffing. Most of the part-time positions devoted to Randolph-Sheppard have been abolished. The Division for the Blind, responsible for administration of the Randolph-Sheppard program, has been abolished.

The problem is not with the personnel they do have; it is with the personnel they do not have. Surveys required to find new business opportunities for the program, and for blind people in general, have never been done. Funds authorized, which could have been spent on program expansion, have never been sought.

The Department of Education stewardship of this program amounts to keeping the lights on, but that is just about it. Lack of financial resources would be another reason. With limited support from the Department of Education, State agencies pay for business expansion from funds appropriated under the Rehabilitation Act. They use about one half of one percent of the total annual

appropriation to do this, but most of that money is spent on program administration and not on expansion of the program.

Mr. Chairman, you know that you cannot grow a small business if you do not spend money on doing it. Limitations imposed by Federal agencies other than the Department of Education would be another reason for the failure of growth. The Postal Service, the Department of Veterans Affairs, and the Bureau of Prisons all have established policies which place arbitrary limits on business growth for blind vendors within their agencies.

These are just five examples that I mention in my written statement, but there is more. NISH seeks preferential treatment over blind vendors in military dining contracts. Aside from troop dining, 11,633 other products and services are already reserved on a special procurement list for NISH and National Industries for the Blind as mandatory Government suppliers. That is 11,633 other products and services, and then they still want food service. NISH alone receives annual commissions of over \$8 million from military dining contracts, and none of the \$8 million goes to blind or disabled workers. How much is enough for NISH?

As chairman of this committee's Subcommittee on Disability Policy or earlier the Subcommittee on The Handicapped, Senator Randolph believed, in unique solutions, to unique circumstances, of unique disabling conditions. He did not see disability as a generic condition. I cited some of the laws for people with specific disabilities that he promoted to get those programs funded.

With respect to the Randolph-Sheppard Act, he sought to explode the myth that blind people are best suited for menial, repetitive and sheltered jobs. His solution of entrepreneurship in public spaces for blind people has provided successful role models for all blind people. Now, I have never worked a day in my life as a blind vendor, but my life has been enriched, and the opportunities I have had have grown because of the Randolph-Sheppard Act. The people who are here today, who represent the interests of the blind, and there are many of them, can tell you, symbols count. Blind vendors employ other blind and disabled workers, but we can probably do better at that.

Now, the same can be said of the U.S. Senate, for that matter, and of any corporation in America, for that matter, and that is why we have this large unemployment rate, and we do not like it at all. The same can also be said of NISH. When NISH wins contracts, the real winners are managers who are not blind or not disabled.

The critics say that blind people are making too much money. Well, they are entrepreneurs, and making money is what entrepreneurs are all about. But their average profits are \$40,000 a year. A program that promotes low-wage jobs for persons with disabilities should not be valued to the exclusion of entrepreneurship. I thank you.

[Applause.]

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Gashel follows:]

PREPARED STATEMENT OF JAMES GASHEL

Mr. Chairman, and members of the committee, my name is James Gashel. I am Executive Director for Strategic Initiatives for the National Federation of the Blind. You have asked me to testify today on employment opportunities for blind persons

and for persons with disabilities under the Randolph-Sheppard Act and the Javits-Wagner-O'Day Act. Thank you for this opportunity. Both of these programs are an important part of our Nation's efforts to assist blind persons and persons with disabilities to enter the workforce, support themselves and their families, live productive lives, and pay taxes. This oversight hearing can do a great deal to insure that these goals are achieved.

Mr. Chairman, I am appearing here today on behalf of the National Federation of the Blind (NFB). In case it is not obvious, we often say that "of" is perhaps the most important word in our name. All of our elected leaders and the vast majority of our members are blind. With 700 local chapters, an affiliate in every State, and more than 50,000 members nationwide, the NFB is widely recognized as the "Voice of the Nation's Blind." Therefore, I welcome the opportunity of this hearing to present our views on implementation of both the Randolph-Sheppard Act and the Javits-Wagner-O'Day Act as these two laws affect employment prospects for blind people in the United States.

I will begin this discussion by contrasting the purposes of the Randolph-Sheppard Act on the one hand, and the Javits-Wagner-O'Day Act on the other. As the Randolph-Sheppard Act declares in its opening sentence, the mission of this law is: ". . . providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting . . ." The word we use today to describe this purpose is "entrepreneurial." The goal of the Randolph-Sheppard Act was and still is to make arrangements for blind people to operate small business enterprises on Federal and other public property. Program success is measured in part by whether a blind individual is set up in a business. The amount of net earnings for blind persons from the businesses they operate is the other key measure of program success.

By contrast to the Randolph-Sheppard Act emphasis on individual entrepreneurship, the Javits-Wagner-O'Day Act focuses on direct labor jobs for blind and disabled people. Under this law the number of jobs is the relevant success factor. These jobs are promoted by reserving certain products and services for exclusive procurement from nonprofit agencies. It is the agencies, not blind or disabled entrepreneurs, who qualify to receive Government contracts. These agencies can qualify to receive non-competitive Government contracts as long as blind or disabled people perform 75 percent of the agency's direct labor hours.

Javits-Wagner-O'Day contracts are not conditioned on employment of blind or disabled people in management or supervision. Also, the amount of wages paid to blind or disabled employees is not a measure of program success under Javits-Wagner-O'Day contracts. The average wage is far below industry standard for comparable work and may often be well below the minimum wage. The law allows any wage below the minimum wage to be paid.

In fiscal year 2004, the latest year for which data are available, gross receipts reported by blind Randolph-Sheppard vendors were \$488.5 million, with net profits to the blind of approximately \$103.6 million. This shows a program-wide profit margin of about 22 percent, all of which is received by the blind vendors, and none of which is received by a management agency. A profit margin of 22 percent is consistent with the industry-wide net profit standard in food service.

By contrast, sales to the Government under Javits-Wagner-O'Day contracts were about \$2.05 billion during fiscal year 2004, with about \$326.2 million paid out to the blind and disabled direct labor employees. This is about 18 percent of gross sales, when the industry standard for labor costs in light manufacturing and assembly work is more like 23 percent. It should also be noted that during fiscal year 2004, the Government paid approximately \$82 million to two central non-profit coordinating agencies—National Industries for the Blind (NIB) and NISH. The amount they receive on each contract is included in the price paid by the Government. The price, which is not a competitive bid price, is set by a Federal agency known as the Committee for Purchase from People who are Blind or Severely Disabled, which oversees the Javits-Wagner-O'Day program.

Since the Randolph-Sheppard Act is entrepreneurial, blind people who operate the businesses are the principle beneficiaries in terms of remuneration. The same cannot be said of the Javits-Wagner-O'Day program. Neither the Javits-Wagner-O'Day Act nor the Javits-Wagner-O'Day Committee requires NIB or NISH to hire disabled employees in management or otherwise, and in practice most managers or supervisors are not blind or disabled. The same is true in the management of the agencies that receive contracts through NIB and NISH. This means that most of the responsible and better-paying jobs resulting from the Javits-Wagner-O'Day program are held by non-blind and non-disabled people. This is a shocking and little known fact of how this program is being operated.

Mr. Chairman, I am aware that the Randolph-Sheppard program has been criticized for failing to employ greater numbers of blind or disabled people. I will have more to say on that point in a few minutes. However, it is important to know that blind people, rather than those who are neither blind nor disabled, receive all of the proceeds, pay all of the bills, and retain all of the profits resulting from businesses created through the Randolph-Sheppard program. According to the data, average net earnings for blind vendors during fiscal year 2004 were about \$39,800 as compared to estimated average annual wages of \$8,083 for blind and disabled employees working under Javits-Wagner-O'Day contracts during the same period. I should also note that the 45,300 employees in the Javits-Wagner-O'Day program worked fewer than 41,000 hours, or approximately 900 hours for each employee during the year. This is less than half-time employment as compared to the full-time work and full-time responsibility involved in running a business under the Randolph-Sheppard program.

This brings me to the question of whether the Randolph-Sheppard program leads to too few jobs for blind and disabled people. Mr. Chairman, as long as most blind people continue to receive public benefits, either Social Security Disability Insurance or Supplemental Security Income, as their primary means of support, every effort, including the Randolph-Sheppard program, is not enough. The national unemployment rate of blind persons is not even compiled by the Bureau of Labor Statistics because doing so is neither a political nor an economic imperative. The best we can do is to estimate that more than 70 percent of employable blind persons are either unemployed or significantly underemployed to the point that they receive public benefits. I wish I were making this up, but these estimates are widely believed to be true.

The National Federation of the Blind believes that too few employment opportunities are available through the Randolph-Sheppard Act. We are concerned that the number of blind vendors operating businesses in the Randolph-Sheppard program continues to decline each year. We are pleased that the overall quality of the businesses has significantly improved. Better businesses lead to better earnings for the vendors, but significantly more opportunities should be available.

In 1974 Congress overhauled the Randolph-Sheppard Act with the expectation that the number of vending facilities in the program could double within 5 years. In 1975, 1 year after the amendments, there were 3,810 blind people operating vending facilities in the Randolph-Sheppard program. Although the law was changed to increase this number, the expansion has not occurred. Today, in fact, there are 1,230 fewer blind vendors than there were in 1975. I think I know some of the reasons for this decline, but lack of interest among blind people in becoming entrepreneurs is not one of them.

Mr. Chairman, the blind men and women who operate businesses made possible through the Randolph-Sheppard Act are taxpaying Americans. They honor the legacy of Jennings Randolph and those in Congress who supported him. They provide needed services to public employees. Poor performance by the vendors is not a reason for their numbers to decline.

The law as amended in 1974 places primary responsibility for program expansion in the hands of the Rehabilitation Services Administration (RSA), now administered under the Assistant Secretary for Special Education and Rehabilitative Services in the U.S. Department of Education. According to the law, this agency is supposed to lead the Federal Government's effort to establish one or more vending facilities for operation by licensed blind persons on all Federal property. Is this happening? The answer is "no." All of us who care, and especially members of Congress who write the laws, need to know why.

Before the law was amended in 1974, RSA had three full-time equivalent positions devoted to administration of the Randolph-Sheppard program. With the new statutory designation of RSA as the lead Randolph-Sheppard Federal agency, Congress directed that 10 additional positions should be established in the Office for the Blind and Visually Impaired under RSA. This means that there should have been 13 full-time equivalent positions at RSA exclusively devoted to developing new business opportunities for blind people and administering the Randolph-Sheppard program for the past 31 years. The law expressly requires RSA to conduct surveys to identify new employment opportunities for blind vendors and other blind persons. Have the personnel been hired? Have the surveys been conducted? The answer to both questions is "no." All of us who care and especially members of Congress who write the laws need to know why.

On October 1, 2005, a new organization plan was put into effect for RSA. Under this plan the Division (formerly the Office) for the Blind and Visually Impaired has been abolished. The vending facilities branch, with personnel exclusively responsible for the Randolph-Sheppard program, has been abolished. The 10 regional offices,



which have had personnel responsible for oversight of the Randolph-Sheppard program within each Federal region, have been abolished. The positions held by all of the personnel in the RSA regional offices have been abolished. Most of the remaining RSA employees assigned to the Washington, D.C. central office have general responsibilities. Only a few have anything whatsoever to do with administering the Randolph-Sheppard Act as part of their work. This is far short of the staffing level directed by Congress in 1974. Somehow the 13 positions designated by Congress for Randolph-Sheppard expansion have evaporated. All of us who care and especially members of Congress who write the laws need to know why.

Even before this most recent round of retrenchment at RSA, the position of Director of the Vending Facilities Branch was left vacant for about 18 months from early 2003 until August 2004. The position was then filled in about 3 weeks after I went over the head of the assistant Secretary and met with the Deputy Secretary of Education. The problem is not a failure of the law, Mr. Chairman. It is not a failure of the remaining personnel assigned in part to the Randolph-Sheppard program. In general, the problem is not a failure of the State licensing agencies to do their part on behalf of blind vendors. Nor has there been a failure of the blind vendors themselves to uphold their responsibilities. By far the most vexing problem is an attitude of callous indifference toward the Randolph-Sheppard program at the management level in the Department of Education and in the Office of Special Education and Rehabilitative Services. Does the Assistant Secretary in charge of this office have a plan to achieve the goals for the Randolph-Sheppard program that Congress established in 1974? The answer is "no." All of us who care and especially members of Congress who write the laws need to know why.

The final section of the Randolph-Sheppard Act provides an authorization of appropriations for such sums as may be necessary. No administration in over 31 years has asked Congress for funds to carry out the Randolph-Sheppard Act pursuant to this section. If the National Federation of the Blind has any responsibility for this failure, I will accept it, but we are not charged with implementing the law. The current administration should be asked if funds will be sought for the Randolph-Sheppard program as part of its fiscal year 2007 budget request to be submitted early next year. If the answer is "no," all of us who care and especially members of Congress who must approve the budget need to know why.

Absent a specific appropriation to implement the Randolph-Sheppard Act, State licensing agencies are expected to fund all of their efforts for this program primarily from the allotment they receive under Section 110 of the Rehabilitation Act of 1973, as amended. Combined with the State match, the amount spent to carry out the Randolph-Sheppard program in fiscal year 2004 was about \$10.3 million. This represented an investment of less than one-half-of-one-percent of the total amount available for vocational rehabilitation that year. Most of this spending was just to keep the lights on. Even if all of it was devoted to developing new opportunities, what business could grow with spending of only one-half-of-one-percent devoted to business expansion each year?

Aside from leadership indifference at the Department of Education, the Randolph-Sheppard program is still blocked by most of the obstacles to growth that Congress identified in 1974. The Postal Service, for example, has a policy that vending route contracts are not subject to the priority for blind vendors. This is a substantial limitation since most postal buildings will not support an entire vending facility business for a single blind vendor. The Department of Veterans Affairs refuses to apply the Randolph-Sheppard priority in awarding contracts for vending machines and other services at its VA hospitals in spite of an unambiguous ruling from the U.S. Court of Appeals for the 8th Circuit to the contrary. Also, the Bureau of Prisons continues to resist awarding vending facility contracts under the Randolph-Sheppard Act.

The prospects for growth in the Randolph-Sheppard program would be poor enough if these were the only obstacles, but they are not. In recent years both NISH and the Javits-Wagner-O'Day Committee have teamed up to block blind vendors from receiving military troop dining contracts. The military food service businesses are much larger than the typical Federal office-building snack bar. Having contracts with military installations to feed the troops represents a wonderful growth opportunity for the Randolph-Sheppard program, but NISH and the Javits-Wagner-O'Day Committee have claimed that the Randolph-Sheppard Act does not apply to these contracts. Failing to maintain this position in the Federal courts, they brought their case to Congress to remove the Randolph-Sheppard program from military troop dining altogether. To date they have won only a limited exemption, which has been included in two annual defense authorization bills.

Combined with the Department of Education's leadership indifference and the other forces working to limit the Randolph-Sheppard program, opposition from

NISH and the Javits-Wagner-O'Day Committee is nothing short of shameful. According to the www.JWOD.gov Web site, NISH has already been awarded 105 troop dining service contracts but still wants the 39 more being performed by blind vendors. For all I know, NISH will not be satisfied until they have received all of the military dining service contracts available in the United States, and the Randolph-Sheppard program has none. This on top of the 8,375 products and 3,256 services that have already been reserved for mandatory source procurement through NIB and NISH.

Mr. Chairman, the Randolph-Sheppard Act places a priority for the blind on only one service—vending facilities as defined in the law. Although NISH wants it to be otherwise, military dining halls are cafeterias, subject to the priority of the Randolph-Sheppard Act. Surely it is enough for NISH and the Javits-Wagner-O'Day program to have a mandatory source opportunity to supply 11,633 different products and services to the Federal Government without also claiming an exclusive right to food service—the only service provided by blind vendors under the Randolph-Sheppard Act. How much is enough for NISH?

Critics have said that a few blind vendors are earning too much money from these larger size military dining contracts. However, entrepreneurship implies earnings without artificial or arbitrary restrictions. Besides, applying the NISH alternative means that a few nondisabled managers at NISH and its affiliates are enriched while the disabled workers earn an average of \$8,083 a year. If blind vendors are displaced, NISH itself would receive several million dollars more on top of the \$8.4 million it now receives each year from military dining contracts. How much is enough for NISH?

Military dining contracts are consistent with the expressed goal of the Randolph-Sheppard Act—to enable blind people to achieve “their maximum vocational potential.” With the food service now being provided by blind vendors at 39 military bases, there is a clear track record of success that lifts expectations for all blind people. As a blind person myself, I am proud to live in a country where people who are blind can be given the responsibility for feeding our armed forces. I don't believe there is anywhere else in the world but the United States where the skills of qualified blind people are so recognized and respected.

This brings me to the most important point about the Randolph-Sheppard program—what it says and what it means to all of us who are blind. I know there are not enough opportunities being created through the Randolph-Sheppard program, but the program is not a failure. I have never worked a day in my life as a blind vendor, but I along with all other blind people have received enormous benefits from this program. Watching blind men and women conduct business on a par with others, I learned that it is respectable to be blind. Although the Randolph-Sheppard program directly creates high-quality business opportunities only for those licensed to operate vending facilities, the benefits of the program go far beyond the licensees. Whenever you belong to a minority, Mr. Chairman, you learn the truth in the statement that “all of us are lifted when one of us is lifted.” No one counts the jobs for blind people that result from Jennings Randolph's wisdom of having blind entrepreneurs responsible for food services in public buildings. However, the spin-off effect is real. The statistical reports do not tell you about the lives of those of us who are blind who are enriched and more successful because of successful blind vendors who are seen as role models. These are the unreported benefits of the Randolph-Sheppard Act.

An explanation of why the Randolph-Sheppard Act targets blind people for business opportunities is in order. I knew Senator Randolph. He was a sensitive and caring legislator. He was chairman of the Subcommittee on Handicapped Workers—later the Subcommittee on the Handicapped, and still later the Subcommittee on Disability Policy—under this full committee, then called the Committee on Labor and Public Welfare. As chairman of the Subcommittee on the Handicapped, Senator Randolph led the effort to create many programs especially designed to address the unique needs of people with diverse disabling conditions.

Senator Randolph demonstrated the understanding that disabilities are specific not generic. Different disabilities impose unique limitations, which require unique solutions. Consequently, Senator Randolph led the way with legislation in the following areas:

- to remove architectural barriers for people who use wheelchairs,
- to create training and service opportunities for people with developmental disabilities,
- to establish education programs especially designed for people who are deaf,
- and more.

For people who are blind, Senator Randolph said that opportunities to serve the public would help to overcome the isolation of stereotyped jobs in sheltered settings. He knew that lack of public acceptance and misunderstanding were greater problems for the blind than loss of eyesight. Providing a priority for blind people to meet a public need by having businesses in public spaces was his unique way of exploding the myth that the blind could only work in menial, repetitive, and sheltered jobs.

As a blind person growing up in the era when Jennings Randolph served in the Senate, I remember wondering what would become of me. I knew there were blind people staying at home or working in small shops weaving rugs. These were the only blind role models available to me. Isolation of this kind can be overpowering, but I was fortunate to discover other opportunities. This happened in part by witnessing the success of blind entrepreneurs who became my role models.

If the Randolph-Sheppard program for the blind had been a generic program for the disabled, it would not have provided a relevant example for me. It may be convenient to write generic laws as a matter of public policy, but I thank God that Jennings Randolph had a different understanding. In my mind, people with disabilities should have support for entrepreneurial opportunities. Bills such as the one proposed by Senator Roberts and Senator Kennedy could help to do this. Contracting arrangements made possible under the Javits-Wagner-O'Day Act could also be used to promote entrepreneurship for people with disabilities. The last time I proposed this, NIB, NISH, and the Javits-Wagner-O'Day Committee opposed it. That was several years ago, so I hope they would take a different point of view today. Expanding the Javits-Wagner-O'Day Act to promote entrepreneurship through Federal contracts would be better than diminishing opportunities for the blind under the Randolph-Sheppard Act.

I have heard it said that the Javits-Wagner-O'Day program is more effective than the Randolph-Sheppard program because it results in more employment opportunities for more disabled people. NISH has said this in trying to remove Randolph-Sheppard vendors from military dining contracts. However, this claim expresses a single-minded preference for raw jobs over high quality business opportunities. Jobs are important, but running a business on your own is also a part of the American dream. Contracts, which net more to blind vendors than you and I make, are not wrong. The alternative is that entrepreneurs who can see will have the earnings. People in business try to make money; that's what entrepreneurship is all about.

Should blind people hire more disabled people when they have jobs available? The answer is "yes," but the same can be said of any corporation in America. The record of blind vendors in hiring blind and disabled employees is far better than the record of NISH in hiring blind people in management positions. Non-blind and non-disabled executives of NISH affiliates are paid in excess of \$500,000 in some reported cases, while their direct labor workers who are blind or disabled receive an average of \$8,083 annually. According to the values I have, this is wrong. Creating low-wage jobs for people with disabilities is not a better outcome than entrepreneurship.

Mr. Chairman, speaking for those who care about the health and prosperity of the Randolph-Sheppard program, I hope this hearing will be the beginning of a renewed commitment to the course of action and promises made by Congress when the 1974 amendments to the act were passed. Congress did its part in 1974, and the law that was passed at that time is still sound. This law is elastic so the program can respond to changes over time. Securing effective and committed administration is the present challenge. How can administrative indifference be overcome? If the Department of Education is either unable or unwilling to fulfill its responsibilities, perhaps it is time for the Department of Commerce or the Small Business Administration to assume the stewardship responsibility for the Randolph-Sheppard program from a business-friendly perspective. This is not necessarily a suggestion to change the law, but administration of the program must be improved. Beyond that, the priority for blind people to operate vending facility businesses "on all Federal property" must be honored and preserved. I hope this hearing will help to achieve these goals. On behalf of the National Federation of the Blind, I thank you.

NATIONAL FEDERATION OF THE BLIND (NFB),  
BALTIMORE, MD 21230,  
November 3, 2005.

Hon. MICHAEL ENZI,  
*Chairman,*  
*Committee on Health, Education, Labor, and Pensions,*  
*U.S. Senate,*  
*Washington, D.C. 20510.*

DEAR MR. CHAIRMAN: On behalf of the National Federation of the Blind I am submitting the attached supplemental statement for the record of the hearing on Employment Opportunities for Persons with Disabilities, held October 20, 2005.

As explained in my supplemental statement, the record contains a "Report of the Chairman," which is focused on facts that are not representative of the Randolph-Sheppard program. I am particularly concerned that members of the Senate receive a complete and fair analysis of opportunities available to blind vendors. The charges that a few blind millionaires are profiteering at the expense of help for other blind and disabled people are false and based on distorted information reported to you, to other members of the Senate, and to the public.

Blind people who manage large dining service contracts for the Department of Defense are not subsidized in any different way from non-blind commercial enterprises. These facts were available to your staff but not reported to you, to other members of the Senate, or to the public. Without this information you are given a picture of the Randolph-Sheppard program that is not in accordance with the truth. Moreover, the staff analysis is based on incomplete information relating primarily to large dining contracts that represent less than one half of one percent of the businesses operated under the Randolph-Sheppard Act. These limited facts were then applied to construct a broad-based condemnation of the entire Randolph-Sheppard program.

In light of this, the attached supplemental statement is submitted with the hope that you intend to be fair to Randolph-Sheppard vendors, all blind people, and the public as improvements and new directions are considered.

Very truly yours,

JAMES GASHEL,  
*Executive Director for Strategic Initiatives.*

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SUPPLEMENTAL STATEMENT OF JAMES GASHEL

I am submitting this supplemental statement to respond to issues raised in the "Report of the Chairman on Federal Programs for Employment of Persons with Disabilities," released at the time of the oversight hearing on October 20, 2005. I am particularly concerned that members of the committee are not receiving a complete picture of the Randolph-Sheppard program due to concentration in the report on some military dining contracts viewed in the context of Randolph-Sheppard as having an unusually high dollar value. These contracts are not the heart and soul of the Randolph-Sheppard program. However, the report charges that the entire program has lost its way in favor of high (million dollar) incomes for a few blind people. This is a distortion.

Military dining services constitute less than one half of one percent of the businesses currently operated under the Randolph-Sheppard Act. Most Randolph-Sheppard enterprises are small snack bars, coffee shops, automated vending machine services, and newsstands. Vending facilities like these make up about 90 percent of available Randolph-Sheppard opportunities. Larger businesses, such as cafeterias, make up approximately 10 percent of the entire program. Relatively few of the Randolph-Sheppard cafeterias have 15 or more employees but often may have between 5 and 10, depending on the size of the business. Most vending facility managers operate their businesses by themselves, with part-time assistance for book-keeping or running errands. It is not an exaggeration to describe these businesses as "mom and pop" enterprises. This is the heart and soul of the Randolph-Sheppard program.

Answers to the committee's core questions will now be provided from the perspective of the entire blind vendor program, rather than the sub-set of 39 military dining services:

*Question 1.* What outcomes does the Randolph-Sheppard law produce?

Answer 1. During fiscal year 2004:

- Randolph-Sheppard enterprises had gross sales of \$488.5 million;
- blind vendors had average annual earnings of \$39,880;

- Randolph-Sheppard enterprises employed 9,881 individuals;
- 2,584 blind persons managed Randolph-Sheppard enterprises;
- 32 percent of all jobs in Randolph-Sheppard enterprises were held by blind or disabled people.

This is in stark contrast to the conclusion in the report that, rather than helping to promote competitive employment of blind people, the Randolph-Sheppard Act “has made a select few of them wealthy and done little if anything for the vast majority.” This is a distorted impression based on analyzing military dining services, creating the false impression that these few businesses represent the outcome of the entire Randolph-Sheppard program.

*Question 2.* Does the Randolph-Sheppard Act fulfill the Congressional intent?

Answer 2. By providing business opportunities to blind people in public settings, the Randolph-Sheppard Act:

- gives blind vendors the chance to work, pay taxes, and support themselves and their families;
- provides training and work adjustment services for blind people assigned to work with blind vendors for on-the-job experience;
- helps to promote a more positive public view of the employment potential of blind people, rather than the image of sitting at home in rocking chairs;
- encourages blind people to enter fields of employment aside from the blind vendor program.

This is in stark contrast to the report’s overall conclusion that the Randolph-Sheppard program perpetuates dependence and otherwise enriches a few blind millionaires. This distorted view does not reflect the first-hand experience of blind vendors, blind people in general, or the rehabilitation professionals who serve the blind. Contrary to the impression of the Chairman’s Report, the Randolph-Sheppard program is highly regarded as a successful model used to promote employment opportunities for a class of persons who, regardless of laws against discrimination, are still often considered to be unemployable. Members of Congress responsible for laws like the Americans with Disabilities Act (ADA) need to know that lack of opportunities for blind and disabled people are deep seated in our society and persist regardless of good intentions by lawmakers.

It should be noted that, notwithstanding comments in the Chairman’s Report and at the hearing, the Randolph-Sheppard Act expressed Congressional intent do not include any expectation about employment of blind or disabled people by blind vendors. The single focus of the act is on business opportunities for blind licensees. Congress can change this, but the intent of the current law is being fulfilled.

Beyond that, the suggestion that blind vendors should employ greater numbers of blind and disabled persons is based on an impression of what occurs under military dining contracts. These contracts contain standard conditions imposed on any commercial vendor, including nondiscrimination provisions based on race, sex, national origin, age, and disability. Pre-employment inquiries to identify people with disabilities or to condition employment on the basis of disability are prohibited under Federal contracts. Also, no definition, guideline, or process is in place for blind vendors to report the number of their disabled employees, let alone identifying employees who may be considered to have significant disabilities. In light of this, the Randolph-Sheppard program should not be judged as a failure for not meeting standards that do not exist.

*Question 3.* How can the Randolph-Sheppard program be made more effective and more efficient?

Answer 3. Rather than giving up on the blind and the Randolph-Sheppard concept, Congress should affirm the goals of the 1974 amendments to the act by:

- directing the Department of Education to establish an operating component responsible for promoting and expanding Randolph-Sheppard opportunities throughout the Federal Government;
- requiring the Department of Education to maintain a minimum of 13 full-time positions with staff sufficiently trained and qualified for leadership in small business operation and development;
- assuring that regular and periodic surveys are made to expand business and employment prospects for the blind in the Randolph-Sheppard program and beyond, with regular reports to Congress as originally required in the Randolph-Sheppard Act;
- prohibiting the United States Postal Service, the Department of Veterans Affairs, the Bureau of Prisons, and other Federal agencies from implementing policies

and practices that limit opportunities for Randolph-Sheppard businesses to be established on property under their control;

- providing an annual appropriation to support expansion in the number of Randolph-Sheppard enterprises both on Federal property and in the States;
- requiring all Randolph-Sheppard vendors who have full-time employees to recruit new employees first through the State vocational rehabilitation program; and
- requiring Randolph-Sheppard vendors with contracts to operate Government-provided dining services to employees to subcontract, using the Javits-Wagner-O'Day Act to obtain direct labor services or in lieu thereof to employ individuals who are blind or disabled for a specified percentage of the total hours of work performed under the contract.

These recommendations are consistent with the expressed Congressional goal of doubling the size of the Randolph-Sheppard program within 5 years of the 1974 amendments to the Act. It is a tragedy that this goal was not achieved. Indifference by the Department of Education and continued opposition by other Federal agencies and programs are the principal contributing factors. Congress should stand up for the blind and not abandon this program.

#### RESPONSE TO QUESTIONS OF SENATOR ENZI BY JAMES GASHEL

*Question 1.* In your verbal testimony you stated that licensed blind vendors can do a better job hiring more persons that are blind or have another type of disability. How can the Randolph-Sheppard Act be amended to help achieve this goal? Additionally, what assistance do State licensing agencies and licensed blind vendors need from the Federal Government in order to meet this objective?

Answer 1. The Randolph-Sheppard Act contains provisions that uniquely apply to cafeterias as distinct from other vending facilities. These provisions could be modified to include requirements relating to employment of blind persons and persons with disabilities. The vast majority of vending facilities, other than cafeterias, have few, if any, employees.

Regarding cafeterias, contracts to provide food services to employees on behalf of Government agencies could include requirements for employment of blind persons and persons with disabilities. Subcontracting for direct labor through the Javits-Wagner-O'Day program would be a plausible approach. Otherwise, these contracts could include disability-hiring requirements relating to all hours worked under the contract in lieu of using the Javits-Wagner-O'Day program. Also, the same disability hiring requirements should be applied to all contractors, not just Randolph-Sheppard vendors. This would further increase employment opportunities for blind persons and persons with disabilities, while assuring that all competitors for contracts are expected to meet the same workforce standards.

Requirements for employment of blind and disabled persons under other cafeteria contracts need to be considered separately since profitability of these enterprises is far less certain. Revenue received under these contracts depends strictly on individual, over-the-counter sales and not on prices paid by the Government. Therefore the blind vendor is required to keep all costs, including personnel costs, as low as possible in order to maintain reasonable and affordable prices for the customers. This suggests that a standard, such as recruiting employees first through State vocational rehabilitation agencies, should be established, rather than more specific requirements that may be applicable to contracts for Government-provided food service. Also, cafeterias with fewer than 15 employees should be exempt from any specific disability hiring provisions due to the small size of the business. This is consistent with Title I of the Americans with Disabilities Act and other equal employment opportunity laws.

The Federal Government should support this initiative by establishing a small business employment grant program for State vocational rehabilitation agencies to use in providing blind vendors with instruction in effective strategies for training, employment, and supervision of persons with various disabilities. Payments to support on-the-job training services should also be made from funds available through this program.

*Question 2.* The Randolph-Sheppard Act was enacted in 1936 when most individuals with disabilities other than blindness were not included in society. Since that time laws such as the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Americans with Disabilities Act, etc., were enacted to help assure that all individuals with disabilities are included in society. Instead of carrying out separate programs how can the Randolph-Sheppard Act be amended to ensure that it provides business ownership-management opportunities to individuals that have a primary disability other than blindness?

Answer 2. A small business development program for persons with disabilities, other than blindness, should be established. However, this should not be done by amending the Randolph-Sheppard Act. Enactment of S. 1570, introduced by Senator Roberts and Senator Kennedy, would be a good beginning. Also, Congress should consider allowing businesses having a majority ownership interest by blind or disabled persons to qualify as mandatory source suppliers under the Javits-Wagner-O'Day Act. Amending the Randolph-Sheppard Act by substituting "disability" for "blindness" would be undesirable for several reasons:

- The number of Randolph-Sheppard enterprises continues to decline while blind people who are trained and ready to work continue to wait for opportunities.
- Public acceptance of the blind is best promoted by a targeted, rather than a generic, disability approach.
- A specialized program provides all blind people with relevant role models of success which would not exist under a generic disability program. Congress cannot write a law that makes individuals with different disabling conditions identify with one another as being generically disabled or having the same needs or experience.
- Extending Randolph-Sheppard business opportunities to a broad universe of persons with disabilities, or even to persons with significant disabilities, would lead to program abuse. This has been found under the Javits-Wagner-O'Day program where the term "other severely disabled," has come to mean almost anyone with a disability, rather than a person who is unable to work in competitive employment due to having a "severe disability." Disability as compared to blindness is hard to define and virtually impossible to regulate in applying eligibility criteria in the context of programs like Randolph-Sheppard or Javits-Wagner-O'Day.
- Much of the success achieved by and resulting from the present Randolph-Sheppard program is based on public awareness, acceptance, and understanding. This is the result of almost 70 years of "branding" around the concept of blind people providing food, vending, newsstand, and snackbar services on public property. The public image, which has been created is generally quite positive and should not be sacrificed when opportunities exist to create alternative business development programs for persons with disabilities outside of the existing Randolph-Sheppard program for the blind.

People who are blind represent approximately 2 percent of all persons with disabilities in the United States. Blindness stands out as an unusually all-pervasive, over-powering and much misunderstood condition, surrounded by fear, and wrapped in myth and misconceptions. These views of blindness are as prevalent in generic disability programs as they are among members of the general public. Therefore, blind people—and especially those who cannot see at all—become victims of governmental efficiency when programs are combined and persons with more easily understood and less feared disabilities receive the best opportunities. This result can only be avoided by maintaining Randolph-Sheppard as a specialized program for the blind while initiating other efforts to promote business opportunities for persons with disabilities through other laws and programs.

#### ADDITIONAL QUESTIONS AND COMMENTS

*Question 1.* Should the Randolph-Sheppard program be categorical for blind vendors or open to persons with all disabilities?

Answer 1. The mission of the Randolph-Sheppard program—to promote business opportunities for the blind—should not be changed for the following reasons:

- The number of Randolph-Sheppard enterprises continues to decline while blind people who are trained and ready to work continue to wait for opportunities. Business opportunities for persons with disabilities should be promoted through other laws and programs that are not in conflict with the Randolph-Sheppard Act.
- Public acceptance of the blind is best promoted by a targeted, rather than a generic, disability approach. Other business development programs especially designed for persons with particular disabilities should be created. The limitations resulting from different disabling conditions are unique and must be considered to achieve appropriate use of skills and abilities.
- A specialized program provides all blind people with relevant role models of success that would not exist under a generic disability approach. Congress cannot write a law that makes individuals with different disabling conditions identify with one another as being generically disabled or having the same needs or experience.

People who are blind represent approximately 2 percent of all persons with disabilities in the United States. Blindness stands out as an unusually all-pervasive, over-powering and much misunderstood condition, surrounded by fear, and wrapped in myth and misconceptions. These views of blindness are as prevalent in generic

disability programs as they are among members of the general public. Therefore, blind people—and especially those who cannot see at all—become victims of governmental efficiency when programs are combined and persons with more easily understood and less feared disabilities receive the best opportunities. This result can only be avoided by maintaining Randolph-Sheppard as a specialized program for the blind while initiating other efforts to promote business opportunities for persons with disabilities through other laws and programs.

*Question 2.* Are Randolph-Sheppard vendors “triple dipper millionaires?”

Answer 2. Rather than being thorough, balanced, and fair, the Chairman’s Report is a disservice to the Senate and the public by painting a false picture of abuse and profiteering in the Randolph-Sheppard program. The facts are that blind vendors who operate military dining services do not receive different or any greater subsidies as compared to non-blind vendors. Nor do they receive Social Security benefits, contrary to the implication of the report. Randolph-Sheppard vendors who provide military dining services do so under standard commercial contracts with components of the Department of Defense. Their prices, costs, and profits are regulated to the same extent that prices, costs, and profits are regulated by the Government under similar contracts with other non-blind vendors. Also, since these businesses are conducted under standard conditions applicable to blind and non-blind vendors alike, the vendors who are blind are unequivocally not eligible for Social Security Disability Insurance (SSDI) benefits. Those who are age 65 and older are eligible for Social Security retirement benefits, just as Members of Congress who continue to work are eligible for Social Security retirement benefits beginning at age 65.

Aside from military dining, subsidies to support blind vendor enterprises are definitely part of the program provided by law. If they were not, most of the businesses that now exist would not exist or would be completely in the hands of private, non-blind, entrepreneurs. In that case, the blind individuals who operate these businesses would not be paying taxes and would definitely be drawing public benefits for themselves and their families. Congress wrote the Randolph-Sheppard Act and other laws that subsidize blind vendors, but could now change them with great consequence to thousands of individuals. Congress has also written tens of thousands of other laws that provide hundreds of billions of dollars of taxpayer supported subsidies to tens of millions of other people in America who are not blind. Any or all of these laws could be changed by Congress at any time, but the Randolph-Sheppard Act should not be singled out because subsidies are considered to be an abuse. If it were, why wouldn’t the entire vocational rehabilitation program, providing taxpayer dollars for training and supported employment for persons with disabilities, also be considered an abuse? When and if the facts are really examined it will be found that subsidies provided to blind vendors are not disproportionate to the need and are not based on greed.

It should be noted that eligibility for SSDI benefits is not a Randolph-Sheppard subsidy. The Social Security Act provides disability benefits, based on an evaluation of each individual’s work activity. The work activity of blind people in Randolph-Sheppard enterprises and in other businesses is evaluated in accordance with guidelines in the Social Security Program Operations Manual. These guidelines apply to several million Americans, most of whom are not blind. Therefore, the implication in the report, that blind vendors are somehow milking the system and bilking the taxpayers to obtain billions of dollars of undeserved benefits, is not in accordance with the truth.

*Question 3.* Should the Randolph-Sheppard Act and the Javits-Wagner-O’Day Act be examined as essentially equivalent laws?

Answer 3. Not until the present consideration has the Congress ever considered the Randolph-Sheppard and Javits-Wagner-O’Day Acts to have essentially the same or similar purposes. While it is true that both laws were originally enacted in the 1930’s and amended in the 1970’s, these laws have never been considered by Congress to have anything whatsoever to do with one another. However, the present examination has led to confusion about the completely separate purposes of these laws and created the impression that both programs should meet essentially the same standards of evaluation.

The purposes of both programs are dramatically different from one another on the face of both statutes. Viewing program outcomes and expectations under the same microscope leads to a distorted picture and conclusions that are apt to be incorrect or ill advised for both programs. For example, Congress has never expressed the expectation that blind vendors should make deliberate efforts to be seen as model employers of persons with disabilities. No one can quarrel with the goal of employing persons with disabilities in greater numbers. However, it is not reasonable to hold



blind vendors up to some unspecified standard and condemn them for failure when this has never been a point of discussion. Moreover, consideration would have to be given to whether employment of significant numbers of people with disabilities is a practical expectation for most blind vendors who have one or two employees. On the other hand, requirements for employing blind people and people with disabilities in large businesses, such as military dining services, may be practical.

The point of the Randolph-Sheppard Act is to provide business opportunities for blind individuals who are able to manage businesses. This distinct purpose should continue to be the preeminent goal of the Randolph-Sheppard program. In addition, the Randolph-Sheppard program can and should be used more effectively to improve employment opportunities for blind people and for people with disabilities. Nonetheless, the essential purpose of the Randolph-Sheppard program—to create and support business opportunities for the blind—should not be obscured by employment standards applicable by law to the unique circumstances of the Javits-Wagner-O'Day program and not applied to small businesses generally. The expectation that blind vendors could employ persons with disabilities for 75 percent of the direct labor hours in the business—the Javits-Wagner-O'Day standard—would be as unworkable for most blind vendors as it would be for any other small business in America.

The CHAIRMAN. I need to recess now so that we can vote. I apologize to Mr. Young. He gets to be the big finale on it, but we will have to recess a few moments so that I can go vote. Others will be returning momentarily.

Mr. YOUNG. Just a few minutes to say a few things about our mission, JWOD.

The CHAIRMAN. You will get to testify. You are next. I want to hear it too, otherwise I would turn it over to my colleague here. But I want to hear the entire testimony, so I will recess it.

[Recess.]

The CHAIRMAN. I will call the hearing back to order, and I thank everybody for their patience. Now, we will have our last witness, Mr. Tony Young of NISH, formerly known as the National Institutes of the Severely Handicapped. NISH is one of two 501(c)(3) nonprofit organizations designated to provide technical assistance to JWOD nonprofits. Mr. Young is testifying only on behalf of NISH and not as a representative of the affiliated entities, such as the Committee for Purchase from Persons Who are Blind or Disabled or the National Industries for the Blind. We are looking forward to receiving the written testimony for the record.

Now, Mr. Young, you can make your statement for the record.

**STATEMENT OF TONY YOUNG, DIRECTOR, GOVERNMENT AFFAIRS AND WORKFORCE DEVELOPMENT, NISH, VIENNA, VA**

Mr. YOUNG. Thank you, Mr. Chairman, members of the committee, for this invitation to discuss the Javits-Wagner-O'Day, or JWOD program, the largest single source of employment opportunities for people with severe disabilities in the Nation.

I am Tony Young, senior public policy director for NISH. I wear many hats today. I am a person with a severe disability, at least by some definitions, a former SSDI, SSI, Medicare and Medicaid beneficiary, and a private citizen with decades of experience in the disability field. However, as the chairman noted, I am not here to represent our Federal oversight agency, the Committee for Purchase from People Who Are Blind or Severely Disabled, or NISH's sister agency, National Industries for the Blind.

As I stated, by some definitions I have a severe disability. I would not be physically eligible for the JWOD program, but some time ago I got a job, and I have been working ever since, therefore

demonstrating that I am not eligible for JWOD. The JWOD program is not for people like me. It is for the millions of people with severe disabilities who cannot get and keep employment without support, or for the people with severe disabilities whom the public and private labor markets are not yet ready to employ. Some people participate in the JWOD program, where they acquire skills and confidence, and move on to other employment. However, many other people need more intensive services, training and long-term supports, in order to work successfully.

The unwillingness of employers to hire people with severe disabilities and the cultural bias against having people with severe disabilities in the workplace is still prevalent today, despite the passage of the ADA. Later today, we will deliver to you copies of a national television and radio public service campaign that NISH has launched to encourage all Americans to give people with severe disabilities a chance in the workplace.

Nationwide, employment of people who are blind or have severe disabilities in the JWOD program grew to 45,000 in 2004, with 70 percent of them working in integrated jobs. JWOD employees through NISH provide not only services, such as facility management, food service, custodial and grounds maintenance for key locations around the country, but also fleet management, document destruction, secure mail center services and others.

While very few people think they are familiar with the JWOD program, nearly every American has come into contact with the program. If you have entered into the United States through a border station in Canada, or Mexico, or have been on almost any defense installation in this country, or toured the Statue of Liberty, the Library of Congress, or many of the presidential libraries, then you have most likely been in contact with people with severe disabilities, working in the JWOD program.

If you call the IRS customer service line during tax season, chances are good that the customer service person who answered your call is a person with a severe disability working out of their home through the JWOD program. You have also seen the impact of the JWOD program on television while watching American soldiers in their battle dress uniforms or wearing chemical protective over-garments. These items are all produced by people with severe disabilities through the JWOD program.

It is a fact that 70 percent of all the jobs offered by NISH are in integrated settings as defined by the Rehabilitation Services Administration. Our nonprofits use a variety of strategies and approaches to offer many different choices to people with severe disabilities in employment. As a group, NISH-affiliated, nonprofit agencies are the largest providers of supported employment jobs in the Nation.

The JWOD program also creates employment opportunities in State and local Government and the private sector. During 2004, JWOD nonprofit agencies assisted people with severe disabilities to obtain almost 30,000 community-based jobs with Federal, State and local governments and private businesses.

People with severe disabilities working in JWOD jobs deliver more than quality services and products to Federal agencies at a fair price. They also return value to the taxpayers. A recent inde-

pendent study found that JWOD jobs help people with severe disabilities reduce their dependence on both Federal and State-Government entitlements, and help them become taxpaying citizens.

While the Committee for Purchase has oversight authority for the JWOD program, NISH expects its affiliated nonprofits to meet the letter and spirit of all applicable laws and regulations, including the JWOD directive labor hour ratio, Department of Labor, Fair Labor Standards Act, Section 14-C, and Internal Revenue Service, executive compensation rules. NISH regulatory assistance staff conducts regular on-site reviews of these nonprofits, and this supports their nonprofit compliance with these regulations through a comprehensive program of training and technical assistance.

NISH urges the HELP Committee to use report language in the sense of the Senate resolutions to encourage Federal agencies to create employment opportunities for people who are blind or have severe disabilities by purchasing services and products through the JWOD program. In addition, NISH urges Congress to direct the administrative agencies that are overseeing the JWOD program and the Randolph-Sheppard program, with the Department of Defense, to negotiate a mutually agreeable settlement that protects both jobs in both programs and creates a level playing field for any new business.

In closing, NISH would like to work with the Congress to develop public policy solutions that deliver more and better jobs for all people with disabilities. Unfortunately, for every job in the JWOD program there are nearly 500 people with severe disabilities who want to work, but are excluded from the workplace.

I will be happy to answer any questions you may have.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Young follows:]

#### PREPARED STATEMENT OF TONY YOUNG

Thank you for this invitation to discuss the Javits-Wagner-O'Day (JWOD) Program, the largest single source of employment opportunities for people with severe disabilities in the United States with operations in every State. I am Tony Young, Senior Public Policy Director for NISH. I wear many hats today as I speak to you. I am a person with a severe disability and a private citizen with decades of experience in the disability field. However, I am not here to represent the JWOD Federal oversight agency, The Committee for Purchase from People Who are Blind or Severely Disabled, or NISH's sister agency, National Industries for the Blind.

#### HISTORY & BACKGROUND

##### **NISH and the Javits-Wagner-O'Day Program**

The Javits-Wagner-O'Day (JWOD) program provides employment opportunities for more than 45,000 Americans who are blind or have other severe disabilities through Government purchases of services and products provided by nonprofit agencies employing such individuals throughout the country. In 1938, the Wagner-O'Day Act was passed under President Franklin D. Roosevelt in order to provide employment opportunities for people who are blind by allowing them to manufacture products to sell to the Federal Government.

In 1971, under the leadership of Senator Jacob Javits, Congress amended this act (41 U.S.C. 46-48c) to include people with severe disabilities and allow the program to also provide services to the Federal Government. More than 60 years later, this extraordinary socioeconomic program provides Federal customers with a wide array of quality services and products, while providing thousands of people with severe disabilities real jobs and increased independence.

In 1974, NISH was incorporated as the second Central Nonprofit Agency to implement the 1971 amendments to the program. The first JWOD service contract, which

is still in operation today, was for grounds maintenance services at the Naval Air Station Whidbey Island, Washington.

Through the Javits-Wagner-O'Day program, the Federal Government can use its acquisition policies to support important socioeconomic goals while demonstrating integrity and good stewardship of Federal contracting dollars. The program is a cost-effective way to help people who are blind or have severe disabilities achieve greater independence as it enables many individuals to reduce dependence on Government support and join the ranks of taxpayers.

NISH is a national nonprofit agency whose mission is to create employment opportunities for people with severe disabilities by securing Federal contracts through the JWOD program for its network of community-based, nonprofit agencies. Currently, more than 600 nonprofit agencies operate through the JWOD program. NISH also works with approximately 1,400 affiliated nonprofit agencies to help build their capacity and enhance their performance. These include many independent organizations as well as nearly 200 nonprofit agencies that are affiliated with large, well-known National Nonprofit Agencies that include The Arc of the United States, American Congress of Community Supports & Employment Services, Goodwill Industries International, Inc., International Association of Jewish Vocational Services, Easter Seals, and United Cerebral Palsy.

#### **The Past 20 Years of Services and Products (1985–2005)**

At its inception, the JWOD program offered the purchasing of products to the Federal Government under the Wagner-O'Day Act. When the act was expanded to include people with severe disabilities, the Javits-Wagner-O'Day Act authorized nonprofit agencies to provide not only products, but also services to the Federal Government. This occurred with the addition of NISH's first service contract in 1973. By 1979, the majority of jobs were still in the manufacturing arena (92 percent products, 8 percent services). However, the past 20 years reflect the Federal Government's growth in outsourcing service projects. In 1985, 55 percent of the JWOD jobs were in the service industry versus 45 percent that were in manufacturing settings. Today, 70 percent of employment through the JWOD program is in integrated service work, while only 30 percent is in manufacturing.

Over the years, the JWOD program has diversified its services and products through innovative lines of business. JWOD employees, through NISH, provide not only such services as facility management, custodial and ground maintenance services for key locations around the country, but also fleet management, document destruction, secure mail center services and others. Therefore, while very few people think they are familiar with the JWOD program, nearly every American has come into contact with the program. If you have ever entered into the United States through a Border Station in Canada or Mexico, or been on almost every defense installation in this country, or toured the Statue of Liberty, Library of Congress, or eight of the Presidential Libraries, then you have most likely been in contact with people with severe disabilities working in the JWOD program. Additionally, if during tax season, you picked up the phone to call the IRS Customer Service Line, chances are good that the customer service person who answered your call is a person with a disability working out of their home through the JWOD program. And, you have seen the impact of the JWOD program on TV when watching American soldiers in their battle dress uniforms or wearing chemical protective over-garments. These items have all been produced by people with severe disabilities through the JWOD program.

The NISH Board of Directors exercises oversight to ensure that the mission of the organization is fulfilled. The Board is comprised of 27 voting members and an additional seven advisory members who have expertise and skills in a variety of areas, including JWOD employees (past and present), legal, advocacy, finance, commercial and nonprofit executive experience and a myriad of other backgrounds. For example, the current chair is executive director of a State protection and advocacy service; the past chair is a representative from small business; and the current treasurer is former JWOD Federal Defense customer. Many of these Board members have disabilities themselves, including three of the five officers.

In addition to the compliance functions performed by the Committee for Purchase, NISH staff also conducts program oversight of NPA compliance with JWOD program and other Federal regulations and policies. As directed by the Committee for Purchase, NISH expects its affiliated NPAs to meet the letter and spirit of all regulations, including the JWOD direct labor hour ratio and disability determination requirements. NISH supports their ability to comply with rules from the Department of Labor, OSHA, IRS and other Federal and State entities through a comprehensive program of training and technical assistance. NISH Regulatory Compliance staff members conduct regular on-site and desktop reviews of all its producing NPAs. Co-

operative training programs with Federal agencies like the Department of Labor ensure consistent interpretation of all standards, such as the complex FLSA 14(c) regulations. Findings from NISH compliance activities are reported to the Committee for Purchase for monitoring and review.

#### NPA EXECUTIVE COMPENSATION AND GOVERNANCE

The committee published a notice of proposed rulemaking on November 12, 2004 (69 FR 65395) proposing to amend its regulations by requiring nonprofit agencies awarded Government contracts under the authority of the JWOD Act, as well as central nonprofit agencies designated by the committee and nonprofit agencies that would like to qualify for participation in the JWOD program, to comply with new governance standards. NISH expressed strong support for the general intent of the committee. The committee is continually working to improve transparency and governance in the JWOD program.

#### NISH/JWOD ADDS VALUE

##### **Serving the Federal Customer With Quality at a Fair Price**

The JWOD program, a priority source of supply, collaborates with its Federal customers to satisfy their needs with quality services and products, and leverages a national network of nonprofit agencies to expand the array of solutions for Government customers. These nonprofit agencies are dedicated to training and employing individuals with severe disabilities.

Through the JWOD program, NISH identifies opportunities to assist NPAs in developing and implementing new projects. NISH and the NPAs have the expertise necessary to provide quality contract management services to the Government. By remaining responsive and sensitive to the customers' needs and concerns, NISH and the NPAs form strong, long-term business partnerships with individuals and organizations in every sector of the Federal Government. NISH is one the largest sources of quality support services to Federal agencies. In 2004, NISH NPAs delivered a wide variety of support services to Federal agencies. These include such services as secure document destruction for the IRS, military dining services, fleet management, commissary shelf stocking, grounds keeping, and custodial services.

People with severe disabilities also produced 86 percent of the Government requirement for Chemical Protective Suits. They met the need for duffel bags; battle dress uniforms, cold/wet weather protective garments and underwear, various military clothing and equipment, weapons, including the magazine for the M16 rifle; the new Improved First Aid Kit, Fleece Jackets under its Rapid fielding initiative and the new Army Combat Uniform. Every NISH product has consistently met specification while assembling a record that equals or exceeds that of commercial production.

People with severe disabilities also supply food for use in the Women, Infants and Children program and the School Lunch program. They procure, package and ship complete meals for National Guard units and package nonfat dry milk to support the National Nonprofit Humanitarian Initiative to donate nonfat dry milk to nonprofit faith-based organizations.

What is especially important is that, particularly in the arena of apparel and other textile related items, DOD is mandated to buy domestically produced items under the guidelines of the Defense Appropriations Act. While this helps the domestic industrial base, we all recognize that import penetration, particularly from China, has decimated the number of manufacturing plants in this country. Every year there are fewer and fewer and many of them have dedicated 100 percent of their capacity to the military market as their commercial customers go off shore to bring in cheaper goods. NISH nonprofit agencies have become a greater influence in this manufacturing market. They are available to expand production because we have dedicated managers who are willing to put in that extra effort to support their military customer and because the unemployment for people with severe disabilities is at about 70 percent. These are people who want and need to work, but the opportunities have been limited. We at NISH recognize the current need to share production with our private sector counterparts, but also understand that as the non-military work continues to dry up, many will not be able to sustain their businesses solely on DOD production.

In addition to the employment opportunities developed through the JWOD program, NISH offers more than 4,000 participants to take advantage of the various training events through NISH annually. The training program offers more than 350 e-learning courses with over 1,300 participants through the NISH Institute Online, 250 classroom-based courses with approximately 1,500 participants, 20 book clubs with 250 participants and more than 100 NPAs taking advantage of the NISH Lending Library.

NISH also has the capability to respond rapidly to unforeseen emergency needs of the NPAs and the people they employ. In the recent tragedies of hurricanes Katrina and Rita, the NISH Board and the Committee for Purchase responded immediately to be of service to those NPAs impacted. The Executive Committee of the NISH Board met in emergency session to review and approve authority to allocate substantial resources for immediate support of JWOD employees impacted by the storm, expenditures necessary to restart JWOD projects or secure new work/projects, and intermediate/long-term rebuilding needs.

#### HOW WE ARE DOING

##### **Jobs, Wages, and Benefits**

In 2004, NISH nonprofit agencies, primarily serving people with severe disabilities reported a record 41,154 JWOD jobs for people with severe disabilities who earned an average annual hourly wage of \$9.14. The average hourly wage paid to employees in the JWOD program significantly exceeds by nearly \$4.00 the Federal minimum wage of \$5.15 per hour. All JWOD program employees are paid in accordance with Department of Labor rules, including the Fair Labor Standards Act and, where applicable, the Service Contract Act. The Department of Labor rules enable public and private employers to obtain special certificates to pay commensurate wages based on documented productivity measures. Some of the agencies that participate in the JWOD program use these provisions to extend opportunities for participation in the Nation's workforce to people with the most severe disabilities, while ensuring a fair contract price for the Federal customer.

Also, the JWOD program serves as an engine to create many more employment opportunities in State and local Government and the private sector. The economic benefits resonate throughout the local community, including small businesses. During 2004, JWOD producing NPAs also reported a total of more than 135,000 jobs for people with disabilities supporting a wide range of companies, organizations and Government customers. Additionally, more than 29,000 people with severe disabilities were placed in jobs in the private and public sectors in communities throughout the United States. These placements in community-based jobs were a direct result of the extensive training and supports offered by NISH NPAs. NISH and its affiliated NPAs have continually added services and products to the offerings made to Federal agencies, resulting in more types of employment opportunities over their 30-year history. The NISH 2004 Annual Report contains more detail on the history and scope of NISH activity within the JWOD program.

About 70 percent of these jobs are in integrated, community-based settings as recognized by the Rehabilitation Services Administration. These jobs are subject to the Service Contract Act. Each worker receives Health & Welfare (H&W) benefits for each hour worked, including health, dental, and life insurance; retirement; vacation and sick leave; and similar benefits.

##### **Satisfaction of Employees With Disabilities**

In 2005 NISH completed an independent survey of its JWOD employees. This study found that 76 percent of employees reported that they were very happy with their jobs. Only 3 percent were not at all happy with their work. Overwhelmingly, employees were also proud of the work they did. Approximately 79 percent reported they were very proud of the products their company makes, sells, or otherwise supplies, whereas only 3 percent said they were not proud at all of their work. When rating their jobs, approximately 99 percent of the employees reported the jobs were either excellent (53 percent) or good (46 percent). Finally, 94 percent of employees reported that they would recommend their company to a friend who was looking for work.

Below is a personal story that demonstrates how the program offers independence to employees.

*An important component of employee satisfaction is choice. To Carson R., an employee of the Jeanne Bussard Center in Frederick, MD, choice was actually one of the largest factors in his successful transition to employment. Carson, diagnosed with learning disabilities and mental retardation, was referred to the NPA by the Maryland Division of Rehabilitation Services in 2002.*

*During his evaluation, Carson worked jobs in several areas such as assembly, document processing and laundry. While he performed well, Carson was unsatisfied with these options. When asked what work he would prefer, Carson chose a position as a shelf stocker at the Fort Detrick Commissary. Supervisors initially described Carson as shy and withdrawn, but within a few months, his confidence grew.*

*Carson moved from part-time to full-time employment. He continually learned new tasks such as order processing, eventually ordering stock for the entire store on a regular basis. Because of the choices offered to him through the JWOD program, Carson had the opportunity to choose his work. His resulting success has enabled him to become much more independent. Currently Carson, who had never worked in the community before JWOD, is saving to buy his own car.*

#### **Taxpayer Savings**

People with severe disabilities working in JWOD jobs do more than deliver high quality services and products to Federal agencies at a fair price; they also return value to taxpayers. A NISH study evaluated how employment in JWOD commissary services, food service programs and Public Building Service custodial projects affects workers' use of Government entitlements. These studies found a substantial return on taxpayer investment in the JWOD program.

**Commissary:** Employing individuals with disabilities in JWOD commissary programs saves the Federal and State Governments an estimated \$2.75 million annually through the reduction of entitlements paid to these individuals. These workers also increased their payments to the Government through income and payroll taxes, which amount to an estimated \$3.9 million yearly. In all, by employing 2,134 workers with disabilities in 2003, these JWOD commissary contracts have a net impact on Government balance sheets of \$6.65 million. This is an annual savings of \$3,138 per worker. This number has increased every year since this study was completed.

**Food Service:** Employing individuals with disabilities in JWOD food service programs saves the Federal and State Governments an estimated \$3.7 million annually through the reduction of entitlements paid to these individuals. These workers also increase their payments to the Government through income and payroll taxes, which amount to an estimated \$4.9 million yearly. In all, by employing 2,809 workers with disabilities, these JWOD food service contracts have a net impact on Government balance sheets of \$8.6 million. This number has increased every year since this study was completed. This is an annual savings of \$3,053 per worker.

**Custodial:** Employing individuals with disabilities in JWOD Public Building Service custodial programs saves both the Federal and State Governments an estimated \$15.7 million annually through the reduction of entitlements paid to these individuals. In addition, JWOD employment increases the payments these workers make to the Government through income and payroll taxes, totaling an additional \$15.8 million yearly. Thus, by employing 5,176 workers with disabilities, these JWOD custodial contracts have a net impact on Government balance sheets of \$31.5 million. This number has increased every year since this study was completed. This is an annual savings of \$6,084 per worker.

#### **Federal Customer Satisfaction**

In 2003, NISH surveyed more than 500 Federal organizations with NISH contracts. Respondents were primarily in acquisition/contracting functions. More than four out of five of the respondents (85 percent) were on the positive end of the scale in rating their satisfaction with the JWOD program with 44 percent of these being "very satisfied." More than four out of five of the respondents (86 percent) said that they would recommend the JWOD program to other Federal customers. This baseline survey is supplemented by continuous electronic opinion research made available to Federal customers after every contact.

#### CHALLENGES AND OPPORTUNITIES FOR IMPROVEMENT

#### **Changing Global Services Economy**

While NISH is proud to report that in 2004 almost 42,000 people with severe disabilities were employed through JWOD/NISH, the reality is that there are millions of people with severe disabilities who want to work, but remain unemployed. Contributing to this challenge is the fact that the global services economy is requiring a constantly changing workforce in the United States. To address this situation, NISH has established a team of strategic business development experts that are pursuing employment opportunities in diverse lines of business that offer greater opportunities for skill training and advancement. These include jobs such as complete facility management, medical transcription, call center services, fleet management, secure mail center services, and document destruction just to mention a few.

Employment opportunities created through the JWOD program have increased substantially over the last 2 decades. During this same time period, employment for people with severe disabilities in the commercial sector has remained flat or decreased slightly, and employment for people with severe disabilities in the Federal Government has significantly declined. One reason for this discrepancy is that

JWOD can offer appropriate job training and employment supports to their employees with severe disabilities that enable them to enter into and successfully retain long-term employment. These services and supports are either not available or available only in a limited scope from private sector employers and the Federal Government. The availability of these employment supports, coupled with good wages and health and welfare benefits, leads many people with severe disabilities to choose to stay employed within the JWOD program rather than changing to a commercial employer. Even with this fact, in 2004, 2,310 workers with severe disabilities were placed in employment outside the NPA from JWOD jobs. As fewer and fewer private sector employers offer jobs with health care benefits, fewer people with severe disabilities will choose this less attractive option.

### **Low Productivity With Certain Disability Populations**

Many people with severe disabilities who are eligible to participate in the JWOD program have challenges to their productivity. These challenges limit the economical feasibility of hiring individuals in both the private and public sectors many times. NISH has taken on this challenge in several ways. First, we have created a Productivity Enhancement Initiative that is multi faceted. Five major project areas are incorporated to implement our assistive technology (AT) and productivity enhancement efforts. These five areas are direct assistance, AT best practices and awareness, capacity-building models, new employment approaches and NISH internal efforts. Internally, our rehabilitation engineers are demonstrating best practices through pilot projects where we are using assistive technology and reengineering processes to meet this challenge. Our business development team is creating jobs in new lines of business that will be better suited for applying job carving techniques so that productivity will not limit a person's ability to work. Scott Mikelson's story is a good example of how a person with severe disability has the opportunity, time, and support to gradually advance their careers.

*Scott, or Scottie, as his friends at work call him, has worked for Skookum, a Washington State NISH NPA since 1993. Scottie started in the Skookum Jump Rope Company after transferring from the Special Education program at the Port Townsend School District. He was non-communicative and could not make eye contact with his fellow workers. His productivity level was a mere 39 percent.*

*In 1996, Scottie improved his productivity to 51 percent which allowed him to transfer to a JWOD contract at Indian Island, Washington. He was able to truly demonstrate his skills and worked with supervisors to improve his productivity. He overcame his inability to make eye contact with fellow works and customers. Most importantly, he became a model worker and increased his productivity to 74 percent.*

*One year later, he moved to a janitorial job at Puget Sound Naval Shipyard in Bremerton. He was assigned the largest building on the base, a huge move for a young man that didn't feel comfortable in new surroundings. Scottie has received numerous awards, including one from the Deputy Director of the Defense Logistics Agency for ". . . performing his tasks amazingly well and for his professionalism."*

These news lines of business include the following:

**IRS Document Destruction**—People with severe disabilities provide secure document destruction (SDD) services under the JWOD program for all IRS offices in the western United States. This line of business lends itself to similar work in the commercial sector as a means to people to transition their skills.

**Laundry Services**—This line of business offers an array of positions that are machine driven thus an individual's productivity is irrelevant. Much work in this area is found in the commercial hospital field.

### **Employment for Diverse Disability Populations**

Serving the diverse disability populations that participate in the JWOD program, NISH is making great strides in creating jobs in non-traditional lines of business. With greater variation in our job profile, we can offer more choice to those we serve. These jobs lend themselves to more opportunity for integration and upward mobility. A few of these options follow.

**Fleet Management**—One of the major fiscal year 2004 new business line initiatives is fleet management services. This business line has the potential to create challenging new job opportunities for individuals with many different types of barriers to employment. Fleet management is a good line of business because the service involves a wide array of activities, in various disciplines and consequently offers a variety of employment opportunities. The most labor-intensive facet of fleet management is vehicle maintenance and repair, which requires technical expertise and physical coordination, strength, and stamina. Fleet management services also encompass fleet maintenance which is the repair and maintenance of vehicles. During fiscal year 2004, NISH explored such services with the U.S. Army. All of these fleet



management business lines will be pursued further in fiscal year 2005. NISH is partnering with the Department of Labor, ATELS division to create a certified apprenticeship program. This will allow people with significant barriers to learn the various skills that lead up to journeymen mechanic competency.

**Medical Record Transcription**—Medical record transcription is a home-based employment opportunity. This initiative will provide much needed employment to people with severe disabilities who are largely restricted to work in their homes. Without jobs such as these, home-bound people with disabilities would never be able to enter the U.S. workforce. The training model used will allow those who develop the skill sets over an extended time to become “certified” medical transcriptionists, which is a wide-open field in the private sector.

**IRS Call Centers**—IRS call centers offer a home-based employment opportunity that involves answering telephone calls from the public who are requesting IRS forms and publications. Additional opportunities exist during the 3-month tax season. This project serves individuals who are homebound due to the nature of their disability.

In 2003 NISH began a partnership through the signing of a Memorandum of Understanding (MOU) that is a win-win proposition for both veterans with disabilities and NISH NPAs. Through this MOU with the Veteran’s Health Administration, veterans with severe disabilities and serious mental illness are referred by the Veteran’s Administration to NISH NPAs for employment on JWOD contracts.

*To some veterans with disabilities, the JWOD program represents a lifeline to remaining independent in the face of significant emotional and physical challenges. Anthony Richard, a former U.S. Marine, was forced to end his military service after suffering a severe neck injury when a 450-pound door fell, striking him in the head. Challenge Unlimited, a NPA located in Alton, Ill., hired and employed Anthony on a mailroom contract until he obtained a position in the public sector with the Iron Workers Union in East St. Louis, Mo.*

*Unfortunately, while working with the Union, Anthony’s bravery and willpower were tested again. He was assaulted by a co-worker, sustaining injuries that diminished his ability to maintain his equilibrium and leaving his mind in a whirlwind. Anthony returned to Challenge Unlimited and was placed on a JWOD contract as a custodian at a General Services Administration (GSA) facility.*

*Despite immense challenges, Anthony’s work at the facility progressed, and supervisors recommended him for a demanding job that made him solely responsible for maintenance of the facility’s 62.5 outside acres. Despite his severe injuries, the JWOD program allowed Anthony to rebuild his confidence and continue supporting his family until his final transition to commercial employment with a small business contractor at the GSA facility.*

### **Misperceptions**

Based upon a 2005 benchmark study of Federal customers, the disability community, nonprofit agencies, and the general public, the JWOD program is challenged by many misperceptions. One of the top weaknesses expressed by Federal customers is the lack of use and/or price of the program. The disability community cited the program’s inaccessibility, while nonprofit agencies identified bureaucracy as a main weakness.

Thus, there are many misperceptions surrounding the program. One high-level misperception is that people with the most severe disabilities can not be employed in a commercial competitive environment. Not only is this felt by the public in general but it is also prevalent in both the Federal and commercial employment sectors. In an effort to eliminate this prejudice, the JWOD program has launched a national public awareness and advertising campaign promoting the capabilities of people with severe disabilities and the quality of work performed by them. Through ongoing efforts to educate Federal procurement managers, acquisition officers, and other contracting officials NISH is continually educating decisionmakers about the true abilities of people with severe disabilities to meet their needs of quality services and products at a fair market price.

Another misperception is that the JWOD program is not consistent with the broader disability communities’ employment philosophy that people with severe disabilities should be employed in an all inclusive work environment. The reality is that the majority of jobs (70 percent services vs. 30 percent manufacturing) offered by NISH are in community-based, integrated service settings including Federal buildings and military installations throughout our country. Thus a majority of the jobs in the program offer wages that are generally higher than those found within their local communities with benefits attached. Furthermore, NISH NPAs have assisted and continue to support over 29,000 consumers with severe disabilities in both competitive and supported employment jobs outside the Federal sector. Jobs of-

ferred through the JWOD program provide for self-determination by allowing people with severe disabilities to make informed choices about their wages, benefits, and opportunities for advancement.

As you may know, Section 5(3)(C) of the JWOD Act requires NPAs with JWOD Projects to maintain a non-profit agency-wide ratio of 75 percent of its direct labor hours by people with severe disabilities on both JWOD and non-JWOD work. Many people incorrectly assume that this forces all services and products delivered by JWOD to be worked in congregate settings. In fact, less than one-third of jobs are in congregate settings. JWOD NPAs utilize a variety of strategies and approaches to offer integrated employment in our services and products opportunities to people with severe disabilities. In fact, as a group, NISH NPAs are the largest providers of supported employment jobs in the Nation.

Some critics of the JWOD program insist that the only acceptable employment outcome for people with disabilities is a job at a for-profit employer in a position with a career ladder and individualized supports. In an ideal world, with unlimited employment support resources, this would most certainly be true. The reality is that we do not live in an ideal world. We operate in a world of limited resources for job training and employment supports. The millions of people with disabilities who are unemployed compete with each other as well as other disadvantaged groups for scarce public resources for education, training, transportation, housing, medical care, and longterm supports.

JWOD jobs do allow for career advancement.

*Tom Miller from Rapid City, SD, is just one of the many success stories of the JWOD program. Tom has been involved with the JWOD program for 12 years, initially working as a mess attendant at Ellsworth Air Force Base in South Dakota. Since that time, Tom has moved into a supervisory position. As such, Tom has first-hand understanding of the opportunities and challenges of people with disabilities working on JWOD contracts. As a young boy, Tom was told that he would never be able to achieve his goals due to his disability. Perhaps this is when Tom became committed to not only achieving his own personal goals, but to also becoming a voice for those who had received similar messages. Tom has dedicated his working life to improving employment, integration and choice for individuals with disabilities.*

*He is involved with "People First," a nationwide self-advocacy organization. In this capacity, Tom does public speaking on the power of employment in reaching one's goals. He served 6 years on the NISH Board of Directors as a JWOD program Participant and assumed a leadership role as the chair of the Awards Committee. Further, Tom has been active in NISH's grassroots advocacy program—always forthright to share with Members of Congress the philosophy of the JWOD program, as well as the perspectives and needs of those employed on JWOD contracts. In 2004, 316 people with severe disabilities were promoted into management positions on projects. In 2005, NISH began to offer new financial assistance grants to NPAs for recruitment, and relocation, training and/or accommodations for people with disabilities to move into management.*

#### **Future Initiatives**

Even with this solid foundation NISH knows there is much more to do. Even with an average hourly wage of \$9.14 there are those who earn less than the Federal minimum wage. Even with 2,310 community job placements there are those who want to strike out on their own. Even with our new lines of business there are those who seek other challenges. Working with emerging technologies, rehabilitation strategies, and innovative approaches, JWOD and NISH have crafted dynamic strategic plans to address these needs. The strategic plans, which are presented in Appendices F and G, include goals and objectives for NISH and the JWOD program.

#### **Institute**

The NISH fiscal year 2005–2007 business plan incorporated exploration of an Institute on Economic Empowerment For Individuals With Significant Disability-Related Barriers to Employment. This Institute would align with and carry out several key goals and objectives from the JWOD program and NISH strategic plans. The implementation of the proposed Institute on Economic Empowerment would directly align with and support implementation of strategic goals and objectives for NISH (Goal 1 Employment Opportunities) and the JWOD program (Goal 1 People Who Are Blind or Have Severe Disabilities and Goal 5 Market Development . . . Underserved Populations). More specifically, the Institute would directly align with the following SMART goals (specific, measurable, achievable, realistic, and time-bound):

- Increase employment opportunities and informed choices.
- Increase wages and benefits.
- Enhance opportunities for advancement.

- Create, design, and reengineer jobs as a means of maximizing productivity and wages.
- Provide personally satisfying employment opportunities.
- Facilitate greater economic independence and self-sufficiency.

The Institute provides a clear path to address the challenges identified in the NISH Business Plan in defining what constitutes quality employment opportunities, and how to create a wider array of options for people with significant disability-related barriers to employment.

#### **JWOD/NISH and Military Dining Services: It's a Matter of Jobs**

In respect to the disagreement between the JWOD program and the for-profit Randolph-Sheppard (R-S) program, NISH believes that military dining services are beyond the scope of the R-S definition of operation of cafeterias; that recent court decisions are based upon an incorrect interpretation of the law; and that the public policy goal of employing people who are blind or have severe disabilities is better served in this area by the JWOD program than the R-S program which contains no requirement that the blind vendor employ individuals with disabilities, severe or not, or blindness.

The U.S. Department of Education (DOE) has asserted that the act's blind vendor priority *DOES* apply to contracts for operation of military dining services. These dining services that provide meals to troops at Government expense are not vending facilities as defined by the R-S. The DOE does not deny this, but instead argues that dining facilities are simply cafeterias. DOE overlooks the fact that "cafeterias" is a subordinate term within the definition of "vending facilities." Under this DOE interpretation, military dining services do not qualify under the R-S Act because it is not a "vending facility." The DOE has interpreted that the 1974 amendment permits the insertion of the word cafeterias in place of the term vending facilities.

The U.S. Department of Defense (DOD), had at first elected to defer to the views of DOE, and has applied the R-S Act blind vendor priority to award contracts for operation of dining services. DOD is reexamining its policy on the applicability of the R-S Act to military dining services, especially as it applies to contracts for dining services that cover services for less than the full operation of a dining facility.

There are currently more than 3,000 people with disabilities working through the JWOD program in management and direct labor military dining service jobs. According to an independent study conducted in 2002, people with severe disabilities working on military dining service projects earned an average wage of \$8.31 an hour, which has risen steadily each year since. These dining service contracts enable people with severe disabilities who work in direct labor positions work along with the 14 percent of the management and supervisory staff who are people with disabilities to support the differing requirements of the armed services as they train and give experience to uniformed personnel in the unique combinations needed to meet their primary missions.

#### HOW CONGRESS CAN HELP

#### **Encourage Agencies to Create Employment Opportunities by Purchasing Services and Products Through the JWOD program**

NISH urges Congress to insert report language in the Committee Report of the Workforce Investment Act, or in another appropriate vehicle, that encourages procurement activities to purchase quality services and products at a fair price through the Javits-Wagner-O'Day (JWOD) program in order to expand employment opportunities for people who are blind or who have severe disabilities.

#### **Direct the Administrative Agencies That Oversee the JWOD program and the R-S program to Meet with DOD to Negotiate a Settlement**

NISH urges the Congress to include in the final 2006 defense authorization bill the language of Section 815 of H.R. 1815 with the following recommended **bold** changes:

(a) Extensions of Inapplicability of Certain Acts.—Section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2021) is amended in subsections (a)(2)(A) and (b)(2)(A) by striking “2005” and inserting “2006”.

(b) Statement of Policy.—The Secretary of Defense, the Secretary of Education and the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled shall jointly issue a statement of policy related to the implementation of the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and the Javits-Wagner-O'Day Act (41 U.S.C. 48) within the Department of Defense, the Department of Education and the Committee for Purchase From People Who Are Blind or Severely Dis-

abled. The joint statement of policy shall specifically address the application of those acts to both operation and management of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces, and shall take into account and address, to the extent practicable, the positions acceptable to persons representing programs implemented under each act.

(c) Report.—Not later than April 1, 2006, the Secretary of Defense, the Secretary of Education and the Committee for Purchase From People Who Are Blind or Severely Disabled shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Education and the Workforce of the House of Representatives and the Committee on Government Reform of the House of Representatives a report describing the joint statement of policy issued under subsection (b), with such findings and recommendations as the Secretaries consider appropriate.

#### **Summary**

JWOD/NISH and the program's NPA Business Partners are proud of the employment opportunities that have been created and the dignity and honor that work and earning wages have brought to thousands of people with severe disabilities through the JWOD program. Through the program, NISH has demonstrated progressive growth in the number of jobs created for people with severe disabilities. Over the past 5 years, NISH increased employment among people with severe disabilities from approximately 32,000 to nearly 42,000.

Despite these efforts, there is a tremendous amount of work to be done. The 2000 Census found that there are 20 million people with self-reported severe disabilities in the United States, and studies continue to document the chronic 70 percent unemployment of people with severe disabilities. NISH wants to work with the Congress to find these solutions through a variety of strategies including the JWOD program. We invite you to visit and tour NPAs in the JWOD program in the future. I am happy to answer any questions you may have.

#### RESPONSE TO QUESTIONS OF SENATOR ENZI BY TONY YOUNG

*Question 1.* The National Industries for the Blind (NIB) has introduced the Business Leaders Program, a comprehensive program that offers experience and education in business and leadership. The purpose of this series of programs is to provide training and development experiences that are focused on professional work, upwardly mobile, and careers in the business sector. In your testimony you also indicated that NISH is heading in this direction. Can you provide the committee with details about NISH's forthcoming training and development programs for individuals with disabilities?

Answer 1. There are several things we are doing including:

#### **Management Assistance Grant Program**

NISH is committed to assisting NISH-Affiliated NPAs in identifying and developing individuals with severe disabilities as defined by both the JWOD Act and the Rehabilitation Act for new hiring or promotion into managerial, supervisory, or executive staff (not direct labor). This is done through a financial grant program available to NPAs to hire project managers. These funds are used to offset the actual costs of recruitment, relocation, training and/or accommodations required to hire an executive, supervisor, or manager with disabilities. Through this process we are able to provide training and development experiences focused on managerial work that is forming a basis for a curricula in this area. In addition, a 1 year pilot project with one of NISH's producing CRP (Goodwill of S.E. Wisconsin) is nearing its end. The purpose of the pilot was to expand their current training program for people with disabilities to enhance training geared to assist people with disabilities advance in the food service arena to include increasing competency and opportunity into supervisory and managerial ability. This important pilot was established to build and test curricula that could be replicated across JWOD as well as identify success metrics, challenges, barriers and lessons learned.

The wholesale movement of people with severe disabilities into managerial positions is a challenging issue. Nevertheless NISH views this as a critical issue. Approximately 1 year ago, the NISH Board of Directors raised this as a "key goal."

### **Productivity Enhancement Initiative to Increase Productivity With Certain Disability Populations**

Many people with severe disabilities who are eligible to participate in the JWOD program have challenges to their productivity. These challenges limit the economic feasibility of hiring individuals in both the private and public sectors many times. NISH has taken on this challenge in several ways. Two years ago we launched a multi-faceted Productivity Enhancement Initiative. Five major project areas are incorporated to implement the use of assistive technology (AT) and productivity enhancement efforts. These five areas are direct assistance, Assistive Technology best practices and awareness, capacity-building models, new employment approaches and NISH internal efforts. NISH rehabilitation engineers are demonstrating best practices through pilot projects where we are using assistive technology and reengineering processes to meet this challenge. Our business development team is creating jobs in new lines of business that will be better suited for applying job carving techniques so that productivity will not limit a person's ability to work.

#### **Multi-Modal Training Approaches**

Currently, NISH has over 300 e-learning courses focusing on management and supervision. A curricula specifically aimed at people with disabilities is being built based upon the current pilot (previously requested) and other information for people with disabilities identified with "high potential" for management/supervision to attend.

NISH is increasing its efforts to "train the trainer" programs. Such programs will include providing JWOD producing CRP's with increased knowledge and tools to train people with disabilities at the organization to reach their potential. A module in "developing leadership" and "helping people" with disabilities transition to management positions will be in development.

#### **Differences Between Management Training For People Who Are Blind Verses People With Severe Disabilities**

NISH is emphasizing "line of business" training in all primary JWOD business. This training focuses on how to be successful in the designated business. Training for managers, supervisors and people with disabilities working on JWOD contracts will be included. Train the trainer models focusing on teaching specific job skills so people with disabilities will be incorporated.

Currently, NISH holds over 200 face to face courses per year. Many of the programs are focuses in "management and supervisory effectiveness." People with disabilities are welcome to attend these courses. These efforts provide a brief sketch in some of the programs in progress. You can be assured this will be an area of emphasis in the years to come.

NISH has begun a pilot program of its own to increase the number of people with severe disabilities working as supervisors and managers on its JWOD projects. This initiative was designed to account for the substantial differences if the populations of people who are blind and people with severe disabilities served by the JWOD program.

As the committee may know, there are substantial differences in the populations served by NIB and NISH. NIB creates employment opportunities for people who are blind, which is defined as:

The term "blind" refers to an individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

In contrast, the definition of severely disabled, as outlined in Public Law 92-28, is as follows:

"The terms "other severely disabled" and "severely disabled individuals" mean an individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the committee after consultation with appropriate entities of the Government and taking into account the views of non-government entities representing the disabled) *constitutes a substantial disability to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment.*"

The key difference in these definitions lies in the addition qualifier criterion "constitutes a substantial disability to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment." This criterion means that the people with severe disabilities who are

employed by JWOD NPAs have a wide variation and capabilities, aptitude and interest in managerial and supervisory careers and the programs will differ. We will continue to take that into account.

### **Institute**

The NISH fiscal year 2005–07 business plan incorporated exploration of an Institute on Economic Empowerment For Individuals With Significant Disability-Related Barriers to Employment. This Institute would align with and carry out several key goals and objectives from the JWOD program and NISH strategic plans. The implementation of the proposed Institute on Economic Empowerment would directly align with and support implementation of strategic goals and objectives for NISH (Goal 1 Employment Opportunities) and the JWOD program (Goal 1 People Who Are Blind or Have Severe Disabilities and Goal 5 Market Development . . . Underserved Populations). More specifically, the Institute would directly align with the following goals:

- Increase employment opportunities and informed choices,
- Increase wages and benefits,
- Enhance opportunities for advancement,
- Create, design, and reengineer jobs as a means of maximizing productivity and wages,
- Provide personally satisfying employment opportunities,
- Facilitate greater economic independence and self-sufficiency.

The Institute provides a clear path to address the challenges identified in the NISH Business Plan in defining what constitutes quality employment opportunities, and how to create a wider array of options for people with significant disability-related barriers to employment.

*Question 2.* Moreover, during the hearing, one point that was highlighted was moving people from segregated or enclave work into community settings or placements. In your testimony, as well as at the hearing, you stated that NISH could and should move in this direction. **What changes need to be made specifically to the JWOD legislation and what changes would NISH non-profits need to make in order for this to become reality?**

*Answer 2.* NISH has aggressively moved towards serving people with severe disabilities in community settings and increased its efforts to place people with severe disabilities in community jobs. We suggest consideration of the following changes to the JWOD Act to facilitate these goals.

### **Possible Changes to the JWOD Act Legislation**

- Provide incentives to NPAs that reward placement of people with severe disabilities from JWOD direct labor jobs into JWOD supervisory and management positions as well as positions with for-profit and non-profit firms and public employers. There should not be sanctions against NPAs that have employees elect to remain employed by JWOD when the NPAs show that the decision was made through the informed choice of the worker.
- Incorporate the provisions of the Employer Work Incentive Act for Individuals with Severe Disabilities, S. 1570, introduced by Senators Roberts and Kennedy, with changes including replacing the Department of Labor with the Committee for Purchase as the agency that provides oversight and certifies eligible profit and non-profit businesses.
- Clarify the definition of severe disability to recognize current thinking. Focus the definition on the significant disability-related barriers to employment rather than basing the definition on medical criteria and/or work deficits.
- Include provisions in the revised JWOD Act that rewards NPA practices in informed consumer choice leading to employment outcomes based upon the principles of self-determination. Require all other Federal agencies to recognize these employment outcomes under their programs.

### **Possible Changes to Related Disability Legislation**

The workplace as a whole has not been open to people with severe disabilities over the last decade. Employment of people with severe disabilities has remained flat or decreased slightly over this period. At the same time employment of people with severe disabilities by the Federal Government, once considered a model employer, has declined substantially. Clearly there are environmental barriers to employment facing people with severe disabilities outside of the JWOD program. Here are a few suggested changes to disability programs which the Congress should enact:

- Eliminate the work disincentives in SSDI and SSI that punish people with severe disabilities when they choose work.
- Increase funding for direct service professionals such as job coaches, job developers, and personal assistants who are required to staff the customized employment, supported employment, and related supports needed by people with severe disabilities to work.
- Increase funding for assistive technology devices and services that enable people with severe disabilities to enter into and advance at work.
- In regard to military dining services, amend the appropriate procurement laws to:
  - Preserve the status quo priorities of all current JWOD and R-S jobs by making each law more clear with respect to services performed by entities under the competing law, even when the service is modified by the customer, until the service is released by processes described by the applicable law.
  - Define "operation of a cafeteria" to mean an independent contractor exercising management responsibility and day-to-day decision-making authority for the overall functioning of the cafeteria with no Government role other than the contract administration functions described in Federal Acquisition Regulation (FAR) Part 42.

NISH has over the past 3½ decades since the Javits Amendments to the Wagner-O'Day Act of 1938 concentrated its work on increasing the employment opportunities of people with severe disabilities seeking to enter the workforce through direct labor positions. Implementing this mission given to NISH by Congress has led to the results that were reported to the Committee for Purchase, which included 3,000 people with severe disabilities being placed into community employment from JWOD jobs and an additional 30,000 people with severe disabilities being placed into community jobs by JWOD/NISH NPA's. In order to change the mission we understand and agree that changes must be made to the Act. Over the next 8 weeks NISH will collect input on changes that may be made in the Javits-Wagner-O'Day Act from various stakeholders, including people with severe disabilities, their families, and advocates; NISH Board members; NPA executives and direct service professionals; and public policy experts. This input will be used to craft fully developed public policy proposals for reauthorizing the JWOD Act, which we potentially submit to the committee.

In closing, NISH will be happy to participate in any role as the committee completes the Reauthorization of the JWOD Act.

The CHAIRMAN. I want to thank all of you for your testimony, the time that it took to put it together, the time to travel here, and the time to present it. You have provided us with information that is needed. It also raises some questions, however.

Senator ENSIGN. Mr. Chairman, sorry. I apologize for the interruption. I am in a Commerce Committee markup. I want to ask unanimous consent that my full statement and written questions be part of the record.

Thank you, Mr. Chairman.

The CHAIRMAN. Without objection; certainly.

[The prepared statement of Senator Ensign follows:]

#### PREPARED STATEMENT OF SENATOR ENSIGN

Mr. Chairman, first I would like to thank you for holding a hearing to provide some oversight over Federal employment programs for people with disabilities. I have been intimately involved in issues related to both the Javit's-Wagner-O'Day (JWOD) program and the Randolph-Sheppard program for a number of years.

I became involved in issues related to the JWOD program upon the request of my constituents. An organization in Las Vegas, Opportunity Village, has been operating for more than 25 years, providing employment and training opportunities for those with disabilities. Opportunity Village is truly a home away from home for many of Southern Nevada's disabled people. I have been privileged

to work with this special group from the very first day I came to Congress to represent Nevada in 1994.

Opportunity Village is a JWOD contractor, operating five JWOD contracts in the Las Vegas Valley. First and foremost are the services provided for the Nellis Air Force Base. Employees under JWOD contracts work at five different locations providing services ranging from dining facility work to kitchen preparation to postal services. The average salaries at these five locations range from \$8.45 an hour to \$10.26 an hour—well above minimum wage.

Opportunity Village also provides employment opportunities in custodial services on four different JWOD contracts. In all, these contracts provide employment for 82 individuals with disabilities. I have had the opportunity to meet a number of these people both here in Washington, D.C. and in Las Vegas. Each and every one of them has told me how much they appreciate and love their job. In particular, I remember Ron who shared with me that with the wages he earns he is able to help his Mom pay rent and utilities and still has plenty of money left over to pursue his favorite hobby, bowling.

Jamie has a story very similar to Ron's. He started at Opportunity Village in 1998 and from day one his talents were well recognized. He moved from assembling buckets to becoming part of a janitorial crew to washing dishes and bussing tables at Nellis Air Force Base. During this time his friends at Opportunity Village have assisted him in learning how to navigate Las Vegas' public transportation system. However, Jamie's proudest accomplishment is coming home with a paycheck that allows him to help pay his Mom's mortgage.

Northern Nevada also has its' own JWOD contractor, the Washoe Arc. The Washoe Arc operates three JWOD contracts in custodial services and document destruction. Washoe Arc also owns and operates four local thrift stores in which disabled persons accept, sort, and pick up donations as well as work in the stores themselves. Along with providing employment opportunities for individuals with disabilities, the Washoe Arc also provides many fun community-based activities including Yoga and swimming courses as well as literacy and computer skill programs.

Both Nevada JWOD contractors understand the importance of helping individuals with disabilities become as self-sufficient as possible. Not only do they understand that, but they help their clients enter into community based employment as often as possible. I believe that both Opportunity Village and the Washoe Arc are prime examples of how many JWOD contracts are operated in this country.

As you know, the purpose of today's hearings is to determine how effective both the JWOD and Randolph-Sheppard programs are in providing employment opportunities for people with disabilities. It is difficult to directly compare these programs, as they, on their faces, have very different goals. The Randolph-Sheppard program's main goal is to provide persons who are legally blind with training, support, and legal rights to certain Federal food service opportunities. A State Licensing Agency finds a contract opportunity, sets up the contract, and finds a blind vendor to operate that contract. The only requirement of the program is that a blind vendor operates



the contract. The Randolph-Sheppard program does not require that the licensed blind vendor hire any other individuals with disabilities to work under the contract.

The JWOD program is intended to benefit persons who are blind or severely disabled. It requires the Federal Government to procure certain goods and services from non-profit agencies that operate JWOD contracts. Under these contracts 75 percent of "direct labor" must be performed by persons with disabilities. I will not deny the assertion that much of the management of these contracts is provided by non-disabled people. However, it is important to note that under the military dining services operated by JWOD contracts, 14 percent of the management and supervisory positions are fulfilled by people with disabilities.

The programs also operate very differently in terms of the nature of their profit status. Blind vendors work on a for-profit basis. JWOD contracts are operated by non-profit agencies. Any profit that may be made under a JWOD contract is immediately put back into the non-profit agency to provide additional services for persons with disabilities.

In my opinion, it is in the best interest of the Federal Government to employ as many persons with disabilities as possible in the manner that is most beneficial to each individual. I agree with Mr. Gashel and Mr. Young in their statements that the unemployment rate of persons with disabilities is appalling. I also agree with Mr. Nelson that we need to encourage the private sector in providing more opportunities and encourage the use of assistive technology and other employment supports for disabled workers. We must all work together to find the best solution to this growing problem.

I believe that we need to look at these programs through the lens of the 21st Century. Congress needs to step back and realize the amazing advancements people with disabilities have made over the past 30 years.

In working with both of these programs over the past 4 years I have come to the realization that some sort of hybrid program may be our best option. Rather than having a single blind vendor operate a contract that does not employ other individuals with disabilities, why not have a disabled vendor operate a contract that has 75 percent of direct labor fulfilled by individuals with disabilities. I believe that there are many persons with disabilities that have the capability and desire to operate Federal contracts.

But that is just one idea. We could also tackle each program and take a serious look at flaws and weaknesses to determine how more people with disabilities can be better served. We need to look at executive compensation, which NISH agrees needs to be addressed. Congress cannot stand idly by and allow programs to work in a vacuum without oversight and change. Just imagine if Congress stood by and did not make changes to laws like the Elementary and Secondary Education Act or even IDEA. Congress needs to look at the oversight and direction provided by Federal agencies overseeing these programs.

I thank everyone for being here today and providing such insight into both the JWOD program and the Randolph-Sheppard program. I can only hope that we can all sit down and find a constructive solution to the problems brought up today.

## QUESTIONS OF SENATOR ENSIGN FOR JAMES GASHEL

*Question 1.* What is the average gross profit of an average vending stand compared to a military dining facility or a highway vending location?

*Question 2.* What are the average yearly earnings of a blind vendor who operates a dry stand (a location that sells candy, tobacco products, magazines and newspapers), a snack bar/coffee shop, a cafeteria, a highway rest area, and a military dining facility?

*Question 3.* In your testimony you mention that a blind vendor “receive all of the proceeds, pay all of the bills, and retain all of the profits resulting from businesses created through the Randolph-Sheppard program.” However, isn’t it true that the State Licensing Agency, and not the blind vendor, provides and pays for all training, equipment, equipment maintenance, and extensive administrative support services? If you agree with that statement, then the blind vendor doesn’t pay all of the bills, the State Licensing Agency pays a good portion of them, correct?

*Question 4.* Of the contracts operated by blind vendors, what percentage are subcontracted out to large companies that do not have any sort of requirement to employ individuals with disabilities? Do blind vendors subcontract to JWOD contractors? Why or why not? I am specifically interested in military dining facility contracts that are operated by blind vendors. What percentage of those contracts are operated in totality by a blind vendor? What percentage or number are subcontracted to large food service corporations?

*Question 5.* Of the contracts operated by blind vendors, what percentage of individuals hired under those contracts have disabilities?

*Question 6.* Your testimony states that blind vendors can make “more than you and I.” You also state that it is good public policy to provide as you call them, entrepreneurial opportunities for blind vendors. In the area of military dining facility contracts, do you believe that it is good public policy to force 3,000 individuals with disabilities to lose the jobs they enjoy under JWOD contract to benefit a very small number of blind vendors so they can “make more than you and I?”

*Question 7.* In what way is the National Federation of the Blind or other organizations for blind vendors assisting blind vendors in creating employment opportunities for other persons with disabilities? According to 2002 Department of Education data, less than 5 percent of workers are blind and around 5 percent have other disabilities. I am particularly interested about what work is being done on military dining facility contracts that are operated by blind vendors. If a JWOD contractor is able to have individuals with disabilities complete 75 percent of the direct labor provided under the contract, why couldn’t a blind vendor contract do something similar? Maybe even provide 25 percent?

## QUESTIONS OF SENATOR ENSIGN FOR BOB LAWHEAD

*Question 1.* What Federal policies or procedures could be put in place to help not only Federal agencies, but also private sector employers utilize supportive employment techniques to employ individuals with disabilities? Could these changes be made within either the Randolph-Sheppard Act of the Javit’s-Wagner-O’Day Act, or would a new law need to be put in place?

*Question 2.* Do you believe that all individuals with intellectual disabilities should be employed in a supported employment-type job, or do some smaller sheltered workshop-type employment options make sense for some of this population?

*Question 3.* What activities or training opportunities could be provided to an individual like your son to help promote self-sustaining employment in the long-term?

## QUESTIONS OF SENATOR ENSIGN FOR TONY YOUNG

*Question 1.* In what way could the Federal Government alter or create new legislation that would provide entrepreneurial opportunities for all individuals with disabilities?

*Question 2.* The issue of executive compensation has been mentioned not only in today’s testimony, but has also been the subject of recent newspaper articles. What is NISH’s position on this issue and what is being done to ensure that excessive executive compensation is reigned in?

*Question 3.* In your testimony you mention the work that NISH is already doing to improve the operation of the JWOD program. How could the law be changed to improve or create more employment opportunities for individuals with disabilities?

*Question 4.* As many of you know, I have been working on the military dining facility issue for some time now. Could you go through some of the legislative history of the Randolph-Sheppard program and explain why NISH believes that R-S does not have priority under current law? Could you also explain how the ambiguity came to be?

The CHAIRMAN. Mr. Nelson, I will begin with you since you were the first to testify. You had to take care of the first jitters for everybody, and we appreciate you standing up and doing it first. You did an outstanding job. I admire your determination, your perseverance. You explained to us what you did to get your current job. It is tough enough to find a job under the best of circumstances, and it sounds like you had a few obstacles in your path.

In your testimony you talked about the segregated workshop and that it did not have pre-vocational training. Did the workshop provide you with anything that was useful?

Mr. NELSON. None whatsoever. In fact, they did not train you for a community job, or voc rehab. All I can say is zero. You were there and you were just stuck. You were not even told when you got into the shelter that it would be segregated. I did not even make \$12,000 or \$14,000 a year or anything like that.

The environment in the sheltered workshop, supervisors had their own tables. Other people with disabilities had their own tables. They were segregated in that regard. Bathrooms were also segregated compared to a community job. You could not even have lunch with your supervisor if you wanted to.

The CHAIRMAN. Thank you. That helps us to understand the environment a little bit better there.

Ms. Bartlett, you are quite an accomplished young woman. As Senator Kennedy mentioned in his introduction and also from your testimony, you have an extensive background for your young age. I commend you for your community service. You should be quite proud of your accomplishments, and I am happy to hear that you are continuing the lifelong learning process. You never can quit learning. It does not matter if you are in school or in a job. But as a student at Middlesex Community College, I am glad to hear that you have set high academic and career goals for yourself.

What subjects interest you the most and why?

Ms. BARTLETT. I think it is English because I love to write. I do not know what else there is to say about it.

The CHAIRMAN. Well, I think your testimony displayed that you had some capability in that area, and I will look forward to reading your first novel. I think those are some great aspirations.

Mr. Lawhead, as I mentioned in my opening statement, the JWOD program data shows that only 5 percent of JWOD workers move into supported or competitive employment each year. Why do so few workers move out of JWOD into supported and competitive employment? Any ideas?

Mr. LAWHEAD. Well, my experience is that organizations that run the sheltered workshops to provide the product side of JWOD and the enclaves or congregate work crews that are in Federal installations really do not place people into competitive employment, or

regular employment, at very high rates, largely because they would lose the workers they need to perform those contracts.

The Federal contracts are demanding. Quality standards are high. As Mr. Young was stating, JWOD programs have a great record of providing high quality products and services. There is a natural disincentive to have those people graduate out of that program and move on to the regular, competitive workforce.

The CHAIRMAN. You mentioned that you do some changeovers in programs. Do people come to you and ask for that, or are you selling this around the country? How do we get people started on that?

Mr. LAWHEAD. Well, the Association for Persons and Supported Employment has published a little booklet about that to try to encourage agencies that are interested in moving toward being more consistent with the ADA and with the Olmstead ruling into basically taking those agencies and those organizations, and moving them to supported employment and competitive employment kinds of agencies. My agency did that in the mid 1990s. As I said in my testimony, a number of agencies nationally are working on that right now, and a number have completed that process.

But yes, what you see are agencies changing their mission and really believing in the fact that people with disabilities have a right to work in the regular workplace in individualized kinds of jobs. They typically come to me and ask for that, but it is not like I have any kind of monopoly on that. There are all kinds of people who have gone through this process throughout the United States. Indiana University has a program that has done a lot of research in that area and there is all kinds of literature on it. A lot of us in community services are trying to help other agencies who are interested in doing the right thing.

The CHAIRMAN. Everyone's testimony will be a part of the record, and then we have some questions that we do. We will also be submitting some questions because of the limited amount of time that we have to ask questions, and we are hoping each of you will provide the information on that as well. I will be asking some more questions because I think that changeover could be a real key to making some more progress in this area because I am disappointed in the progress that we have made. I see that my time has expired.

Senator DeWine?

Senator DEWINE. Mr. Chairman, thank you very much. I want to first congratulate you and Senator Kennedy for holding this hearing. I think it is time that we do look at these programs. These programs obviously have great intent. They have done a lot of good. I think the key is, are we maximizing their use? The good that they are trying to do and are doing is to provide opportunities for disabled Americans, and that is what we are looking at in today's hearing, and I hope that we continue, Mr. Chairman, to do that.

I would also say, Mr. Chairman, that we should look, as a committee and I think as Congress, at other opportunities for Congress to help create opportunities for disabled Americans in regard to job opportunities. You have pointed out, Senator Kennedy has pointed out, and our witnesses have pointed out that the unemployment level among disabled Americans is simply unacceptable. We have so many disabled Americans who want to work, who cannot work, and who are ready to work.

There is something wrong. There is something wrong in this country when we pat ourselves on the back—I think maybe correctly—for the ADA, for they are the legislation that we have passed in Congress, and the IDEA. We have made a lot of progress. And yet, still, when we look at the unemployment rate among disabled Americans, it is very, very discouraging. You look at those statistics and you talk to people who are disabled, who want to work, and who are either underemployed or unemployed, and it is just a real, real problem.

One of the things that I have been looking at is the opportunity to maybe see what we can do at the Federal level in regard to contracts. We have let contracts out from the Federal Government. We are privatizing in different areas. IRS, for example, is privatizing collections. Maybe there are some things that we can do in this area to encourage some of the companies that are getting these contracts to utilize people who are disabled. There are great opportunities with the technology we have today. Senator Ben Nelson and I have been working on legislation in this area which we would like to explore with other members of the Senate.

I was talking to my colleague from Georgia a moment ago. The technology is just amazing today. For example, LaRosa's Pizza in Cincinnati, if you call there today and order a pizza, you are going to be talking to an American who is disabled. That person will take your order, and that person will be the person who puts it into the computer and deals with that. So there are great opportunities that we have, and I think Congress has not, candidly, been proactive enough, and the Federal Government has not been proactive enough in this area. I think there is more that we need to do.

Mr. LAWHEAD, let me ask you a question if I could. You testified that you ran sheltered workshops, and you have talked about the transition I guess that you have made as well as the transition that you have led other people to make.

Let me ask you this. If I would go into a sheltered workshop in Ohio or anyplace else, do you believe that everyone in that kind of typical workshop—if there is a typical sheltered workshop—would be able to transition into the community as you have talked about? I mean, we have, obviously, people with different disabilities. We have a lot of different individuals in the sheltered workshop. Can you kind of address that for us?

Mr. LAWHEAD. Yes, sir. I do not know that we believed that was the case when I started my career in Columbus, Ohio.

Senator DEWINE. What year was that?

Mr. LAWHEAD. That was 1976.

Senator DEWINE. I do not want to age you, but I think it gives us a historical perspective of thinking and where you think we are going.

Mr. LAWHEAD. 1976 through 1979, actually, the Franklin County program in Columbus was one of the six identified leaders in this movement of trying to figure out how to do community employment for people with severe disabilities. In those days, we did not know how far it would go, but we found over the last 30 years since then is that there are techniques now.

I am going to refer you to the Office of Disability Employment policy within the Department of Labor in this brochure that they

have recently published about customized employment, which describes how no one who experiences a disability should be left out of the regular, competitive workforce. It is a way of customizing and negotiating with an employer about tasks that they need done, and matching that up with the particular tasks that an individual can do. By doing that customization or negotiation with the employer to assure that that person is providing productive capabilities and tasks, and getting those done, we believe that no matter what level of disability, anybody who wants to work can.

Senator DEWINE. The impediment to that, you have described it a little bit. I understand with the JWOD program, you have testified there might be some impediment because you might be taking the best workers out.

Is that what you were saying?

Mr. LAWHEAD. Yes, sir.

Senator DEWINE. But all the sheltered workshops are not all JWOD, are they?

Mr. LAWHEAD. No.

Senator DEWINE. If I walked into a sheltered workshop that is not, what is the impediment to moving forward to what you are describing there?

Mr. LAWHEAD. Well, it is really the same mechanism. Any sheltered workshop is primarily completing contracts. If it is not for the Federal Government, it is for private business.

Senator DEWINE. It is to somebody.

Mr. LAWHEAD. Correct.

Senator DEWINE. They have to get a job done.

Mr. LAWHEAD. You have to get a job done. You have time lines. You have quality control issues that you have to make sure you are completing. You have a deadline to get that out and to get it to that employer, no matter who it is, Federal Government or otherwise.

In my experience, over the 20 years that I ran those kinds of programs, we found it was very difficult to place individuals into community employment and still run a sheltered workshop because they were at different purposes. You had that conflict of we need to keep our good workers in the workshop to perform these challenging contracts, and at the same time those were the very people that you felt you had to get out there in community employment because they had a high level of competence and skills.

Senator DEWINE. My time is up, and I would like to explore this with you further. The people, in my experience in Ohio, who run sheltered workshops are great people. I mean, these are people who want to help people. So part of it is, I guess you are saying, maybe a culture, a mind-set of what we can do and what our mission is. Is that it?

Mr. LAWHEAD. Absolutely. As I have worked with programs around the country, I believe people are well-meaning. They have not had the technical assistance and training, the staff that is, that they need in order to assist people with severe disabilities in getting regular community employment. That is what it is a matter of in my mind.

Senator DEWINE. Thank you. My time is up. Thank you very much.

Mr. LAWHEAD. Thank you.  
The CHAIRMAN. Thank you.  
Senator Dodd.

Senator DODD. Thank you very much, Mr. Chairman. I apologize for not being in the room at the outset of the hearing, but I thank you, Mr. Chairman, for conducting the hearing. This is the kind of oversight we need more of, and I commend you. You do this with some regularity, and it is worthwhile. The major functions of Congress is to be able to examine and look at various programs.

Let me just take a minute or two, if I can, to share some opening comments, and if time permits, a couple of questions.

You have examined two programs here that are close to 70 years old that have done certainly a lot of good over the years. They provide important employment, development programs for individuals with disabilities; two programs that should be doing, in my view as well, much better. That is not unique by the way. There are plenty of Federal programs that are very good programs that are not living up to what they should be doing. So I hope as we look at this, we talk about how to make two programs work better, in my view, rather than to talk about dismantling something here because of the problems that exist. I begin with sort of that perception.

Mr. Chairman, you have already laid out some of the troubling findings covered by your investigation. I am not going to rehash those points other than to say that I am deeply troubled by them as well. I think all of us would be. I think everyone in the room can agree that people with disabilities deserve a lot better than they are getting. They deserve greater and more comprehensive opportunities to become all that they can, and they deserve programs that do not enrich a select few at the expense of so many.

I have often said throughout my career that a job is the most successful, social program ever invented by the most creative mind in the world, and has never come up with a better social program than a job, a decent job. It offers people the sense of self-respect. We talked about this yesterday on the floor of the U.S. Senate in talking about the importance of the minimum wage laws and other considerations, which the chairman was deeply involved in.

As many in this room know, October is National Disabilities Employment Month, and sadly, however, many of us also know that more than 15 million individuals with disabilities between the ages of 16 and 64 are unemployed in this country. That is unacceptable in my view. Again, persons with disabilities I think deserve a lot better.

Taken together, in my view, the Randolph-Sheppard and Javits-Wagner-O'Day employ 48,000 individuals with disabilities. I take particular issue with the fact that the JWOD program only exhibits a 5 percent out placement rate, what many would consider a regular job. I take equal issue with the fact that the Randolph-Sheppard program employs less than 1 percent of the approximately 350,000 people of working age who are legally blind. Again, this is unacceptable.

Jim Gashel, and I should say for purposes of truth in advertising, are friends. We have known each other a long time. My sister, who just retired after 41 years of teaching and who is a Montessori

teacher and a public school teacher in early childhood development, is legally blind from birth. So I have more than just an intellectual acquaintance with these issues, but have watched someone make huge contributions, in my view, to literally hundreds, if not thousands, of kids over 41 years, who otherwise would not have been given a chance but for the fact that she had parents that could afford, years ago in the 1930s and 1940s, to provide her opportunities which were not available to a lot of other people. So it makes a difference that I watched a legally-blind human being make significant contributions to the educational system of my State because of her work. And Jim, by the way, was tremendously helpful on a couple of occasions that he and I are very much aware of.

Despite the findings, obviously, we have talked about, Mr. Chairman, I do not want to give the impression, in my view, that Randolph-Sheppard and Javits-Wagner-O'Day are not needed; I think they are. If I take anything away from the findings that have been presented is the fact that people with disabilities deserve more in expanded employment opportunities, not fewer chances, to achieve meaningful employment. We need to do all that we can to ensure that more have needed access to accredited and comprehensive employment opportunities. We should not let today's troubling findings dissuade us from our true objective, and that is securing the right of all individuals to accomplish what they are able to accomplish. So, again, Mr. Chairman, I thank you for allowing us to hold this hearing today and examine these issues.

If I have a few minutes left, let me ask a couple of questions, if I can.

Jim, let me ask you if I can. I would be interested to hear your response to those who ask why the Randolph-Sheppard program should not be expanded to provide management opportunities to all individuals with disabilities. Why should we not do it?

Let me ask a follow-up question to this. Do you think there should be a requirement that a certain percentage of employees employed by the blind vendors are themselves blind or exhibit another disability, and how can blind vendors be encouraged to employ more individuals with disabilities?

Mr. GASHEL. Well, thank you very much Senator Dodd. I think those are excellent questions, and they need to be addressed.

Let me just say something with regard to the Randolph-Sheppard program and its focus on blind entrepreneurs. I said in my remarks that I personally feel that I have benefited very greatly as a blind person from the fact that we have a blind vendor program under the Randolph-Sheppard Act.

In my written statement, I pointed out that as a young blind person growing up—I assume that Carolyn probably had some of the similar situations that I did—I looked around, and there were blind people weaving rugs. And I thought to myself, my gosh, that is what I am going to do, weave rugs. These were the only role models that I had. Now, blind people are relevant to me in terms of what they are doing.

I like Tony Young; he is a friend of mine, but he has a different disability. So I have trouble understanding that when Tony is successful that I can necessarily be successful. I need role models as a blind person.



As I grew up and graduated from high school, I became aware that we had about 30 blind entrepreneurs in my State, which was the State of Iowa. These were the most successful blind people in the State at that time. Now, I was never destined to be a small business owner or operator; not everybody can do that, Chairman Enzi, as you know. But I will tell you what; it did a lot of good for me to know that those 30 blind people could be successful business operators. It helped me to aspire to be a teacher, which is what I did. We did not have any blind teachers, but seeing blind people be successful in the public arena did it for me.

I agree with what has been said about the sheltered employment. That would not have provided a role model for me that the Randolph-Sheppard program provided for me. So for me, the Randolph-Sheppard program is not so much about the employment opportunities that it provides to, I will say, too few blind individuals in the management of businesses, so much as it is to the role models that it provides for all of us who are blind, and I will say that symbols count. If it were a program for people with disabilities, the symbols would not have been relevant to me, and I might have ended up weaving rugs. I do not know. I hope not, but I might have. At that day and time, that is what a lot of blind people did.

I knew Senator Randolph, and I know what he was trying to do. He was trying to explode the myth that blind people were good at menial, repetitive and sheltered jobs, and I think the Randolph-Sheppard Act explodes that myth.

With respect to the employment of people who are blind or disabled by blind vendors, I think we can do better; I think we should do better. As I said, I think the U.S. Senate should do better. I would like to see a blind person serving in the U.S. Senate at some point. That is maybe our problem, not yours. I am not saying that to be critical of the Senate, or critical of blind vendors, or anybody else.

I also think that most corporations in America can do better. Some people have said that blind vendors employ 5 percent of their employees as blind or disabled. I think it is more like about 10 percent. The Department of Education's numbers, you cannot rely on anything they have told you, and they have not even come here to tell you. Let us say it is about 10 percent.

If we could get every corporation in America, or if we could get every Federal contractor in America, to employ 10 percent of its workforce as blind or disabled people, we would not have an unemployment problem for blind people; that is just a fact.

[Applause.]

I still think that blind people should do better, but I do not know why we should have a particular employment standard for people with disabilities when IBM does it, or pick your corporation. I think they should too.

I do not want to go on too long, Senator Dodd, but let me just say that I do not share Senator Kennedy's confidence that the Americans with Disabilities Act has made the difference; it has not. Now, it has given us a right to go to court when we face employment discrimination, and we do that. The National Federation of the Blind brings employment lawsuits for blind people all the time,

but it has not made American corporations model employers of blind people, or disabled people for that matter.

I think we do need job creation programs in addition to non-discrimination programs. But I do not think the job creation programs should be segregated, and I do not think the Randolph-Sheppard Act is segregated.

Senator DODD. Thank you, Mr. Young.

[Applause.]

The CHAIRMAN. Senator Isakson.

Senator ISAKSON. Thank you, Mr. Chairman. I thank the members of the panel for their testimony and want to, at the outset, associate myself with the remarks of the chairman in his opening statement; in particular, the reference to accountability.

I noticed on the front page of USA Today there is an article regarding findings of the committee, and the number one contract was located at a military base in Georgia. Being from Georgia, I paid close attention to that. When we dealt with the problems associated with some corporate scandals in the early part of this decade, the result, of which was Sarbanes-Oxley, two things were true. One, all of corporate America ran under the bank for fear somebody might talk about them because of what was going on, and second, we ended up writing what was the best act we thought we could write at the time, but did so in a very sterile environment.

Hopefully, with the finding of this committee and articles like this, as we reach out to try to bring about some accountability, we can get the good players in corporate America speaking out about what they are doing to promote and bring in the employment of people with disabilities at all levels.

This leads me to a question of Mr. Lawhead. In Mr. Nelson's personal story and in your testimony, I took you to say the attitude of sheltered workshops was pervasive in terms of being recalcitrant in moving people forward, but in fact they were motivated to keep them in the shelter.

Did I get that right?

Mr. LAWHEAD. Yes, sir.

Senator ISAKSON. This may be a stupid question, but I am going to ask it.

Sheltered workshops blossomed in the 1960s and the 1970s. That was before the U.S. Supreme Court ruling that brought about IDEA. It was before the Americans with Disabilities Act. Is part of that environment the culture of sheltered workshops from when they were born?

Mr. LAWHEAD. Absolutely.

Senator ISAKSON. This is going to beg a long answer, and I have another important question, so do not be long.

Mr. LAWHEAD. All right.

Senator ISAKSON. What can we do to change those incentives, which, from what you said, tended to reinforce keeping people in, and changing it the other way to promote bringing people in, training them, and moving them out. What would you do?

Mr. LAWHEAD. Well, I can tell you what I did.

Senator ISAKSON. OK.

Mr. LAWHEAD. We basically made a strong commitment for mission change, and the mission change was no longer to focus on pro-

viding contract employment for the people we represented, but instead was to focus entirely on placing those individuals into regular community and individualized employment.

Without that kind of commitment—as agencies go through this, we talked about values clarification where staff have to get into the frame of reference, and families and individuals, that the segregation and discriminatory practices that occur in sheltered workshops just do not make any sense. It really is a value shift to move in that direction. You have to prioritize community employment over those sheltered workshop operations.

Senator ISAKSON. The sheltered workshop I have done so much work with in my State. The Tommy Nobis Center is a great center and they do a great job. We have had quite a few Government contracts, but a lot of private sector ones too.

Would it be helpful when, say, IRS—which is a major contractor with sheltered workshops in a lot of areas—contracts with the sheltered workshops, as part of the accountability, for them to ask the question, what percentage of your employees are you moving forward outside of the shelter? With us starting to ask those questions of the Government, maybe that will promote an attitude change in terms of the sheltered workshops.

Mr. LAWHEAD. I think certainly asking that kind of question and determining the level of outplacement is a good first step. I think it kind of begs the question of major reform. Sheltered workshops and JWOD, because of the legislation, segregate people and congregate people. Until that legislation is changed, you are going to continue to have the same problem.

In my opinion at least, it is not something that can be fixed by asking people to do a better job of outplacement. The way it needs to be fixed, in my mind, is if you have a group of people working at IRS through a community rehabilitation program supported by JWOD, instead of being in a group in that setting at IRS, you disperse those individuals throughout the company so they are in individualized kinds of employment situations so that the stigma that attaches people from being congregated goes away.

What we are really talking about is IRS hiring people, not IRS contracting with a sheltered workshop or other community rehab provider. There is a real lack of incentive on the part of the agency to do that because they lose the overhead. So it really is a fundamental change, I believe, that is going to get you going in the right direction.

Senator ISAKSON. That is an excellent observation.

I know my time is up, Mr. Chairman, but I wanted to make an observation myself. I missed one testimony. I apologize.

Jim Gashel, I am sorry. I was voting when you were testifying, and I apologize. You may have said something about this.

One of the real breakthroughs in mainstreaming people with disabilities into the workforce is assisted technology, in my humble opinion, because there are so many people with disabilities. We need to be doing all we can do, through the Department of Education and through programs that we generate here, to make assisted technology as reachable, and affordable, and accessible to people with disabilities as possible. If we do that, we will probably help the employment of people with disabilities more than any

other single thing we could possibly do. That is just a statement I wanted to have for the record, and I appreciate the time, Mr. Chairman.

The CHAIRMAN. I am going to do a second round of questions, and everybody else is invited to do a second round as well, if they wish to. The reason I have to do that is, first of all, I did not get to ask Ms. Gashel and Mr. Young any questions. Second, so far what we have done is given excuses; we have not got to solutions.

One of the things that happens with Congress, I have noticed, is when a problem gets to a certain level, we react. There is a rule of Congress—and it happens in legislatures as well—and that is, if it is worth reacting to, it is worth overreacting to. That is why we are holding this hearing, is to find some solutions that are not in that category of overreacting. It is fine, and it is really important that we are saying that businesses, Congress and everybody else ought to be taking a look at opportunities that they have for people that are disabled and people that are blind.

We have two organizations out there that we have built that are charged with that, and I think they are failing miserably at their job. I just want to know how to fix it; not how to break it, how to fix it. I think we have some people here that have some expertise on how we can fix it.

There are two parts of the problem that are bothering me, and I am going to ask Mr. Gashel and Mr. Young to comment on this. The two parts are, first of all, how few out of the many are being served by the program? I know that they serve as role models. I heard that, but I want more role models out there. I heard the numbers, that the average of these entrepreneurial businesses only makes \$40,000 a year.

Now, our investigation did not go far enough into this to be able to tell—I am an accountant, so I like all those numbers. But when you are dealing with nonprofit, sometimes those numbers do not ring quite true because what is given out as executive compensation is a cost, so it does not allow for as much profit. I mentioned some numbers, and most of the numbers were in the JWOD program, in excess of \$300,000 for the CEO. I am concerned with not enough people with disabilities and the blind being hired, and then executives making large amounts of money, particularly compared to doing the job that the money is supposed to come from.

Would either of you like to comment on that? I am looking for solutions.

Mr. GASHEL. I definitely would. First of all, let us talk about the compensation. The profits in the Randolph-Sheppard program, that is a figure of about \$40,000 average for blind vendors in the program. These are not Government executives or nonprofit executives; these are entrepreneurs. So that is distinct from the JWOD program. I just wanted to make sure that you understood that. Now, some of the blind vendors make substantially more money than that and some of the blind vendors obviously make less money than that, so you come up with an average of \$40,000.

I read in the USA Today—and Senator Isakson referred to the contract in Georgia, and this is Fort Benning—that the blind vendor in operating that contract for the Randolph-Sheppard program, that that is a \$1.2 billion contract. Well, that sounds like a lot of

money. They kind of implied that the blind vendor is making all the money, which, of course, is not true. You understand the difference between gross and net. Also, they did not tell you that it is over 10 years. That was the aggregate number of the blind vendor contracts in military troop dining, not just Fort Benning.

NISH, by the way, I believe has something like almost \$3 billion worth of contracts in military troop dining over 10 years. They certainly have \$209 million over a single year, and the Randolph-Sheppard program would be about half of that in military troop dining.

The military troop dining blind vendors—and there are 39 of them—do make more money than the average blind vendor would. They should. These are high-end locations. When Congress amended the Randolph-Sheppard Act in 1974, it said that part of the goal was to enable blind vendors to achieve their maximum vocational potential. So, undoubtedly, there will be some people who will fall out at the high end of the scale. I would not consider these to be windfalls to say that a blind person is making an income of \$100,000, or \$200,000, or \$300,000, or \$400,000 if they are entrepreneurs.

By the way, I want to get to your point about more employment of blind and disabled people in the businesses. I certainly think that is a valid point. There are two instances where Randolph-Sheppard blind vendors have taken over contracts for military troop dining services that were formerly operated under the NISH program. The two instances are Kirtland Air Force Base in New Mexico and Fort Carson, CO. That is just a recent change in Fort Carson, CO.

But in both of those instances, the number of employment positions for people with disabilities is up. I think Fort Carson is exactly the same as it was before the blind vendor took over, so in the first one, though, it is up. In both situations, the wages and the level of management responsibility for blind and disabled workers is up.

We have advocated in the last couple of years, in the Congress, that in the case of military troop dining contracts, that blind entrepreneurs should be the prime contractors and there should be sub-contracts with the Javits-Wagner-O'Day program. NISH has not ever agreed to that.

The CHAIRMAN. I was not going to get into that. You are not helping me—

Mr. GASHEL. OK. I am trying to.

The CHAIRMAN [CONTINUING]. By playing two organizations. And you are not giving me solutions on how we can get more people, that are supposed to be taken care of by the program, into the program.

Mr. GASHEL. I would say on that—

The CHAIRMAN. No, I am not going to allow you to finish the statement because you have already used up 7 minutes of my time, and I am only allotted five.

Mr. GASHEL [CONTINUING]. Sorry.

The CHAIRMAN. And I do have to give Mr. Young a chance to answer on that. But as I said, I am going to submit some written questions because I have to get more answers than I am getting

here, or there will be difficulties for the programs. We have these programs established, and we are giving a special benefit to people by protecting that market for them, and then not getting the results that we are expecting. That is the kind of thing that causes reaction and overreaction around here. I am disturbed by the numbers, and I am trying to find some solutions so that we do not get into that kind of a situation.

Mr. Young.

Mr. YOUNG. Senator, you asked for some possible solutions. I think that there are many strategies and approaches that are evolving and coming into the mainstream of what we do that will really help here.

NISH has started over the last couple of years to try to adopt many of these: the use of assisted technologies to improve the productivity of people who are working on our contracts; the use of rehab engineers to re-do the way work is done so that more people can do the work that is currently being done by disabled people and do more work than is not being done by disabled people now.

We have started to use customized employment to take the contract as a whole, and instead of breaking it down by tasks, breaking it down into its elemental form, so that we can then take the best abilities of people with severe disabilities and deliver the products and services in that way.

There are lots of different ways that we think we can start using some of these things. We are going to start a pilot program next year that will allow a person with a disability instead of working on a contract as direct labor, do that work, perform that work under a subcontract with the nonprofit agency, and then let them develop entrepreneurial skills.

The CHAIRMAN. Thank you. I thank you both for your brevity and for the ideas that you generate. That is what I am looking for, and everybody will have an opportunity to provide some of those in writing for me. I do think a part of the problem is the lack of information and a lack of understanding of what can be done and how that can be accommodated. If we can get more information on that, I think we can solve some of this problem.

Senator DeWine.

Senator DEWINE. Well, let me expand the chairman's question to all the members of the panel and actually even go a little further. Let me ask all the members of the panel, anyone who would like to answer. What else you think we should be doing, here in Congress and the Federal Government, to deal with what I talked about at the beginning, what the chairman talked about, and other members have talked about? That is the big picture problem, which is the challenge with the fact that there are so many disabled Americans who do not have jobs. Who would like to add to what we have already talked about? We have already talked about some things. Some of you have responded to Senator Enzi. The field is open, and I have 4 minutes and 20 seconds.

Mr. GASHEL. I am going to be very brief. I think, for one thing, the Javits-Wagner-O'Day Act could be opened up to disabled-owned businesses and businesses owned by blind people. That is one thing that can be done. The bill that is proposed by Senator Roberts and Senator Kennedy for Federal contracting preferences for people

who receive Social Security disability or supplemental security income so that they can operate businesses and have Federal contracts is another solution. I think these would be very effective job creation tools.

Senator DEWINE. Anybody else? Mr. Young.

Mr. YOUNG. Senator, I think we do not hold all Federal contractors, for-profit and nonprofit, to a standard of hiring people with disabilities and blindness. We know that there has been an encouragement, but a weak encouragement for contractors across the Federal Government. If we have any movement of hiring of people with disabilities by these Federal contractors, we would make a dent in our problem.

Senator DEWINE. Mr. Lawhead.

Mr. LAWHEAD. In my mind, the JWOD legislation really needs to be changed because what you have happening right now with the JWOD projects is that, by the legislation, they need to be segregated. Although Mr. Young referred to the fact that many of the jobs are in Federal installations and are "integrated," the way they are integrated is perhaps the same way that you would integrate a school of all white children, and put a single classroom of African Americans in it, and say that is integrated. That is not integrated.

JWOD really demands segregation, whether it is in sheltered workshops or it is in those work crews that are provided on those Federal installations. Without changing the way that legislation works, you are not going to get—

Senator DEWINE. How would you write the legislation, then?

Mr. LAWHEAD [CONTINUING]. Well, the legislation, I believe you would want to have written so that you got down to natural proportions of people with disabilities. The legislation currently requires that 75 percent of the individuals experience severe disabilities within any agency that is contracting. Bring that down to the national incidence of disability in the United States, which is 18 percent, and perhaps talk about a range of 10 to 20 percent of a particular contracting entity. Use that kind of percentage, and then basically design the implementation of that so that people are integrated individually within those settings; not congregated together as they currently are, but integrated throughout that business in individualized kinds of jobs. If you use that kind of combination instead of the current 75 percent that is required by the legislation, you would come closer to hitting something that would make some sense I think.

Senator DEWINE. Well, I assume you would also change the list of jobs, then.

Mr. LAWHEAD. As in the current food service and janitorial kinds of jobs, you mean?

Senator DEWINE. Well, what is JWOD now?

Mr. LAWHEAD. Mr. Young could—

Senator DEWINE. What is covered now, would you change that? I am asking you the question.

Mr. LAWHEAD [CONTINUING]. Well, it is my understanding that the JWOD program is opened to any Federal program that may contract. It is tended to go more toward food service and janitorial kind of things.

Senator DEWINE. But where would it go, though, do you think, if you did that?

Mr. LAWHEAD. I do not know.

Senator DEWINE. You do not know. What would happen, I guess, the predictability?

Mr. LAWHEAD. Well, in my mind, you would perhaps have the same kinds of installations, having those contracts as you do now, but people, instead of being congregated, would be integrated. It may in fact open up the Federal contracting piece to more entities like IRS and white collar kinds of jobs within Federal Government and allow for that, it would seem to me.

Mr. YOUNG. Senator, if we were to do that—

Senator DEWINE. My time is up. Mr. Young, if you would be very brief. Go right ahead, sir.

Mr. YOUNG [CONTINUING]. If we were to do that, we would have to immediately get four times as many contracts as we have now, and we are perfectly willing to do that. Absolutely, we would do that. I would also suggest looking not at just direct labor. If we are going to make real opportunities for folks with disabilities, let us talk about supervisors, then management, and other kinds of opportunities as well.

Senator DEWINE. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Dodd.

Senator DODD. Thanks, Mr. Chairman, and I will be brief. I appreciate these last series of questions. In fact, they are the very questions I was going to raise. So I will second the chairman's request, along with that of Senator DeWine. The issue of statutory fixes in JWOD are important, and I suspect all of you may have some ideas and suggestions. I appreciate the suggestion made already here. That would be very, very helpful to get if we could. And then the question obviously, of what compromises can be struck here.

As I mentioned earlier, Jim Gashel and I are old friends. We have done a lot of legislation together over the last 20 years or so. I know Jim feels this way, as I do. I am inspired by role models, not only within the blind community, but obviously in a family setting, inspired by a sister who I watched achieve great success in her career. But I am inspired by Kate, and I am inspired by Michael as well, and you, Mr. Young, for what you do. I think it is important that symbols within the disability community offer inspiration to people with a variety of disabilities that exist.

So it is going to be important, it seems to me, that we try and work out these compromises. With all due respect here, this is a 70-year-old piece of legislation. It has been modified in 1954 and 1974. It is now the 21st century, and we have to be able to have a 21st-century solution to some of these ideas, and I think you are going to find a commonality of purpose in that goal.

I would really hope that the suggestion that the chairman has made—I do not have to submit a written question. We want to know what is the compromise. We want to know what common ground can be found so that we can expand and enhance these wonderful ideas that have served three generations now—or two generations—of Americans under various stages and different circumstances. The circumstances in 2005 are certainly different than



they were in the 1930s. Some things remain constant, but a lot of other things have changed, and I think we all want to accommodate those changes if we can by reaching some understanding here rather than picking sides. I do not think any of us feel comfortable with picking sides here at all. So I underscore the chairman's request.

Let me raise one issue that Senator Kennedy wanted to raise and apologizes for not being able to get back here. He asks this of Mr. Lawhead, and, Bob, to you too, respond to this, and others who want to comment on it.

The question is, what role does Medicaid play in this whole debate, and how is it different in sheltered work versus supported employment, and what is your perspective on the Medicaid Day Habilitation benefit?

Mr. LAWHEAD. The home and community-based waivers in the Medicaid program fund the majority of during-the-day services for people with severe disabilities, largely people with mental retardation and developmental disabilities. We, in my mind, ought to be looking at what the ADA has stated and Olmstead clarified when it talked about using public dollars to support programs in environments that are the most integrated possible.

We are just not meeting that standard in any way at this point in time. We have over a million people segregated when they do not need to be. So that Federal Medicaid program, the waiver program, that funds the majority of those day services presently, could be modified, or the requirements for that could be modified to push us in the right direction to get us integrating people into a most integrated setting as opposed to the current segregation and congregation that we have throughout the United States right now.

Senator DODD. You made obviously a suggestion here with this, but I would be interested in some proposals on how we might actually achieve that. I would be interested in that. I think Senator Kennedy would as well.

Mr. Chairman, thanks for the hearing. This is very worthwhile. And I am very grateful to the audience. There is another room as well, but having people come here to be a part of this discussion is tremendously helpful. For those of you who have made the journey to be here today as part of this discussion debate, I certainly welcome your presence here. It means a lot to have you in the audience. It demonstrates a commitment and concern about this beyond the leaders of organizations talking. I thank you very much for your presence. Thank you.

[Applause.]

The CHAIRMAN. Thank you.

Senator Isakson.

Senator ISAKSON. Thank you, Mr. Chairman.

Kate, I am going to ask you a question you are never supposed to ask a lady. How old are you, Kate?

Ms. BARTLETT. I am 20 years old.

Senator ISAKSON. You are 20 years old. Tell me about your elementary and high school education. Where did you go to elementary school and high school?

Ms. BARTLETT. I went to Arlington High for high school, and Bishop School.

Senator ISAKSON. Ogden High? Was that what you said?

Ms. BARTLETT. What?

Senator ISAKSON. What was the high school?

Ms. BARTLETT. Arlington High.

Senator ISAKSON. Was Arlington High a public school?

Ms. BARTLETT. Yes, it was.

Senator ISAKSON. Were you in IDEA? Were you in special education? No?

Ms. BARTLETT. Well, not really.

Senator ISAKSON. Not really?

Ms. BARTLETT. I had an assistant teacher that helped me out.

Senator ISAKSON. OK. You had an assistant teacher to help you out.

Here is my next question. You started out in Lesley School, and after the first semester you went to Middlesex, right?

Ms. BARTLETT. Yes.

Senator ISAKSON. Now, Lesley, in your testimony, you were in the Threshold program.

Ms. BARTLETT. Yes, I was.

Senator ISAKSON. That was for learning disabilities, right?

Ms. BARTLETT. Yes.

Senator ISAKSON. Now, Middlesex is just a regular community school, right?

Ms. BARTLETT. Yes, it is.

Senator ISAKSON. Here is my question. You used the greatest three-letter phrase; "I am happy." You said I am happy about three times in your testimony. And I think all of us recognize what Senator Dodd said a little bit ago. The best happiness program in the world is a job. The best solution to most of our problems in the world is a job. And for you, you are happy at Middlesex.

Was it because you are mainstreamed—I guess is the right word—amongst all kinds of regular folks and not in a special program? Does that give you some empowerment and some excitement that you did not get at Lesley?

Ms. BARTLETT. Actually, it kind of did.

Senator ISAKSON. That is what I found from lots of folks in special education and what mainstreaming really did because it puts people that may have a difficulty or a disability in the same environment with people that do not. And the people that do not are inspired by the people that have the disability, and the people that have the disability are empowered by the people that do not.

Everybody skipped over you because you were so smart and your testimony was so good. I just wanted to kind of come back to you and encourage all the members to read what Kate said because what she said and how she said it in her life's story is a good example of the positive result that mainstreaming has. And, Kate, I want to commend you on that.

Senator DODD. Amen to that. That is a very good point to make.

[Applause.]

Senator ISAKSON. I yield back my time.

The CHAIRMAN. Senator Ensign.

Senator ENSIGN. I think that we should note this time in history, when a senator actually yield back time.

The CHAIRMAN. Yes.

[Laughter.]

Senator ENSIGN. I am sitting here in shock.

Thank you, Mr. Chairman. Thank you for holding this hearing today. I think that today's hearing, unfortunately, is indicative of too much of what has been going on; the fighting that has been going on between interest groups instead of people working together, trying to come up with solutions.

All of us have the same goals, and those goals are to help people that have some type of a disability have a more fulfilled life. I personally believe that God made each and every one of us with some kind of innate desire and need to work. The more that we can fulfill that need and desire to work for people just gives a lot more people a higher quality of life.

We should always keep that in mind as our goal. The blind groups fight with the NISH people and back and forth. We have to back up and say, how can we get the ultimate goal in getting the most people to work, to have them have the most fulfillment in life? That is really what my goal is in all of this.

The reason we study statistics, Mr. Chairman, is because we are seeing which programs are working to help the most people. There is a limited amount of dollars, and we are to be good stewards for the taxpayers. So we look out there and say, okay, which programs are working the best to try to maximize the dollars that we have. That is really what we are after.

Having said that, I am in a little bit of a quagmire here, because, as you know, it depends on who you talk to as to what answers you get.

Mr. Lawhead, you have talked about the need for getting people into mainstream employment like we have done in schools. In 2005, JWOD had a survey, which found that over 75 percent of their employees, even in the sheltered work areas, were very satisfied with their jobs. We want to provide more opportunities for people. I am just kind of curious as to how we provide more opportunities when some people may not be able to be mainstreamed.

I absolutely love the idea of mainstreaming, whether it is in schools or employment, but there are just some people who need to stay in programs longer than others. And they may have the same kind of disability, but because of whatever emotional issues or their background, they just may not be able to transition as rapidly, if ever. That has just been my own personal experience with this.

If you can address that, the satisfaction level, the difficulties with mainstreaming, and how we get more people to that goal of being in the regular workforce.

Mr. LAWHEAD. When I polled the 200 people that were in our programs in Boulder County in 1989, 95 percent of those who were still in a sheltered workshop at that point said that they were satisfied with that. I beg your pardon; 75 percent said they were satisfied and felt good about working in that sheltered workshop; 95 percent said they liked their supervisor. Those are pretty strong statistics.

As those same individuals got community employment experience and were asked the question, do you prefer the sheltered workshop segregated setting or do you prefer being fully integrated in the

community, after getting experience of a 7 year period, 100 percent of them said I prefer being in regular community settings.

Senator ENSIGN. What percentage of people, do you think, who are in the sheltered workshop setting can actually go into the regular work setting?

Mr. LAWHEAD. One hundred percent, clearly.

Senator ENSIGN. You believe 100 percent can.

Mr. LAWHEAD. Absolutely.

[Applause.]

Senator ENSIGN. Before you go on, Mr. Young, what is your opinion on that?

Mr. YOUNG. I would agree with him. I think the vast majority of folks can work in the community.

Senator ENSIGN. So how do we do it? That is what I think the chairman was trying to get out earlier.

Mr. YOUNG. It is going to take substantial resources to do it. We do not, in this country today, have the infrastructure of training people, of personal assistant, job coaches, other kinds of long-term support personnel, training personnel to support moving everyone into community employment.

It would take a while, but we would do that in a heart beat if we could change the funding streams, change the funding sources, give us the employers who will employ folks with very severe disabilities, very significant disabilities. It is going to take a sea change, not just in the laws that are on the books, but the providers that are implementing the laws and the employers who will have to, at the bottom line, employ folks in a global economy where productivity is the essential character that they are looking for both from their human capital and their machines, and their intellectual capital. It would take a complete sea change. And believe me, every person in this room would be willing to do it if we could get the resources to do it.

Mr. LAWHEAD. Senator, may I? I respectfully would have to disagree with what Mr. Young is saying. What cost benefit studies have shown, studying I believe 27 studies over the last 25 years that were looked at and compiled around the cost benefit of community-integrated employment, was that after a 4 year period, there is a definite cost benefit to having people employed in community settings over these kinds of sheltered, segregated settings. Now, it is not to say that that could all be done rapidly without more money, but we could use existing dollars today and, in fact, be saving. We could have cost savings from the number of dollars that are spent today, and over a period of time have everybody in community settings.

There is a guy up at Oshkosh, Bob Samara, who has compiled these studies and continues to analyze these things. What he found is, although there are some initial up-front costs, after 4 years, community employment programs are always more cost beneficial than these sheltered, congregate kinds of settings. So we could do it on existing dollars. We could not do it rapidly, but we could gradually move in the right direction, and certainly that is my recommendation because I know we do not have any more money at this point.

Senator ENSIGN. Mr. Chairman, my time is up. It would be very good for the committee to get the recommendations from all of you on how to do that and if there are programmatic changes that need to be made by this committee. The one thing you have seen today is this committee, especially on these programs, can be very bipartisan because we all have the same goals in mind. So we would love to work with you all in trying to solve some of these problems.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. I want to thank all of our witnesses for their testimony. I know some of you had to travel long distances to be here today, and the information you shared in your attendance is really appreciated. The record will remain open. We have a number of hearings that are always going on at the same time, and that kind of cuts into attendance. But the people who are not here sometimes wish to submit not only their statement, but some questions. After they look at what we have asked about and the answers are given, they may still have some questions. I have some questions left over too. Several of them are more detailed, and I would not try to get an answer on the spot from any of you in that respect. So the record will stay open for 10 days, and if you would provide us with answers as early as possible, if you get some questions, I would really appreciate it.

I do look forward to working with Senator Kennedy and the others on the committee to find solutions to the problems that we have raised today. Among the options that we should consider in addressing these problems are whether there should be a single program instead of two programs, and how we can get benefits best provided by these two programs to all persons with disabilities; what incentives will be necessary to create more integrated, competitive employment; and what outcomes would be required to hold those programs more accountable with the people with disabilities.

So we are looking for answers. We are not doing anything in a hurry. We do have a Web site as well. I appreciate all the people that came here today. You probably have some ideas that the people who testified have not had. We need your solutions too. We try to make this as open a program as we possibly can. Get us your ideas any way you can.

The reason I mentioned the Web site is that it is faster than the mail. If you mail us something, because of the security we have at the Capitol, it could take us 6 weeks to get it, and the record is open for 10 days.

Mr. NELSON. Mr. Chairman, may I have permission to speak?

The CHAIRMAN. Certainly.

Mr. NELSON. From what I have seen in the last 15 years, since I was in the workshop, one of the things I have noticed is that the managers who run these workshops—this has nothing to do with Bob here, but where I live in Greeley, there are people who could work out in the community. And I must say that I get very offended when they tell me that I belong in a sheltered workshop.

Well, I am not getting an education if I am in a segregated setting like I would be in school. I think we need to change people's outlook. I have seen sheltered workshops run like, let us say, a Federal or State penitentiary because that is the way they pay people. When I got in, I had no clue whatsoever, in the name of God,

what I was getting into. I feel like that I have been lied to, cheated. I have been out of work most of my life just because of what people believe.

The CHAIRMAN. I think you did an outstanding job in your written testimony as well as your presentation, and we do thank you for your comments. We will see what solutions we can come up to for that too. Thank you very much.

There must be somebody in the audience named Laurel Henry. I was supposed to be meeting with Laurel about 30 minutes ago. That is a person from Wyoming, so it is very important. I will be back at my office about 10 minutes after this is over. That is a message for Laurel.

I thank everybody for their indulgence, information, and attendance. The hearing is adjourned.

[Additional material follows.]

## ADDITIONAL MATERIAL

### PREPARED STATEMENT OF JIM GIBBONS

#### EXECUTIVE SUMMARY OF RECOMMENDATIONS

On October 20, 2005, the Senate Health, Education, Labor, and Pensions (HELP) Committee held an oversight hearing on employment programs for people with disabilities. During that hearing, Chairman Enzi and other members of the committee expressed concern about how few individuals are being served by the two existing Federal programs: Randolph-Sheppard and JWOD. They questioned the accountability of the programs and whether people who are blind or severely disabled were the true beneficiaries of these programs. Finally, they questioned whether programs for the blind and severely disabled were providing the type of meaningful employment that will allow individuals to fully integrate into society.

Following is a summary of National Industries for the Blind's recommendations for increasing employment opportunities for people who are blind or severely disabled; for assuring the accountability of organizations providing employment opportunities; and for enhancing the social and economic integration of people who are blind or severely disabled. Our full comments follow the summary.

#### **I. Increasing Employment Opportunities**

- Legislatively establish a minimum 5 percent goal for all Federal agencies for contracting with nonprofit agencies under the JWOD program. In addition, legislatively establish a 5 percent goal for subcontracting with nonprofit agencies under the JWOD program by all prime contractors for contracts exceeding \$500,000. These two goals would support an estimated 330,000 JWOD jobs for people who are blind or severely disabled.

- Enhance the Committee for Purchase's ability to enforce the current procurement requirements of the JWOD program and support the committee by establishing mechanisms for addressing non-compliance by Federal agencies and employees. We estimate that this will create employment for an additional 1,000 people on existing contracts.

- Legislatively establish a goal of 2 percent employment for people who are blind or severely disabled by private-sector companies and provide tax incentives for achieving and exceeding those goals. We estimate that this will generate employment for 2,000,000 disabled people.

#### **II. Accountability**

- Call on the Internal Revenue Service to rigorously enforce the provision in the Internal Revenue Code of 1986 calling for intermediate sanctions for excessive executive compensation within nonprofit organizations.

- The recommendations of the nonprofit panel convened by Independent Sector given to the Senate Finance Committee in June 2005 should be adopted.

#### **III. Social and Economic Integration**

- Include incentives in the JWOD Act to encourage nonprofit agencies to aggressively recruit qualified blind individuals for executive positions and to put programs in place, like the NIB Business Leaders Program, to identify blind employees with leadership potential and provide them with training and opportunities to move ahead.

- Include incentives in the JWOD Act to increase wages and opportunities for upward mobility for blind employees to enhance their economic independence leading to further integration into the economic mainstream of society.

- Include incentives in the JWOD Act to increase service contracts under the JWOD program for people who are blind. "White-collar" job opportunities from service contracts, such as responding to calls to the EPA's National Lead Information Center or serving customers at retail supply centers in Federal office buildings or on military bases, provide employees with higher wages and greater opportunities to interact with a diverse group of individuals in the workplace.

- Legislatively require the Rehabilitation Services Administration (RSA) to "count and support with vocational rehabilitation (VR) funding" as "employment outcomes," also known as "26" closures, jobs within NIB associated agencies that are based on the individual's informed choice, pay minimum wage or better, and offer employee benefits and opportunities for upward mobility. In order to open JWOD employment opportunities to more blind people, the RSA needs to recognize and support the good jobs, wages and opportunities available through the JWOD program.

- Reward States that have the highest number of "26" placements into JWOD program jobs (and where people stay on the employment rolls for at least 1 year)

with additional funding in the next fiscal year. The funding would come from States with the lowest number of "26" closures.

- Carry out a national demonstration program to replace the "earnings cliff" with a gradual reduction of an individual's monthly benefit checks when they exceed the "substantial gainful activity" level. If SSDI beneficiaries were to lose only \$1 for every \$2 over the SGA limit, many more would be willing to accept higher-paying service contract and manufacturing jobs.

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My name is Jim Gibbons and I am the President and Chief Executive Officer of National Industries for the Blind (NIB), a not-for-profit organization, with more than 80 associated agencies across the country employing nearly 5,000 people who are blind. Prior to joining NIB, I was President and Chief Executive Officer of Campus Wide Access Solutions, a wholly owned subsidiary of AT&T.

I began losing my sight at the age of 8 due to a macular degeneration and was totally blind by the time I was a sophomore in college. I received my undergraduate degree in industrial engineering from Purdue University and attended the Harvard Graduate School of Business Administration, where I was the first blind person to graduate with a Harvard MBA. Being both a business person and a person who is blind, I bring both my management skills and my perspective on achieving success as a blind individual to my leadership responsibilities at NIB.

NIB enhances the opportunities for economic and personal independence of persons who are blind, primarily through creating, sustaining and improving employment. NIB operates under the Javits-Wagner-O'Day Act, a Federal procurement program, enabling people who are blind to work and provide products and services to Federal customers. By harnessing the demand and purchasing power of the Federal Government, NIB and its associated agencies supply Federal markets with a selection of more than 3,000 quality products and services under the trade name SKILCRAFT® manufactured and provided by people who are blind at more than 80 associated agencies, across the Nation. NIB associated agencies employ more than 5,000 people who are blind per year; pay more than \$80 million per year in wages and benefits for full- and part-time employees who are blind; offer rehabilitative services to about 125,000 children and adults who are blind; operate over 125 base supply centers; and deliver millions of dollars worth of quality products and services to Federal, State and commercial markets per year.

Like other businesses, NIB and our associated agencies must deliver quality products and services on time at competitive rates. To accomplish this, NIB mentors and supports our agencies with business development; product and service research and development; program management; distribution channel development and support; marketing; sales; and contract administration. However, unlike other businesses, NIB-associated agencies must generate at least 75 percent of their direct labor hours by persons who are blind. The engineering arm of NIB works with agencies to recommend workplace accommodations and adaptive technologies, manufacturing processes, job reengineering, feasibility studies, quality control and training. This enables associated agencies to modify jobs, equipment, processes and workflow to establish employment opportunities and to train employees who are blind.

NIB and our associated agencies gauge the Federal demand for specific products and services and adapt their operations to accommodate employees who are blind, and supply the Government with the products and services it demands. Similar to all Government contractors, associated agencies meet the same provisions for quality and contract requirements. They offer good wages and fringe benefits, meet Department of Labor and other workplace regulations and offer upward mobility and placement opportunities.

In addition to employment opportunities, NIB-associated agencies provide people who are blind with rehabilitative services, such as early childhood intervention, adult literacy, low vision examinations and aids, Braille literacy, nutritional/health services, occupational/physical therapy, personal and career counseling, recreation, transportation, mobility, daily living skills, employment training and more.

NIB's strategy for moving forward includes plans to further diversify the types of jobs available to people who are blind; to create JWOD product and service awareness within Government agencies; to aggressively market products and services; to generate public and private partnerships; and to provide technical and financial services to our associated community-based agencies. As the service industry rapidly expands in the United States and new technologies continue to emerge, NIB will continue expanding new and exciting career opportunities for people who are blind.

On behalf of NIB and its associated agencies, I want to take this opportunity to respond to three major areas of concern raised by committee members and panelists during the October 20 hearing:



## I. Increasing Employment Opportunities

HELP Committee Chairman Enzi expressed concern during the hearing about the effectiveness of the JWOD program in meeting the employment needs of people who are blind and severely disabled.

“I’m concerned with how few individuals are being served by the programs,” he told the panel. “What can be done to react, but not overreact to the current situation and make the necessary reforms?” he asked, adding, “I am looking for solutions/answers and if I don’t get real answers to this question there will be serious problems for these programs.”

As Chairman Enzi so passionately points out, too few people who are blind or severely disabled are employed in the JWOD program, and too few are employed outside the JWOD program. We would like to propose solutions to three barriers we have identified to generate greater employment for people who are blind or severely disabled:

**Barrier:** Not enough contracts are set aside by the Federal Government for this program. At \$2 billion, JWOD represents roughly 1 percent of Federal procurement. This compares with goals of 23 percent of prime contracts for small businesses, 5 percent for small disadvantaged businesses, 5 percent for women-owned businesses, 3 percent for hub-zone small businesses and 3 percent for service disabled, veteran owned small businesses.

**Solution:** Legislatively establish a minimum 5 percent goal for all Federal agencies for contracting with nonprofit agencies under the JWOD program. In addition, legislatively establish a 5 percent goal for subcontracting with nonprofit agencies under the JWOD program by all prime contractors with contracts exceeding \$500,000. These two goals would support an estimated **330,000** JWOD jobs for people who are blind or severely disabled.

**Barrier:** JWOD contracts that have been set aside are not uniformly honored by all Federal agencies. GSA ceased to be a mandatory source in 1988, and Federal procurement became more decentralized in 1988, which led to the issuance of hundreds of thousands of credit cards and individual Federal employees bypassing JWOD products to purchase substantially similar commercial items.

**Solution:** Enhance the Committee for Purchase’s ability to enforce the current procurement requirements of the JWOD program and support the committee by establishing mechanisms for addressing non-compliance by Federal agencies and employees. We estimate that this will create employment for an additional 1,000 people on existing contracts.

**Barrier:** Over-reliance on Government-procurement solutions, and not enough reliance on private-sector solutions. Government procurement and resulting employment represents only a tiny fraction of the overall domestic economy. The private sector employs more than 100 million people—the vast majority of the total employed in the United States. Yet 15 million disabled people are not being employed by the private sector.

**Solution:** Legislatively establish a goal of 2 percent employment for people who are blind or severely disabled by private-sector companies and provide tax incentives for achieving and exceeding those goals. We estimate that this will generate employment for 2,000,000 disabled people.

## II. Accountability

Another focus of the hearing was reports of abuse by non-profit agencies established under JWOD to provide employment for people with severe disabilities.

“Congress intended for the JWOD Act to benefit many persons with disabilities, not just a few nonprofit CEOs.” —Chairman Enzi

“The programs have produced shameful and serious failures . . . and flagrant abuses by certain contractors for personal gain.” —Ranking Member Kennedy

NIB commends the committee for its efforts to assure that Federal programs designed to provide employment opportunities for persons who are blind or severely disabled stay focused on meeting that goal.

**Barrier:** Widely-reported instances of excessive compensation, coupled with insufficient implementation of IRS intermediate sanctions and other penalties, erodes public confidence in the nonprofit agencies.

**Solution A:** Call on the Internal Revenue Service to rigorously enforce the provision in the Internal Revenue Code of 1986 calling for intermediate sanctions for excessive executive compensation within nonprofit organizations.

**Solution B:** The recommendations of the nonprofit panel convened by the Independent Sector given to the Senate Finance Committee in June 2005 should be adopted.

These recommendations include increasing the amount of information required to be reported to the IRS on Form 990 and to require boards of directors of nonprofit organizations to officially approve and be able to demonstrate the reasonableness of any increases in executive compensation. Other recommendations would require that nonprofit organizations strengthen internal controls including strict guidelines for travel and reimbursement policies for staff, board members and their spouses.

Congress should assure that the IRS has sufficient funding to provide effective oversight of nonprofit organizations with tax exempt status and to strictly enforce requirements and implementation of authorized penalties.

Currently, there are two provisions of the American Competitiveness and Corporate Accountability Act that apply to all entities, including not-for-profit organizations, and to those that do business with the Federal Government (such as NIB and its JWOD participating agencies). These provisions relate to any obstruction of the investigation or administration of any matter by any Federal governmental agency by destroying, altering or falsifying records, and to the retaliation against informants to law enforcement agencies, including interference with their lawful employment. We have taken steps to ensure that we are in compliance with these provisions as they relate to NIB.

1. **Protections for Informants**—NIB has a written policy to deal with complaints relating to various financial matters. This policy calls for any employee to notify the Human Resources Director, who then will notify the President. In the event that a member of the leadership team has a complaint, he/she would notify the Chairman of the Board.

2. **Document Management Policy**—NIB's accounting department keeps financial records for 7 years; personnel and payroll records are retained for 7 years; and insurance records are kept for 10 years. Contract administration files are retained for 7 years. Board minutes, bylaws, copyright and trademark registration, and audit reports are permanent records of the Corporation.

There are a number of other practices NIB has voluntarily established to insure the integrity of its operations:

1. **Protection for the Audit and Finance Committee**—NIB's Bylaws require that the Board appoint independent auditors and that the Audit and Finance Committee meet with these auditors at least annually. This has been the practice for more than 25 years.

2. **The Importance of Independent Boards**—Our Conflict of Interest policy and recently amended Bylaws prohibit interested directors from voting on issues where they may have a conflict of interest. Motions, votes and abstentions as documented in our Board and Executive Committee minutes are forwarded to the Chairman of the Board and Chairman of the Ethics Committee at the end of each calendar year.

3. **Composition of the Audit Committee**—NIB's Audit and Finance Committee consists of five directors—four private sector and one agency representative. Two of the directors on our Audit and Finance Committee are financial experts. For the past 10 years, at least one member of our Audit and Finance Committee has been a financial expert.

4. **Code of Ethics**—the Board adopted NIB's Code of Ethics approximately 8 years ago. On an annual basis, all employees review the code and sign a form that they have read the code and that they understand it.

5. **Financial Disclosure**—Annually, the CEO and CFO must certify that financial statements and disclosures are representative of the financial state of the organization. This statement is presented to the Board at the Annual Meeting and filed in our corporate minute books.

We also agree with the committee's concern about responsible use of taxpayer dollars, and would point out that only \$4.6 million is appropriated annually for this program to fund the operations of the Committee for Purchase from People Who Are Blind or Severely Disabled. When a Federal contracting agency purchase goods and services from NIB-associated agencies they negotiate a Fair Market Price for the contract, which is then submitted to the Committee for Purchase for approval. With well-trained contracting officers doing their job, the taxpayer is getting a quality product at a fair price at the same time NIB-associated agency employees are earning competitive wages for the work they perform.

### III. Social and Economic Integration

As Chairman Enzi, Ranking Member Kennedy and other committee members pointed out during the hearing, the Federal Government has a responsibility to provide employment opportunities to individuals who are blind or severely disabled.

“We need to get good people speaking out about how to increase employment of people with disabilities. What can we do to change incentives to stay in sheltered workshops? —Senator Isakson

We wholeheartedly agree. For NIB and its associated agencies, the questions are: Have NIB-associated agencies, through the JWOD program, created more and better employment opportunities for persons who are blind, and how do NIB-associated agencies move the maximum number of blind employees into meaningful employment that will allow them to fully integrate into the social and economic life of the community?

**Barrier:** There is little incentive to move individuals from “sheltered workshops” into meaningful employment.

We share the committee’s concern that individuals with disabilities not spend their lives segregated from non-disabled individuals in their places of employment and their communities. We agree that “sheltered workshops” in which individuals are pushed into repetitive, menial work, allegedly making as little as 30 cents an hour and have no opportunity to assimilate into society can thwart the potential of individuals with disabilities who are pigeon-holed into dead-end, make-work jobs. It is important to distinguish, however, such “sheltered workshops” from the modern manufacturing facilities operated by NIB associated agencies. In contrast to true sheltered workshops, NIB associated agencies pay competitive wages for their communities, provide health insurance and other benefits, offer opportunities for advancement as well as daily interaction with individuals with diverse backgrounds. And, they believe that blindness should never be used as a factor to pay below minimum wage.

**Solution A:** Include incentives in the JWOD Act to encourage nonprofit agencies to aggressively recruit qualified blind individuals for executive positions and to put programs in place, like the NIB Business Leaders Program, to identify blind employees with leadership potential and provide them with training and opportunities to move ahead.

**Solution B:** Include incentives in the JWOD Act to increase wages and opportunities for upward mobility for blind employees to enhance their economic independence that will lead to further integration into the economic mainstream of the society.

Toward this end, NIB has strived—and succeeded—to have its associated not-for-profit businesses become “employers of choice.” Nearly 5,000 people who are blind have chosen to work for not-for-profit businesses associated with NIB, including those who are producing quality SKILCRAFT office products, military apparel, and other items for its Federal customers. More than 2 years ago, NIB joined with organizations of people who are blind to call on Congress to repeal the language in the Fair Labor Standard Act which allows certain blind and severely disabled people to be paid less than the Federal minimum wage. Since Congress has not yet responded, NIB and its associated not-for-profit businesses are moving to require payment of minimum wage or better for all blind people employed on JWOD contracts.

**Solution C:** Include incentives in the JWOD Act to increase service contracts under the JWOD program for people who are blind. “White-collar” job opportunities from service contracts, such as responding to calls to the EPA’s National Lead Information Center or serving customers at retail supply centers in Federal office buildings or on military bases, provide employees with higher wages and greater opportunities to interact with a diverse group of individuals in the workplace.

Toward this end, NIB has embarked on a 5-year effort to double the number of blind people employed at its approximately 80 not-for-profit businesses across the country, focusing on expanding employment under Federal service contracts where individuals who are blind are employed on military bases, veterans hospitals, and other Federal agencies in settings that require interaction with a diverse group of individuals during the accomplishments of their daily work tasks. Rather than paying a “commensurate” wage rate based on individual productivity, NIB agencies pay the prevailing wages for these service jobs in the geographic area in which they are located, as determined by the U.S. Department of Labor. NIB agencies also pay the full health and welfare benefits package—currently an additional \$2.87 per hour. Hourly wage rates range from about \$10 to as much as \$22 per hour.

**Barrier:** The JWOD statute only measures direct-labor hours of employees who are blind or severely disabled thus creating a disincentive to promote individuals from line jobs into management positions.

**Solution:** Recognize upward mobility within NIB agencies by amending the JWOD Act to include blind people in “indirect” labor positions and supervisory

and management roles, as well as “direct” labor, in the ratio of blind to total hours required by the JWOD statute.

For some (but not all) employees, management opportunities offer the best path for reaching their full potential, accomplishing their personal goals and being more effective in their work. NIB began a management trainee program 3 years ago and is proud to report that the first class of Fellows and current blind employees completed NIB’s Business Management Training on October 21, 2005. As a result of this program, 28 blind people received Business Administration Executive Training certificates conferred by the Darden School of Business of the University of Virginia. Six of the 28 BMT participants already have received promotions from the jobs they held 15 months ago. The three individuals in the Fellows program have accepted positions with NIB-associated not-for-profit businesses at salaries ranging from \$50,000 to \$60,000 and are buying homes in the cities to which they are relocating. Another expanded round of the Fellowships and Business Management Training activities will begin in January 2006. In addition, NIB will train approximately 1,200 of its associated not-for-profit agency employees during 2006 in a program called “Leadership at All Levels.” A detailed explanation of the Business Leaders program is provided in Attachment A to this statement. As these individuals move out of line manufacturing jobs and into positions of management, it is important that the JWOD program both recognizes and rewards their initiative.

**Barrier:** The Department of Education’s Rehabilitation Services Administration (RSA) does not recognize or support JWOD manufacturing jobs as “employment outcomes,” even if those jobs pay minimum wage or above, include employee benefits and provide opportunity for upward mobility. There needs to be a clear distinction between sheltered workshops and the career opportunities offered by modern NIB agencies with opportunities for integration in all aspects of work life.

**Solution A:** Legislatively require the Rehabilitation Services Administration (RSA) to “count and support with vocational rehabilitation (VR) funding” as “employment outcomes” jobs within NIB associated agencies that are based on the individual’s informed choice, pay minimum wage or better, and offer employee benefits and opportunities for upward mobility. In order to open JWOD employment opportunities to more blind people, the RSA needs to recognize and support the good jobs, wages and opportunities available through the JWOD program.

While there are claims that sheltered workshops can be a disincentive to self-sufficiency and social and economic integration, there also is ample evidence that choosing to work at an NIB associated agency’s modern manufacturing facility among other people with disabilities on a job that provides economic independence can actually increase an individuals’ ability to fully participate in the cultural mainstream of society. Many blind people prefer to work for an employer who “gets it” and who provides competitive wages as well as accommodations—including assistive technology and workplace practices that promote optimum productivity—for employees who are blind. The result is true economic integration, which in turn leads to cultural integration—which should be the goal for all persons with disabilities.

NIB in conjunction with its associated agencies recently retained International Survey Research (ISR) to conduct a JWOD Employee Opinion Survey focused on job satisfaction and employee engagement. The final report is included as Attachment B of this statement. The specific measures ISR included in the survey were designed to tap into employees’ opinions regarding the following JWOD program objectives:

- Provide equitable wages and fringe benefits to all employees who are blind within the JWOD program.
- Provide career advancement and upward mobility opportunities to people who are blind and are employed through the JWOD program.
- Provide personally satisfying employment opportunities through the JWOD program to people who are blind.

The survey revealed that the overall level of job satisfaction for the NIB agency workforce is high. Compared to the U.S. National and the U.S. Manufacturing Norms, the NIB agency workforce is significantly higher on most measures of employee satisfaction. Areas of clear strength from the employee’s perspective include pride in the work their organizations are performing and pride in themselves. The key drivers of Employee Engagement for JWOD employees include a caring management, a strong reputation and the opportunity for development. These results affirm that jobs at NIB associated agencies provide more than just financial rewards. Employees like their work and feel proud of what they accomplish.

For all these reasons, blind people across the country are choosing NIB associated agency manufacturing jobs with good pay and benefits over options often suggested by VR counselors such as part-time work in the fast food industry at minimum wage

with no benefits. These blind individuals should have the right to make such informed choices and to establish the economic independence that will allow them to truly integrate into the social and cultural mainstream of this country.

**Solution B:** Beyond correcting this basic disincentive to the economic and social integration of people who are blind or severely disabled, NIB offers the following ideas to encourage greater employment of people who are blind or severely disabled:

- Give employers who provide additional benefits a top preference for referrals from State VR agencies or employers in general. This would encourage employers to provide more benefits to potential employees.
- Make employers that meet certain minimum standards eligible to obtain funding for equipment and training fees. For example, projects with more than 10 people who are blind would qualify for money equal to half the capital cost of equipment.
- In order to eliminate barriers to employment such as transportation, require States to provide sufficient funding to transport the individual to work if the current transportation system requires more than 1 hour of travel time.
- Reward States that have the highest number of “26” placements into JWOD program jobs (and where people stay on the employment rolls for at least 1 year) with additional funding in the next fiscal year. The funding would come from States with the lowest number of “26” closures.

**Barrier:** The “earnings cliff” faced by Social Security Disability Insurance (SSDI) beneficiaries is a disincentive to economic independence.

As more and more NIB associated agencies are offering benefits packages including not only paid holidays and vacation, but also health insurance and pension benefits, we are increasingly aware of the strong disincentive to economic independence posed by the existing SSDI system. Many SSDI beneficiaries want to move off of the Social Security rolls, but are placed in the untenable position of losing their entire SSDI benefit if they earn just one dollar over the statutory “substantial gainful activity” level.

**Solution:** Carry out a national demonstration program to replace the “earnings cliff” with a gradual reduction of an individual’s monthly benefit checks when they exceed the “substantial gainful activity” level. If SSDI beneficiaries were to lose only \$1 for every \$2 over the SGA limit, many more would be willing to accept higher-paying service contract and manufacturing jobs.

The Social Security Administration (SSA) was authorized in the Ticket to Work and Work Incentives Act of 1999 to conduct a national demonstration to test the effectiveness of a gradual reduction of benefits. SSA should test a protocol of beginning the benefit reduction after earning the full “substantial gainful activity” levels for 2006 (\$1,450 per month for blind SSDI beneficiaries), in order to encourage beneficiaries who work to attain their full potential rather than to begin penalizing them for meager earnings of levels such as \$300 or \$500.

#### CONCLUSION

Chairman Enzi’s October 20, 2005 report on oversight of Federal employment programs for persons with disabilities rightly questions whether there the opportunities are too few for persons who are blind or have severe disabilities. In the pursuit of broader opportunities, however, he wisely cautions against overreacting in ways that would threaten existing jobs and opportunities.

NIB’s associated agencies provide meaningful work, opportunities for advancement and economic independence for more than 5,000 NIB-associated agency employees who are blind. We acknowledge, however, that more can be done. We need to do better to meet the evolving needs of people who are blind as they seek to enter the workforce. That is why the NIB Board of Directors has established a Big, Hairy, Audacious, Goal (BHAG; Jim Collins *From Good to Great*), to double employment for people who are blind through our programs by 2010.

I thank the committee for the opportunity to submit NIB’s views for the record. We look forward to working with this committee and the Congress to identify and implement new ideas to assure that individuals who are blind or severely disabled are able to the greatest extent possible to work, to become self-sufficient and to be fully integrated in the economic and social life of their community.

## ATTACHMENT A

## NATIONAL INDUSTRIES FOR THE BLIND

## BUSINESS LEADERS PROGRAM

**Program Overview**

National Industries for the Blind (NIB), a 66-year-old organization dedicated to providing jobs and improving employment opportunities for people who are blind, has introduced a comprehensive program that offers experience and education in business and leadership. While there exist training and development programs designed to prepare people who are blind for professional work, upwardly mobile, business careers are typically not encouraged. However, business is where opportunity lies and where the jobs are in America! Given that 70 percent of people who are blind are not employed, NIB believes strongly that this program is vital to the future success of thousands of individuals who are blind nationwide.

NIB is uniquely well-qualified to solve this problem through their *Business Leaders Program*, a tri-fold menu of development opportunities for people who are blind. To that end:

- **The Fellowship for Leadership Development** recruits nationwide, both inside and outside NIB's network of associated agencies, for high-potential individuals who are blind. Candidates, who have diverse employment histories, will need to meet criteria such as a college degree, previous work experience and demonstrated leadership skills. Business competence is developed in a rigorous, on-the-job, 2-year salaried program that builds business skills through real work experience. Fellows' value-added work assignments benefit the nonprofit agencies, and fellows build business and leadership competence, becoming better prepared to enter professional managerial positions inside or outside the NIB network of not-for-profit businesses. As a component of the program, Fellows participate in Business Management Training.

- **Business Management Training** offers qualified employees at NIB and NIB's network of associated agencies the opportunity to pursue formal business skills development for career advancement through a customized, intensive, certificate program developed exclusively for NIB by the University of Virginia's Darden Graduate School of Business Administration. Taught at the level of Darden's MBA curriculum, this 1½-year training, implemented in 5, 1-week sessions, builds business acumen and optimizes participants' transitions into increasingly higher level management and leadership positions. This career-focused program targets employees who are blind and who have jobs at all levels, ranging from manufacturing to services and those who are already poised in career tracks. Agencies that support applications of their qualified sighted employees will be charged tuition if there is room in the class of a particular session, however strong preference is always given to employees who are blind.

- **Leaders at All Levels** is a fundamental skills development program designed to develop leadership, business-related, interpersonal, service and team-building skills to all employees within NIB and NIB network of associated agencies reaching 1,000 employees annually at associated NIB not-for-profit businesses, and impacting performance inside and outside the job site. This track is designed to be a feeder program for the other tracks; and therefore, has a broad audience offering a spectrum of development opportunities for all levels of the organization. Leaders at all Levels training assures that management and staff are constantly striving for excellence, professionalism, and responsibility as they work collaboratively to meet the mission of creating ever increasing numbers of employment opportunities for people who are blind.

**Program Goals and Achievements**

Launched in mid-2003 and already showing measurable successes, the Business Leaders program is the first professional development program of its kind to transform capable individuals who are blind into successful business people within the NIB network or in the larger business community. It operates on the premise that, given ability and inclination, they need only the skills, tools, and hands-on opportunities (as anybody would), to achieve workplace success and self-reliance.

The following describes pertinent goals and achievements of the three tracks of the program:

1. The primary goal of the NIB Fellowship is to provide professional work experience and learning opportunities to enable each NIB fellow to build a rewarding, successful career, specifically preparing him/her for a management and executive position in business and to serve as a role model for other individuals who are blind.

- The three fellows from the 2003–05 program successfully completed (as measured by 10 business competencies) their 2-year program September 2005. After they circulated their resumes and held hiring meetings with potential employers, they each landed professional managerial jobs with excellent salaries:

- Daniel accepted a position at Bosma Industries in Indianapolis, where he will serve as Business Development Manager of this 90-year-old, multi-faceted organization.
- Grant will be Program Manager at Winston-Salem Industries for the Blind in North Carolina handling the production flow of a number of the agency's key, high-revenue products.
- Mike will work at LC Industries in Durham, North Carolina, the largest not-for-profit business in NIB's network, as Plant Supervisor in charge of a major product.

- Recruitment for a new cohort was completed and out of a strong candidate pool, 11 people who are blind representing wide diversity and high-potential were chosen for in-person interviews. By November, up to six candidates will be selected to start in the January 2006 Fellowship.

2. The primary goal of Business Management Training is to provide business-oriented education, including the language and tools of business, to high-potential career-track participants who are blind. The most pertinent business-related topics—finance, accounting, production, ethics, strategic planning, human resources, marketing, and communications—are learned; but a unique opportunity has been built into the program. The participants are assigned real agencies, working with the CEO and creating business profiles and plans. All 28 blind participants have successfully met the requirements of the first four sessions (Aug. and Nov. 2004, Mar. and July 2005), and the remaining session will be completed on October 21, 2005.

Already, due to the impact of this program, there have been various promotions among the participants who are blind. Examples:

- Assistant Director of Community Services promoted to Director of Development,
- Assembly-line and sewing machine operator promoted to public policy-consumer relations associate,
- Line supervisor promoted to assistant manager of the industrial division,
- Director of Development and Public Relations promoted to General Manager of Administration, and
- Warehouse employee promoted to showroom supervisor at an air force base retail store.

3. Leaders at All Levels has a more general goal to reach over 1,000 agency employees annually at the not-for-profit organizations, allowing each individual to grow to his/her full employment potential. Three NIB-associated agencies were selected to pilot a five-module package of 1 hour training sessions featuring fundamental leadership skills such as interpersonal principles, team building, managing change, and negotiating ideas. The nearly 300 participants can attest to the positive, on-the-job effects of their learning. Some examples are:

- Unsolicited, a manager claimed, "A noticeable improvement in communications among line staff."
- The human resources manager, noting the unconstructive tone of a subsequent discussion, re-directed the group to be more productive by saying, "Now what did we learn yesterday about handling change?"
- An employee said she discovered, "I'm a leader, too."
- When a co-worker exclaimed, "I know a better way to do that!" another co-worker, responded, "Now, remember, how were we taught in class to present a new idea?"
- A manager noticed a team leader's improved interpersonal skills in making changes in the front line.

### **Conclusion**

Each track of the Business Leaders program is designed to further develop the leadership and business skills of people who are blind, allowing them to enter or advance in the business world with experience and confidence. As program graduates assume roles of increasing responsibility and leadership, both within and outside NIB, we expect that the skillful work and excellent leadership of these Business Leaders program participants will prove their value to the business community and that the minds of corporate leaders nationwide will open to the possibility of employing people who are blind in management positions. Ultimately, NIB expects to see people who are blind in upper-level management and leadership positions, both within NIB's network and in the broader business community.

**[Editors Note—Due to the high cost of printing, previously published materials submitted by witnesses are not reprinted. Attachment B can be found in committee files.]**

PREPARED STATEMENT OF THE COLORADO DEVELOPMENTAL DISABILITIES COUNCIL  
(CDDC)

COLORADO DEVELOPMENTAL DISABILITIES COUNCIL,  
October 27, 2005.

U.S. SENATE,  
Committee on Health, Education, Labor, and Pensions,  
Washington, D.C. 20510.

Dear committee members, first, thank you very much for taking the time to look carefully at the funding mechanisms of programs that assist individuals with disabilities to access jobs of their choice. Many dollars go toward this Federal priority and it is critical that those dollars are spent as efficiently as possible. It is to that end that the Colorado Developmental Disabilities Council makes the following recommendations.

The mission of the Council is to support policies, system change, and legislation that promote the inclusion of individuals with disabilities in daily life. One of our top priorities is to increase participation of individuals within the work force, just as other citizens participate. It is often difficult for those of us in human services to remember what and how other citizens access work, as the human service system has created its own complex system that rarely parallels that of the typical citizen. With this in mind, the following recommendations are presented to the committee with the hope that changes can occur within Federal contracts that, by nature, are not how everyone else accesses the work force. The Javits-Wagner-O'Day Act is clearly in need of bringing into the 21st century including the contracts with NISH or the National Industries for the Severely Handicapped. Often the interests of the provider community are different from those of the individuals being served, thus it is also with that in mind that the following recommendations are made.

Going on the basis that all people can generate personal income and that 100 percent of individuals are able to work with appropriate *individualized accommodations*, it is recommended that the idea of natural proportions be put into legislative language. The current 75 percent of persons with disabilities in NISH contracts clearly violates this basic tenet of natural proportions that is critical to being included in the work place or community in general. The natural proportion for all disabilities nationally is about 20 percent; for those with "severe" disabilities, the incidence rate is about 3 percent. The proportion certainly needs to be lowered.

Also, the definition of "community" must be very clear. Just because a job is physically located in a community, does not mean that there is access to real people or real jobs with the use of the enclave or work crews, as the model is also known. Both of these models are just as congregate as are sheltered workshops. They are merely islands in the mainstream that perpetuate isolation from the real community. NISH statistics indicate that they provide 12,000 jobs to people in workshops and 28,000 on "community" enclaves. Many enclaves may come into a Marriott, for example, and clean during the night or fold towels in the basement during the day, both in total isolation. There is never any contact with real staff or hotel customers. Both these models used by NISH are outmoded and only serve to obfuscate the term "customized employment." If the model were to follow how everyone else is employed, the Federal Government would actually employ individuals with disabilities based on their interests and skills. A Federal agency as employer, not a human service agency, would issue the paycheck.

In conclusion, please consider making changes in which the dollar follows the individual. If there is mid-management (agencies/contractors), there is less efficiency—be it a 4 percent administrative fee or a 10 percent fee—the dollars are moved from the person to the contractor. The model of the money following the person is being considered in many Federal and State programs currently with great fiscal efficiency. Housing, employment, and individuals themselves hiring and firing those that support them in finding a job or any other facet of life is something that the Colorado Council fully supports. Consumer directed supports are a model worth pursuing.

Please consider the above recommendations in your deliberations on not only the JWOD, NISH, NIB, and Randolph-Shepard programs, but also any of those within



the human service arena in which individuals or families may want to have closer control of their supports.

Sincerely,

MARCIA TEWELL,  
*Executive Director.*

IAN WATLINGTON,  
*Executive Director.*

PREPARED STATEMENT OF THE AMERICAN COUNCIL OF THE BLIND (ACB)

The American Council of the Blind wishes to thank the members of the Senate Committee on Health, Education, Labor, and Pensions (HELP) for keeping the record open following their oversight hearing of October 20, 2005, in order to allow us the opportunity to comment on the very important issues related to employment programs for persons who are blind or otherwise disabled. We appreciate the committee's interest in improving the quality of these programs and increasing the benefit such Federal programs provide to persons who are blind or otherwise disabled. We have reviewed the testimony given by witnesses during the above-mentioned hearing as well as the Chairman's Report. We offer the comments below in response. These comments will be organized around the four major questions posed in the Chairman's Report, namely: What outcomes does the Randolph-Sheppard law produce? What outcomes does the Javits-Wagner-O'Day law produce? Do these laws fulfill their Congressional intent? How can these programs be made more effective and more efficient? We should note that our comments will necessarily focus on the impact of these programs for people who are blind and visually impaired, as that is the constituency that our organization represents.

I. OUTCOMES OF THE RANDOLPH-SHEPPARD PROGRAM

The committee has noted that the purpose of the Randolph-Sheppard program was to provide increased opportunities for people who are blind to "maximize their vocational potential." For the 2,681 blind vendors whose participation in the program was documented by the Department of Education in 2002, we believe it is clear that this program has increased the number and nature of opportunities available to them. The program has provided these individuals with opportunities to engage in satisfying work, support themselves and their families, and participate in their communities in ways that they were not otherwise able to do. The degree to which these vendors can "maximize" vocational potential is, as the committee's record indicates, a bit more difficult to ascertain. Just as the success of any business depends on numerous factors, such as the business acumen of the management, the nature of the customer base, the location, and economic conditions, all of these factors, and more, affect the success of vendors.

Much attention has been focused on the prevalence of some negative outcomes of the program. First, it is asked why there are so few participants in the program. This is a good question and one we have asked ourselves. We know that in virtually every State in the Union, there are trained and licensed blind vendors who have yet to obtain an opportunity to operate a facility. It is our belief that the number of available locations is shrinking at a rate that is at least comparable to, and possibly greater than, the number of licensed blind vendors working today. Some of this is due to the decisions made by State licensing agencies, but the bigger problem is that Federal agencies have increasingly failed to recognize the Randolph-Sheppard priority and there is no incentive for them to do so. We will say more about this issue later, but we believe this is an issue that deserves more investigation by the committee.

Committee staff has expressed concern about "windfalls" made by "a few blind vendors under the Randolph-Sheppard program." We are cognizant of Congressional sensibilities regarding this issue, in light of recent developments in the corporate world. However, the manner in which this issue has been presented raises some grave concerns for us. For example, it was noted during the October 20 hearing that individual blind vendors are "entitled to the lion's share of profits from" several contracts with dollar values in the millions. The fact was stated in a manner which seemed calculated to indicate that this is, on its face, an objectionable situation. The prima facie nature of this objection is not clear to us. In the first place, the values cited actually represent the value of the contract over a 5-year-period, rather than an annual amount. Secondly, the amounts cited include major costs of doing business, such as the cost of purchasing food for the troops on each base, the purchase and maintenance of equipment, and the salaries of hundreds of employees required to fulfill the contract to the standards set by the base. Therefore, to cite the value

of these contracts as an indication of the vendor's profits is misleading. Even if we can establish the actual profit to which the individual blind vendor is entitled, then we must ask whether the objection to this individual's realizing such a profit is based upon his/her status as an individual, a vendor, or a person who is blind. If an individual blind vendor had not bid on any one of these contracts, and the contract was given to another entity that was not part of the Randolph-Sheppard program, would Congress find that entity's profit objectionable and deem it necessary to investigate it? We would like to know what constitutes an "acceptable" profit for a vendor operating under the Randolph-Sheppard program.

If there is concern within the committee that profitable businesses should somehow return funds back into the Randolph-Sheppard program in order to contribute to its perpetuation, we would not necessarily disagree with such a proposal, but it is not at all clear that the concern expressed during this hearing centered on the viability of the program.

Further, military contracts constitute at most 39 out of just under 3,000 contracts, and our survey of vendors indicates that most of the military contracts allow individual vendors a maximum of \$125,000.00 per year. Most blind vendors make well under \$100,000.00 per year. This sum is not exorbitant and, in fact, represents a wage that more people with disabilities should have opportunities to earn.

Finally, there has been a great deal of interest in whether a sufficient number of people who are blind, or have other disabilities work in any given vending location. We share the concern expressed by some committee members about the low number of such people employed in vending facilities. However, there are a few points that should be made here. First, several States, such as Ohio, Illinois and Georgia, require Randolph-Sheppard vendors to hire a certain number of individuals who are blind, or have other disabilities. This is a trend that we think should be emulated by other States. However, to be effective, such a requirement would need to be supported by regulation or legislation setting forth applicable definitions of disability and procedures for both establishing the disability of employees and reporting to an appropriate agency. Traditionally, with the exception of a few States that have imposed their own regulations, Randolph-Sheppard vendors have had neither the requirement to use disability as a criterion for hiring, nor the mechanism for reporting such hires to the Department of Education.

## II. OUTCOMES OF THE JWOD PROGRAM

We believe that a number of positive strides have been made for blind people in the JWOD program over the past 20 years or so. The agencies associated with National Industries for the Blind have come a long way in their efforts to promote people who are blind into management positions and to operate facilities that pay competitive wages for work done in integrated settings. More should, and is, being done to improve the quality of work settings and compensation under this program, and we recognize that significant barriers still make opportunities virtually inaccessible to many people with severe or multiple disabilities. At the same time, we also believe that one reason for this is that although recognition of the problem is widespread throughout both disability and public policy circles, it has not been easy to establish consensus regarding how to resolve the problems. One reason is that efforts to meet the needs of one individual sometimes create barriers for another. We believe that any legislative proposal aimed at improving the employment-related outcomes for the JWOD program should emphasize the availability of options for individual workers, so that they have choices and access to information about the consequences of those choices, and can determine for themselves, just as people who have no disabilities do, what type of occupation, wage and benefit package, and work setting will best meet their needs and fit their personal goals.

## III. CONGRESSIONAL INTENT ISSUES

Several members of the committee have raised concerns about whether the Randolph-Sheppard and Javits-Wagner-O'Day programs have fulfilled the intent of Congress expressed at the time of their enactment. It is our position that they have, for the most part, done so, but that like any institutions run by human beings over a period of many years, they have also fallen short in some areas. Both programs should increase the number of people who benefit from the opportunities they can provide. Committees of Blind Vendors and organizations of the blind have advocated for increased participation opportunities within the Randolph-Sheppard program for years. We welcome Congressional interest in seeing the number of participants grow, just as we did in 1974 when the Randolph-Sheppard Act was last amended. However, we note that consideration of Congress's original intent for this program would not be complete without examining other aspects of that intent, in addition

to the numbers. This program was enacted in order to meet a need. The great majority of people who were blind could not find employment outside of a very few menial occupations, let alone acquire the wherewithal to start businesses of their own. Unfortunately, many of the barriers facing blind people in the 1930's still exist today. Both State rehabilitation agencies and organizations of the blind continue to see new examples of the fear of blindness and the presumptions about the incapacity of blind people that still pervade our society. Yes, some progress has been made here too, assisted by the implementation of the Rehabilitation Act, the Americans with Disabilities Act, and other such laws, but these have not been the panacea we had hoped for, for a number of reasons, most of which are beyond the scope of this particular hearing. Our point is that not nearly enough progress has been made in addressing pervasive employment discrimination to simply expect that every blind person who wishes to work in any given occupation in any given community can simply get out and do so. Those of us who have done so have had a lot of doors slammed in our faces before finding one that would open, and frequently, the one that opened did so because we knew how to push it. People who, because of disability, or lack of necessary supports, are unable to "push" will still find success even more difficult to achieve. That is why it is so important to us that both the Randolph-Sheppard and Javits-Wagner-O'Day programs continue to be available to people who can benefit from them.

#### IV. IMPROVING EFFECTIVENESS AND EFFICIENCY

We believe that there are steps that can be taken to improve the effectiveness and efficiency of both the Randolph-Sheppard and Javits-Wagner-O'Day programs. However, we are far from convinced that simply combining them into one program will solve the problems, increase efficiency, and enhance effectiveness. In fact, unless particular issues are addressed, the result of combining them could do quite the opposite. We urge the committee to consider some less drastic, and we believe, more constructive, alternatives.

First, both programs must be overseen and held accountable for actually benefiting people who are blind or otherwise disabled. The Randolph-Sheppard program has fallen short largely because at both the Federal and State levels, it has received neither funding nor administrative priority. Even before the recent changes within the U.S. Department of Education, staff resources dedicated to the advancement of this program were minimal at best. Within State departments of rehabilitation the situation varies, but often mirrors the lack of attention of the Federal Government. This trend will only increase as agencies consolidate into large umbrella labor or social service organizations where programs serving low incidence disability groups end up near the low end of the resource distribution chain. We believe that Congress should either reaffirm the provisions of the 1936 act requiring adequate staffing levels by the U.S. Department of Education and set forth goals and objectives for which that staff would be accountable, or consider establishing a Committee for Small Business Development for Persons who are Blind or Otherwise Disabled, which would parallel the work of the Committee for Purchase from People who are Blind or Disabled, but focus on the development of business opportunities in particular. Such a committee could be charged with increasing the opportunities for people with disabilities to move into management positions within both programs, as well as take advantage of other opportunities outside of these particular programs.

Regardless of how these programs are structured, questions about their effectiveness will continue until such time as Federal agencies take their part seriously. The U.S. Postal Service and the Veterans' Administration are examples of a growing tendency among Federal agencies to refuse to recognize the Randolph-Sheppard priority in awarding food service contracts or circumvent the Javits-Wagner-O'Day preference when purchasing their supplies. There are virtually no consequences for their failure to comply with these laws. If Congress wants these programs to benefit increasing numbers of people with disabilities, then we urge them to consider ways in which agencies can be held accountable for interfering with the ability of these programs to provide such an increased level of benefit.

#### V. CONCLUSION

We appreciate the committee's concern for the effectiveness of these programs, and interest in insuring that these programs actually do provide increased opportunity to the greatest number of people who are blind or have other disabilities possible. However, we urge Congress to seek input from additional entities and individuals, whose expertise and experience with these programs can play a valuable part in determining how to improve the outcomes, effectiveness and efficiency of these

programs. We believe that helpful perspectives could be gained from representatives of State Licensing Agencies, Committees of Blind Vendors, and individuals representing both management and employees of agencies associated with the National Industries for the Blind. As an organization of people who are blind and visually impaired, we would also be most interested in engaging in further discussions with this committee related to measures to address the issues raised here, as well as during the hearing conducted last week. We thank you for your consideration of our input thus far.

Finally, we urge the members of the HELP Committee to avoid fixes that will result in throwing the proverbial baby out the window with the bath water. It is our hope that the zeal to address problems in both programs will not overshadow the positive benefits that have been achieved through the years, but will, in fact, make the most of them.

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AMERICAN CONGRESS OF COMMUNITY SUPPORTS AND EMPLOYMENT  
SERVICES (ACCSES),  
WASHINGTON, D.C. 20006,  
*October 28, 2005.*

Hon. MICHAEL ENZI,  
*Chairman,*  
*Committee on Health, Education, Labor, and Pensions,*  
*U.S. Senate,*  
*Washington, D.C. 20510.*

DEAR CHAIRMAN ENZI: The American Congress of Community Supports and Employment Services (ACCSES) would like to thank you for holding your hearing on October 20 on "Opportunities for Too Few? Oversight of Federal Employment programs for Persons with Disabilities." ACCSES is a national, nonprofit organization comprised of individual providers of vocational rehabilitation services and community supports as well as the State trade associations who represent them at their respective State level. These community rehabilitation providers are committed to maximizing employment opportunities and independent living for people with physical and mental disabilities.

As was obvious from the standing room only crowd, this hearing attracted interest across the disability community. Congress has rarely paid much attention to disability employment programs and we commend the HELP Committee for taking time to look into both the Randolph-Sheppard and Javits-Wagner-O'Day programs and to see how both can be improved.

We would like to offer the following comments on your hearing for the record:

*Supported Employment and Facility-Based Employment*

While this hearing was convened to look at Federal employment programs for people with disabilities, testimony at times attacked facility-based employment. Two witnesses on the panel testified against facility-based employment while there were none present in support of such work. We are disappointed the committee did not request testimony from a manager in a facility-based employment facility or a worker in such a facility. It would have been a good opportunity for the committee to hear first-hand about the importance and necessity of such work options. In the future, ACCSES is eager to work with you to identify managers and workers who could offer such testimony.

ACCSES members agree that for many people with disabilities, supported employment or other community employment is the best option. These jobs often allow them to earn good wages, interact with other people, and gain necessary work skills. We have many members that offer extensive supported employment programs and that find many individuals supported employment or employment directly in community employment. It should be noted, however, that many supported employment placements are only part-time and involve a significant amount of staff assistance for the person with a disability. In addition, not all supported, community, or competitive employments are successful. When such jobs fail, facility-based employment serves as a safety net, enabling people to return to work immediately.

Simply because supported employment or community employment is ideal for many people with disabilities does not mean it is ideal for all or that everyone would choose such a job. Many of our members recognize this fact by having a diverse array of employment opportunities for people with disabilities. Facility-based employment is a vital component of these employment opportunities. As Tony Young of NISH pointed out during the hearing, society is not yet at a place where there is a job at a good wage waiting for everyone with a severe disability. Workers in

a facility setting are able to learn vital work skills, earn wages, and have staff available to accommodate their special circumstances. Our members use facility-based work as part of their employment programs and are able to place workers in a job based on their needs and desires. In fact, there are many instances where facility-based work is simply a transitional step on the way to community work. In many instances, our organizations cooperate with State vocational rehabilitation agencies to train people with severe disabilities in a facility setting and then move them to community work.

Contrary to the claims of some, there is certainly an educational component to facility-based work. While some of the work may not teach skills that are directly applicable in community settings, the work does teach general job skills such as showing up to work on time, staying on task, taking direction from supervisors, developing motor skills, and getting along with fellow workers. In fact, the earliest work and research that led to the development of workshops was based upon the demonstrated need to teach the work role to some individuals and not a specific skill. These work attitudes and skills are vital for any job and are an important part of any facility's work program. A recently published study in the journal *Research in Developmental Disabilities*<sup>1</sup> supports this and demonstrates an increase in adaptive skills as people with disabilities moved into employment, including sheltered work.

The alternative to facility-based employment for many workers with severe disabilities is not having a job at all. In their quest to stamp out some of the problems of the facility-based work program, advocates would instead have the people with the most severe disabilities shut out of the work system altogether.

#### *JWOD Jobs vs. Community Jobs*

During the hearing, not-for-profit organizations that operate JWOD contracts were criticized for not advancing more workers off JWOD projects into community-based employment. However, the JWOD Act never had as its primary focus moving people with disabilities into community work. The Government has programs funded under the Rehabilitation Act for this purpose. The JWOD Act was designed for the most severely disabled who are otherwise unable to work in community employment. To criticize the act for not fulfilling a function it was never designed to fulfill is unfair.

A point that also seemed to be lost in the hearing was that the majority of JWOD jobs (70 percent) are service jobs. Although, by law, the majority of people working on a JWOD contract must have a severe disability, when a JWOD contract involves services that usually means there is significant interaction between the people with disabilities working on the contract and people without disabilities in the buildings, dining halls, or other places where these contracts are taking place. For instance, many military dining halls are staffed under the JWOD program. In their capacity working in these dining halls, people with disabilities are interacting with a variety of people who do not have disabilities. The same is true of many JWOD service contracts.

Furthermore, there was an implication in much of the criticism of JWOD jobs that somehow these jobs are not as good as employment in the community or are not "normal" jobs. The fact is that jobs performed on JWOD contracts are often better than jobs in the community if one were to measure them by wages, health benefits, and worker satisfaction. JWOD jobs pay on average \$9.14 an hour, well above the minimum wage. They also pay health and welfare benefits. Many supported employment jobs do not. Facilities with JWOD contracts report that they often meet resistance from workers if they try to move them off JWOD contracts to a job in the community, at times even if the community job pays better (which it often does not). It's easy to see why when it is considered that many supported employment jobs or other community placement jobs involve working in low-wage fast food jobs or other service jobs. This work is not as challenging, rewarding, or well-compensated as a JWOD job. When confronted with this choice, the people with disabilities working on these jobs logically choose JWOD over community placement.

When discussing JWOD jobs versus other work, it should be noted that JWOD jobs are not made up to create work for a person with a disability. The committee report gives this impression when it distinguishes between JWOD jobs and "normal" jobs. By this definition, providing food service to our Nation's military is not a "normal" job. Assembling military uniforms for our armed forces to use in Iraq and Afghanistan would not be a "normal" job, either. We fail to see what differentiates these jobs from "normal" jobs, except the fact that they are being performed by peo-

<sup>1</sup> Stephens, Dawn; Collins, Michael; and Dodder, Richard. "A Longitudinal Study of Skill and Employment Acquisition Among Individuals with Developmental Disabilities." *Research in Developmental Disabilities*. Vol. 26, pp. 469-486.

ple with disabilities. These are jobs that need to be done and if they were not being performed by JWOD workers they would be performed by others. To say they are not "normal" because they are filled by people with disabilities is insulting to the thousands of workers with severe disabilities who fill these jobs and serve our Nation every day.

Another aspect of this issue not presented to the committee was that most agencies that have JWOD contracts consider them merely one part of their overall employment and support services for people with disabilities. While they employ people with disabilities on a JWOD contract they are also placing people in community jobs. At some agencies the revenue brought in by JWOD contracts is instrumental in helping them fund community placement programs, since often State and Federal funds for these programs are meager.

*Executive Compensation at JWOD Agencies*

The hearing also focused on executive compensation at agencies with JWOD contracts. The Chairman's report discusses a few of the highest paid CEOs at JWOD-producing nonprofits, but it fails to give any evidence that this is widespread or that high compensation is unjustified. According to a recent article in the *Oregonian*, 20 percent of the 50 largest JWOD producers earn over \$300,000. Ten organizations (out of over 500 JWOD producers) that pay their CEOs over \$300,000 is not an example of widespread excessive compensation.

One of the difficult issues when discussing executive compensation for nonprofits is the changing nature of the nonprofit world. Many nonprofits serving people with disabilities have begun operating under more of a business model as they aggressively pursue business opportunities to market goods and services, and in general operate much like a for-profit business while at the same time meeting the needs of their clients with disabilities. Government at all levels encourages this type of nonprofit operation since these nonprofits are able to deliver better services to the community at a lower price, using funds raised from business activities to help fund programs for people with disabilities.

To achieve these results nonprofits must recruit and retain talented staff. They often compete with the for-profit world to do so. This means that the salaries offered by some nonprofits may seem high to the public at large. If these nonprofits did not offer these salaries, however, that would mean that they would not be able to attract the talented staff they need to grow their programs and serve more people with disabilities. In the end, people with disabilities would suffer as there would be fewer creative and resourceful people staffing these nonprofits and creating job opportunities for them.

In conclusion, ACCSES would like to once again thank you for taking the time to review these important Federal programs that provide employment opportunities for people with disabilities. While we understand some of your concerns with facility-based employment, the lack of movement from JWOD jobs into community jobs, and high CEO compensation, we hope you will consider the circumstances surrounding these issues and recognize the diverse factors at play in them. The community rehabilitation providers that make up ACCSES are committed to helping people with disabilities achieve their full potential through employment and independent living, and many of our members have decades of experience with these issues. We hope you will consider our perspective as you consider any changes to Federal employment legislation affecting people with disabilities. We look forward to working with you in the future.

Sincerely,

STEVE PERDUE,  
*President, Board of Directors.*

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PREPARED STATEMENT OF THE NATIONAL COUNCIL OF STATE AGENCIES FOR THE  
BLIND (NCSAB)

NATIONAL COUNCIL OF STATE AGENCIES FOR THE BLIND (NCSAB),  
BETHESDA, MD 20814,  
*October 31, 2005.*

The National Council of State Agencies for the Blind (NCSAB) is a national organization of State vocational rehabilitation agencies providing employment and training services to assist blind individuals to achieve full social and economic integration. State VR agencies administer the Randolph-Sheppard program, and work closely with many other employment programs including those authorized under the Javits-Wagner-O'Day (JWOD) Act. The NCSAB wishes to take this opportunity to

express its unconditional support for the Randolph-Sheppard program and to respond to a number of misleading portrayals of the program, its purpose, and its results.

### **Background**

For nearly 70 years, the Business Enterprise program has provided unprecedented entrepreneurial opportunities for blind people through management of vending facilities on Federal property. The program was authorized by the Randolph-Sheppard Act of 1936 to provide blind individuals with remunerative employment, enlarge their economic opportunities, and encourage their self-support through the operation of vending facilities in Federal buildings. The Randolph-Sheppard program receives no Federal appropriation. It is administered by State VR agencies that recruit, train, license and place individuals who are blind as operators of vending facilities located on Federal and other property. According to the U.S. Department of Education, in fiscal year 2004, a total of 2,584 blind vendors operated 3,100 facilities under Randolph-Sheppard. The program generated \$488.5 million, and the average vendor earnings amounted to \$39,880.

Randolph-Sheppard creates unparalleled entrepreneurial business opportunities for blind individuals. It requires blind individuals to manage the operations of a food service facility—some large and some modest—as independent business persons. The complexity and remuneration associated with individual facilities varies, but creates substantial opportunity for upward mobility for blind Randolph-Sheppard operators.

The Randolph-Sheppard program is the most successful employment program for blind people in the Nation's history. In recent years the program has increased its activities to include military troop dining facilities. Military troop dining has opened new and exciting opportunities for blind operators and is a daily, visible reminder of the ability of blind people to perform complex, demanding jobs that contribute to our Nation's security. The Randolph-Sheppard program should continue to receive the full support of the Federal Government, including all branches of the military. The Randolph-Sheppard program works cooperatively with other programs, including the JWOD program. In a number of military troop dining facilities, the Randolph-Sheppard blind operator employs significant numbers of people with disabilities; however, the purpose of Randolph-Sheppard should not be confused or obscured. No action should be recommended that would limit the opportunities of blind entrepreneurs to achieve full economic independence commensurate with their individual ability and willingness to achieve. The NCSAB stands ready to work with members of the HELP Committee as it looks at important employment programs for blind people and others with disabilities.

### **Issues Raised at the HELP Committee Hearing**

*Issue 1:* Has the Randolph-Sheppard program failed to achieve its statutory mandate to employ adequate numbers of blind people and others with disabilities?

Response 1: The Randolph-Sheppard program grants to blind vendors mandated priority to operate food service operations at Federal locations. Some of these are in large facilities, including cafeterias. Whether the facility is large or small, the blind vendor is required to be able to manage all aspects of the operation (in some cases including hiring and supervising a staff), while maintaining records needed to comply with Federal and State tax and other regulatory requirements.

According to the October 20, 2005 Chairman's Report, in 2002 (the Federal reporting year used in the committee's analysis), a total of 2,681 licensed blind vendors and their subcontractors employed 337 people who are blind; 278 people with other disabilities; and 6,507 people who have no disability at all. Based on these data, the Chairman concluded that less than 5 percent of the individuals working in the Randolph-Sheppard program are blind; a cause for concern in a program designed to create jobs for blind people. The implication, of course, is that the program employs only a handful of blind people and others with disabilities.

Yet these data are, at best, incomplete. In 2002, the program provided employment at the management level to 2,681 blind vendors. These blind vendors in turn employed an additional 337 blind people and an additional 278 people with other disabilities. The program, therefore, did not employ only 337 blind people out of a workforce of nearly 10,000. It provided employment to 3,018 blind people (2,681 blind managers and 337 helpers). Thus, 30.8 percent (not 5 percent) of the 9,803 people working in Randolph-Sheppard facilities nationwide were blind.

These data reveal another important point. Most Randolph-Sheppard vending facilities are quite small—classic “mom and pop” operations. On average, blind vendors employ just over two employees to work with them in their facilities. Often these are family members or trusted neighbors and friends. The 6,507 people with-

out disabilities are hired by the blind vendors. The cost of their employment is borne by the blind vendor. The blind vendor receives no funding for this purpose. The funds used to hire staff come from the sale of products, not from a public source.

The Randolph-Sheppard program is structured to grant entrepreneurship to people who are blind, offering them the freedom to run a business as they individually deem necessary to earn a living. It may be argued that the program should extend its employment opportunities beyond the management level. However, Congress has never implicitly or explicitly expressed such a sentiment. Stating this objective now, and condemning the program for past failures to meet that goal, is disingenuous. To place such a mandate on the program would put a requirement on the blind vendor that is not placed on any other business.

Moreover, under Federal law, all employers are required to conduct nondiscriminatory employment practices, and to make reasonable accommodations for employees with disabilities. These nondiscrimination requirements apply to Randolph-Sheppard blind vendors in the same way and to the same extent as they do to the general community of employers in America.

If the Congress intends the Randolph-Sheppard program to employ people with significant disabilities in positions other than those of managers of the facilities, this expansion of the current program would require training and support in order to be successful. Funding would need to be identified to address the cost impact of this new training initiative, especially given the recognition that blind entrepreneurs are not rehabilitation teachers or vocational instructors. They are blind people, trained to operate a competitive food-service business. Recruiting, training, and supervising a workforce of people with other significant disabilities is beyond their training and experience. Furthermore, if the Congress believes that blind vendors should be required to hire a certain number of people with disabilities, it would need to consider why such a requirement is not made on employers generally. Otherwise, the effect would most certainly be to place blind vendors at a disadvantage as they seek to work in an increasingly competitive business environment.

*Issue 2: Should the Randolph-Sheppard program be opened to people with disabilities other than blindness?*

Response 2: At present there are 2,584 blind vendors in America (U.S. Department of Education, fiscal year 2004 data). Each of these individuals has a documented disability, objectively measured and verified by a medical professional. The Randolph-Sheppard program uses the standard commonly known as “legal blindness,” defined as visual acuity of 20/200 in the better eye with best correction or a visual field of 20 degrees or less.

By contrast, other disabilities are typically functionally defined. There is no objective measurable definition of disability, and more to the point, there is no objective definition of significant disability. Opening the Randolph-Sheppard program to people with other types of disabilities would potentially displace blind people—people with medically verified disabilities—in favor of people who may or may not have disabilities of comparable significance. Even if a definition of significant disability could be developed and agreed upon, the effect would be to merely replace one person with a disability with another. There are a limited number of vending facilities; indeed the number has been gradually declining in recent years. At the same time, the States have waiting lists of blind people, trained and ready to go to work when facilities can be made available. Of course, there is a pressing need to expand employment opportunities for people with all types of disabilities. Nevertheless, to open the Randolph-Sheppard program to people with disabilities other than blindness, gives a false impression of progress. Such a move would not increase the number of employed people with disabilities; it would simply displace blind people, replacing them with others who may not face the same barriers to employment.

*Issue 3: Executive compensation in the Randolph-Sheppard program is disproportionate, leading to a small number of blind people making excessive salaries while others receive little or no help from the program.*

Response 3: According to the most recent U.S. Department of Education data for fiscal year 2004, the income for blind vendors in the Randolph-Sheppard program is \$39,880 annually. This is hardly an executive level salary or an excessive wage. It is, however, a living wage. It reflects a positive, sustained effort on the part of State vocational rehabilitation agencies to strengthen the training of blind vendors and to secure better quality vending facilities.

During the HELP Committee hearing on October 20, a number of large military troop dining contracts were offered as examples of excessive compensation of blind vendors. Yet the size of a military troop dining contract does not reflect the income



of the individual blind vendor. All costs of food, food preparation, distribution, equipment, maintenance, and staffing are contained in the total contract amount. Some blind vendors operating military troop dining facilities have good incomes, but their incomes are in no way disproportionate to the compensation of people without disabilities performing the same work.

The compensation for all managers of military troop dining facilities, including blind vendors, is tightly controlled by the Federal contracting officer. While the Randolph-Sheppard Act allows Federal agencies, including all branches of the military, to enter into "direct negotiations" with State rehabilitation agencies, no branch of the military has exercised this option when selecting a Randolph-Sheppard vendor to operate a military troop dining facility. While "direct negotiation" is an option, all branches of the military opt to have the Randolph-Sheppard program submit detailed proposals alongside those of private-sector offerors under the competitive bid process. In this way, the military is assured that the Randolph-Sheppard program is truly providing comparable service at a comparable cost. In other words, to get a military troop dining facility, the State rehabilitation agency, acting as the State licensing agency under the Randolph-Sheppard Act, must submit a competitive bid. The dollar amount of the contract, therefore, is comparable to the amount the military would pay to any other successful bidder. These contracts are often large, extending over a 5-year period. The blind vendor is compensated well, but no better than the private sector manager administering a similar-sized contract. The military has extensive data about the cost of military troop dining. It requires specified staffing levels, sets the wages and compensation of workers, and maintains detailed requirements as to the type and quality of the food to be served.

*Issue 4:* One way of strengthening both programs would be to merge the two into one employment program for people with all types of disabilities.

*Response 4:* The Randolph-Sheppard and JWOD programs are significantly different in their structures and purposes. The Randolph-Sheppard program is intended to provide blind people with an entrepreneurial opportunity to manage a food service facility. Blind people are trained to function as independent business people, with all the opportunities and responsibilities that go along with operating a small business.

By contrast, the JWOD program is designed to set aside Federal contracts and award them through a "Central Nonprofit Agency," NISH, to affiliated private nonprofit agencies that employ people with disabilities to perform direct labor. In the case of the JWOD program, there is an assumption that the labor force will be less productive and require greater supervision and support than the ordinary workforce. The Committee for Purchase from People Who are Blind or Severely Disabled (the Federal agency that oversees the JWOD program), routinely assigns Federal contracts to NISH-affiliated nonprofit agencies at a cost 10 percent greater than the same contract would cost if it were administered by a private sector contractor. In other words, the Randolph-Sheppard program expects the blind vendor to function at a high level of competence necessary to manage independently a full service food service business; the JWOD program offers noncompetitive contracts as a way of providing subsidized employment to individuals with significant disabilities who are anticipated to perform below competitive standards.

While the two programs have substantially different purposes, there are ways in which the programs can and do work together. In Albuquerque, New Mexico, and in Colorado, blind vendors operating military troop dining facilities voluntarily employed a workforce of people with significant disabilities who had been working at the facilities under a JWOD contract. While the NISH-affiliated nonprofit agency operating under the JWOD program receives elevated compensation in the administration of its contracts, the Randolph-Sheppard blind vendor does not. There are a number of possible ways in which cooperative relationships between the Randolph-Sheppard and the JWOD programs could be achieved, but the dramatically different purposes and structures of the programs makes the consolidation of the two programs ill-advised and potentially disastrous to blind Randolph-Sheppard vendors.

### **Conclusion**

The Randolph-Sheppard program establishes blind people as independent business persons operating food service facilities on Federal and other property. There is no Federal appropriation to the Randolph-Sheppard program. The blind vendors' income is simply the profit from the sale of goods and services. Whether the products and services are purchased by individual customers or under contract from the military, compensation is commensurate with the value received. Wages paid to blind Randolph-Sheppard vendors are comparable to salaries that exist for those in the general public who obtain employment in food service management positions at

restaurants. More skilled, ambitious blind vendors have the opportunity for advancement, progressing to larger and more complex facilities.

The JWOD program offers supervised training and employment to individuals with significant disabilities. NISH-affiliated nonprofit agencies receive noncompetitive Federal contracts, frequently at a cost greater than the Government would otherwise pay. The compensation of the disabled direct labor workforce reflects a wage scale designed for non-skilled employees. Executive compensation in NISH affiliated nonprofit agencies is not regulated, and is typically paid to nondisabled managers and executives.

Congress should not make changes to the Randolph-Sheppard program based on limited information or mischaracterizations of the program's purpose and success. The Randolph-Sheppard program is not broken; it is well administered and provides good quality employment for blind individuals while providing quality products and services to its customers. Any change in the program's mandate or structure should not be undertaken without full discussion with, and involvement of all stakeholders—blind vendors and representatives of State Licensing Agencies. Thank you for your consideration.

Sincerely,

The member agencies of the National Council of State Agencies for the Blind. National Council of State Agencies for the Blind; Alabama Blind and Deaf Services, Department of Rehabilitation Services; Alaska Labor and Workforce Development Division of Vocational Rehabilitation; Arizona Services for the Blind and Visually Impaired; Arkansas Services for the Blind; California Specialized Services Division, Blind and Visually Impaired, Deaf and Hard of Hearing; Colorado Division of Vocational Rehabilitation; Connecticut Board of Education and Services for the Blind; Delaware Division for the Visually Impaired; District of Columbia Rehabilitation Services Administration Visual Impairment Section; Florida Division of Blind Services; Georgia Department of Labor/Vocational Rehabilitation program; Hawaii Services for the Blind; Idaho Commission for the Blind and Visually Impaired; Illinois Office of Rehabilitation Services Bureau of Blind Services; Indiana Blind and Visually Impaired Services, Family and Social Services Administration; Iowa Department for the Blind; Kansas Rehabilitation Services; Kentucky Office for the Blind; Louisiana Rehabilitation Services; Maine Division for the Blind and Visually Impaired; Maryland Division of Rehabilitation Services; Massachusetts Commission for the Blind; Michigan Commission for the Blind; Minnesota State Services for the Blind; Mississippi Office of Vocational Rehabilitation for the Blind; Missouri Rehabilitation Services for the Blind; Montana Vocational Rehabilitation—Blind and Low Vision Services; Nebraska Commission for the Blind and Visually Impaired; Nevada Rehabilitation Division; New Hampshire Services for Blind and Visually Impaired; New Jersey Commission for the Blind and Visually Impaired; New Mexico Commission for the Blind; New York State Commission for the Blind and Visually Handicapped; North Carolina Division of Services for the Blind; North Dakota Administration of Vision Services; Ohio Bureau of Services for the Visually Impaired; Oklahoma Visual Services Division; Oregon Commission for the Blind; Pennsylvania Bureau of Blindness and Visual Services; Rhode Island Services for the Blind and Visually Impaired; South Carolina Commission for the Blind; South Dakota Service to the Blind and Visually Impaired; Tennessee Services for the Blind and Visually Impaired; Texas Department of Assistive and Rehabilitative Services; Utah Division of Services for the Blind and Visually Impaired; Vermont Division for the Blind and Visually Impaired; Virginia Department for the Blind and Vision Impaired; Washington Department of Services for the Blind; West Virginia Blind and Visually Impaired Services; Wisconsin Blind Services; Wyoming Division of Vocational Rehabilitation; American Samoa Division of Vocational Rehabilitation; Guam Division of Vocational Rehabilitation; Northern Mariana Islands Office of Vocational Rehabilitation; Puerto Rico Vocational Rehabilitation Administration; Virgin Islands Division for Disabilities and Rehabilitation Services.

PREPARED STATEMENT OF NATIONAL INDUSTRIES FOR THE SEVERELY HANDICAPPED  
(NISH)

THE U.S. DEPARTMENT OF EDUCATION INTERPRETATION OF THE R-S ACT IS  
INCONSISTENT WITH THE INTENT OF CONGRESS

NISH believes that DOE has far exceeded Congress' original intent when it amended the R-S Act in 1974. The 1974 amendments substituted the term "vending facility" for "vending stand" and included "cafeterias" within the new definition of vending facility. However, there is nothing in the statutory language of the act that

defines the term “vending facility” to include military mess halls operated through the procurement process.

Moreover, when Congress considered the term “vending facility” in amending the R-S Act, it clearly had in mind the sale or “vending” of food and other items to the public or to Government employees. This is apparent from the ubiquitous references in the legislative history to “vending concessions” and “vending stands.” It is also reflected in House Floor remarks of Congressman Quie who, in urging passage of the RS Amendments, stated:

*I must stress to my colleagues that the Randolph-Sheppard legislation requires appropriated dollars only for administrative costs. The stands operated by the blind are self-sustaining.*

*Congressional Record—House, November 20, 1974, p. 36616.* This statement is certainly not consistent with the DOE’s position that the R-S Act priority applies to military procurement contracts using appropriated funds.

The legislative history of the R-S Act is full of statements by Members of Congress and by witnesses for the blind organizations who testified in favor of the amendments which reflect overwhelmingly that the R-S Act was considered to be strictly a vending program operation. What is also important, however, is what is absent from the legislative history. There is no discussion of the effect of the act on the procurement process or how the amendments to the act might conflict with other procurement preferences such Section 8(a) of the Small Business Act or JWOD. One would expect some discussion of this in the 5 years during which Congress considered this legislation if, in fact, the amendments were intended to make the R-S Act applicable to military procurements of food services. Such a significant change in the scope of the act would surely have been reflected somewhere in the legislative history.

In contrast, just the opposite is true. With the exception of General Benade’s remarks (discussed below), the legislative history is entirely silent on this issue. In fact, hearings held in 1970 at which the Special Subcommittee on Handicapped Workers considered amendments to JWOD at the same hearing as amendments to the R-S, reflect no intent or even awareness that the R-S Amendments might be in conflict with or overlap priorities under the JWOD legislation. Certainly this would have been addressed if it was intended that the R-S amendments would have the effect of opening up the military procurement process to R-S vendors. Hearings on S. 2641 and S. 3425 before the Special Subcommittee on Handicapped Workers of the Committee on Labor and Public Welfare, 91st Cong. 2d. Sess. (1970).

The DOE has, for several years, based its interpretation of the R-S Act on a single brief statement of one witness—a statement that is belied by 5 years and thousands of pages of legislative history. We refer here to DOD witness Lt. General Leo Benade, an individual who, it should be noted, was responsible for personnel and not procurement. General Benade, in discussing the possible reach of the R-S Act amendments, stated that the act could have the effect of giving R-S vendors priority in military food service operations such as “post and base restaurants and mess halls.” This isolated statement by a single witness who was merely expressing an opinion, is DOE’s only support for its position that Congress intended the R-S amendments to apply to military procurements such as mess halls. There are no statements by any actual Members of Congress or by anyone else, which support General Benade’s view. Nor did the Senate and House Committees with oversight over Government procurement exercise any jurisdiction over the 1974 R-S Amendments.

We believe a careful reading of the legislative history of the 1974 amendments, including the context in which General Benade made his remarks, and the complete lack of support any where else in the legislative history for his view, compels one to reach a different conclusion than that advanced by DOE.

We believe that DOE has not properly reviewed the legislative history of the act and, as a result, has interpreted it in a way which is inconsistent with the intent of Congress and in excess of its authority.

VIRGINIA ASSOCIATION OF COMMUNITY REHABILITATION PROGRAMS  
(VAACCSES),  
ALEXANDRIA, VA 22312-7905,  
October 28, 2005.

Hon. MICHAEL ENZI,  
Chairman,  
Committee on Health, Education, Labor, and Pensions,  
U.S. Senate,  
Washington, D.C. 20510.

Re: Oversight Hearing on Employment Programs for People with Disabilities

DEAR SENATOR ENZI: The Virginia Association of Community Rehabilitation programs Dba vaACCSES, would like to commend the Senate HELP Committee for holding your hearing "Opportunities for Too Few? Oversight of Federal Employment Programs for Persons with Disabilities" on October 20, 2005. We applaud the committee for having the hearing's final goal to be on solutions—ways to address and further strengthen the Randolph-Sheppard and Javits-Wagner-O'Day (JWOD) programs, as well as increase community employment for people with disabilities.

Established in 1977, vaACCSES is a not-for-profit association of community rehabilitation programs (CRP) that represent the most geographically diverse base of community rehabilitation programs providing employment, benefits assistance, training, day support, residential and other community-based support services to Virginians with disabilities. Currently, our 40 member organizations collectively serve over 9,800 Virginians with disabilities on an annual basis vaACCSES would like to offer the following information and public comment to be included in the Senate HELP Committee's October 20, 2005 hearing record:

*JWOD Program Provides Choice of Quality Jobs for Virginians With Disabilities*

In 2004, 2,544 Virginians with disabilities were employed under the JWOD program providing Virginians with disabilities real jobs, a living wage and increased independence.

In Virginia, over 95 percent of JWOD jobs allow individuals with disabilities to participate in integrated work settings as recognized by the Rehabilitation Services Administration. These Virginia citizens earned an average hourly wage of \$10.46 plus health and welfare benefits while providing needed services to Federal agencies and military installations. The average wage for JWOD services in Virginia exceeds the national JWOD average wage of \$9.14 and significantly exceeds the Federal minimum wage of \$5.15 per hour by over \$5.00 per hour.

Often more important to Virginians with disabilities than a living wage, is health insurance and other benefits. According to many national and State reports, the fear of losing health benefits from Medicaid and Medicare keeps many individuals from working full time and/or even working at all. JWOD jobs provide these needed benefits and allow individuals that are blind or have severe disabilities to achieve greater independence as it enables many individuals to reduce dependence on Government support and join the ranks of taxpayers.

*JWOD Jobs vs. Community Jobs*

During the hearing, community rehabilitation programs that operate JWOD contracts were criticized for not advancing more individuals with disabilities off of JWOD contract work sites and into community-based competitive employment. However, the primary focus of the JWOD Act was never intended to place individuals in competitive community-based employment. The primary focus of the JWOD Act was to leverage the Federal Government's need to procure goods and services with the socioeconomic need to provide employment opportunities for individuals with severe disabilities. To criticize the act for not fulfilling a function it was never designed to fulfill is unfair.

However, many individuals with disabilities learn valued work skills on JWOD contract sites and choose to move into competitive jobs—often with the Federal Government. In Virginia, CRPs advanced or "graduated" 837 Virginians with disabilities from JWOD contract jobs to job placements in the community. Albeit a good statistic for 2004, the bottom line is that it is their decision to make—not ours.

Choice of employment options is paramount. A full continuum of employment services, supports and opportunities is critical to ensure that all individuals with disabilities and multiple levels of ability can choose to participate in some form of employment. Simply because supported employment or community employment is seen by some professionals to be ideal for individuals with disabilities or that some individuals believe it is ideal for them—does not necessarily mean that it is ideal for all or that all individuals with disabilities would choose competitive employment

in the community. Most often, a JWOD job is just one employment option available to individuals with disabilities. Other options include center-based employment (“sheltered work”), group employment or individual competitive employment in the community. It is an individual’s right to choose what employment option is best for them.

*JWOD Jobs Are “Real” or “Normal” Jobs*

The committee report gives the impression when it distinguishes between JWOD jobs and “normal” jobs. It should be noted that JWOD jobs are not made up to create work for an individual with a disability. JWOD jobs are “real” and “normal” jobs. Services for the Federal Government such as mail services, janitorial, fulfillment, document management and other valued services need to be performed. Military uniforms need to be made and other products purchased by the Federal Government need to be manufactured. If these JWOD jobs were not performed by individuals with disabilities—the work would be done by other contractors or Federal employees.

*Executive Compensation and Governance*

The hearing also focused on executive compensation in the context of widespread abuse and fraud at agencies with JWOD contracts. However, very little evidence was given in the way of facts to back up the accusations. Although a chart discussing five executive salaries was presented, and a recent article in the *Oregonian* highlighted 10 of the highest paid CEOs of the 50 largest JWOD producing nonprofits, no effort was made to put this in context with the other 600+ JWOD producing nonprofits. Five or ten organizations out of 600+ organizations with CEO salaries of \$300k+ are not necessarily an example of widespread excessive compensation. In addition, there was no mention of what percentage the CEO’s salary represented in the context of the organization’s total operating budget.

Over the years, community rehabilitation programs have diversified their services through innovative commercial lines of business and other entrepreneurial enterprise. JWOD, in many instances, is just a portion of a community rehabilitation program’s overall operating budget. The industry’s ability to recruit competent and talented CEOs to provide quality leadership should be protected in order to continue to better serve citizens with disabilities.

JWOD producing CRPs in Virginia have a myriad of regulatory and best practices oversight including volunteer Board of Directors, State licensing and auditing authorities, Federal rules and regulations under Department of Labor, OSHA, IRS, JWOD direct labor ratios and disability determination requirements and other Federal and State entities. In Virginia, all community rehabilitation programs that provide employment hold CARF accreditation, a national accreditation based on national administrative and programmatic “best practice” standards with a foundation of participant choice and outcomes.

Fraud should not be tolerated. However, we hope that the JWOD program and its 600+ JWOD producing non-profits do not suffer because of a few. A valued program like JWOD should be protected at all costs. We look forward to working with the President’s Committee for Purchase from People Who are Blind or Severely Disabled (the Committee) and NISH as they continue to work to improve transparency and governance in the JWOD program.

*Recommendations to Increase Employment of Individuals With Disabilities*

Although the employment of citizens with disabilities in the JWOD program has increased from approximately 32,000 to nearly 42,000 over the past 5 years, tremendous growth is still possible.

(1) Encourage Federal agencies to create additional employment opportunities for citizens with disabilities by purchasing services and products through the JWOD program.

(2) Require quotas in Federal agencies to convert contracts to JWOD similar to small, women-owned or minority-owned business contracts.

Additional citizens with disabilities can experience community-based competitive employment by implementing the following:

(1) Make funding for employment services to people with disabilities a priority—in vocational rehabilitation as well as with Medicaid.

(2) Increase funding appropriated to States through the Rehabilitation Services Administration to support community employment. Additional “110” dollars will increase the provision of work adjustment, situational assessments, job development and job placement for individuals with disabilities. Over the last decade, employment services funding to the States has remained flat or has been decreased. Flat funding means fewer services as the cost of inflation eats away at the purchasing power of the dollar.

(3) Encourage use of the private not-for-profit sector to provide these services. The private not-for-profit sector can usually provide these services in a more cost effective and flexible manner than State vocational rehabilitation agencies.

In conclusion, thank you for taking the time to review these important Federal programs that provide valued employment opportunities for citizens with disabilities. We hope you will consider our perspective as you consider any changes to Federal employment legislation affecting citizens with disabilities. Please do not hesitate to contact us for additional information or if we can provide assistance in any way.

Again, thank you.  
Sincerely,

KAREN TEFELSKI,  
*Executive Director.*

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PREPARED STATEMENT OF RICHARD BIRD

Chairman Enzi and members of the committee, I appreciate the opportunity to submit this statement on the oversight hearing entitled "Opportunities for Too Few," a review of the Randolph-Sheppard blind vending facility program and the programs operating under the Javits-Wagner-O'Day Act.

The Randolph-Sheppard Vendors of America, (RSVA), is the oldest and largest organization of Licensed Blind Vendors in the United States. We are dedicated to working to improve business opportunities for blind licensees, both through the attempts to enforce the priority to operate concessions, including cafeterias, on all Federal properties, including the Department of Defense, and by assisting existing business locations to increase incomes for blind managers.

Since its establishment by Congress in 1936, the employment opportunities for blind individuals created through the Randolph-Sheppard Act represents the single most successful program for providing meaningful livelihoods for the blind ever created by the Federal establishment including the Vocational Rehabilitation Act and the Americans with Disabilities Act, or the Javits-Wagner-O'Day Act.

Since 1936, more than 40,000 blind and visually impaired Americans have had the opportunity to own their own homes, raise and educate their children, pay taxes, and be contributing members of their communities like all other Americans.

As a veteran of the Vietnam War, who lost his vision after active duty, I have been extremely blessed to be able to work as a Licensed Blind Manager in the Ohio Business Enterprise program for the Blind.

I currently manage a vending machine business in the main Post Office in Cleveland, Ohio.

As President of RSVA, I talk daily to blind persons involved in the vending program throughout the United States. Some of us make very meager incomes and a very few make substantial incomes. The national average among blind vendors is now slightly above \$37,000.00 per year. While our average incomes have not kept pace with salaries earned by Americans generally over the past 30 years, it is certainly far better than sitting home with nothing to do, as is the case for more than 70 percent of blind and visually impaired Americans, according to statistics provided by the U.S. Department of Labor.

As I understand it, one of the issues before this oversight hearing is why the Randolph-Sheppard program is shrinking instead of growing as was the intent of Congress in the 1974 Amendments to the act. While the answers to this question are very clear, they certainly are not simple.

Generally speaking, the Randolph-Sheppard program is the victim of a benign and often indifferent Federal and State Government bureaucracy.

Federal Property Managing agencies, led principally by the U.S. Department of Veterans Affairs and the U.S. Postal Service, refuse to recognize the Priority for businesses operated by blind persons. Both the VA and the USPS have seemingly preferred expensive litigation to compliance with the provisions of the act.

While the U.S. Congress established the program, it has never seen its way to provide any funding for the expansion or growth of the program.

Today, as is historically true, the Randolph-Sheppard programs in the various States is largely funded by special charges levied against the incomes of Licensed Blind Vendors.

It is also fair to point out, that the State Licensing Agencies, designated by the Rehabilitation Services Administration in the U.S. Department of Education, have generally been very lack luster in their efforts to advocate for the program. This is demonstrated by a failure to aggressively seek new business opportunities, particu-

larly by ensuring that they obtain income from all vending machines located on Federal and State property within the State.

RSVA is very proud to have worked with our national parent organization, the American Council of the Blind, (ACB) in bringing about the opportunity for Licensed Blind Vendors to manage Troop Feeding Contracts on military property, beginning with the contract at the Barksdale Air Force Base in Northern Louisiana in 1993. Over the years, we have spent literally hundreds of thousands of dollars since then to protect this opportunity and to expand it particularly in the Fourth Federal Circuit Court Decision in 2001 in the NISH v. the DOD case which affirmed the Priority Right contained in the act on property of the U.S. Department of Defense.

To date, there are still only 36 DOD Appropriated Fund Contracts being managed by Licensed Blind Vendors. A very few blind individuals make very high incomes. Most earn in the low six figures, and several managers make substantially less.

Another issue you are considering is to what extent, do we provide employment opportunities to other disabled individuals. While we are making an increased effort at providing such employment opportunities (Ohio, Georgia, Illinois, and several other States have initiated formal requirements for such employment), it is important to keep in mind the unique differences between the Randolph-Sheppard and Javits-Wagner-O'Day programs.

The Randolph-Sheppard program, since its establishment, has been an entrepreneurial program providing training and opportunities for blind and visually impaired individuals to own, grow and operate their own businesses. Like the MESBIC program of the late 1960's, and its successor program, the 8A, the Randolph-Sheppard program has given thousands of blind and visually impaired Americans the opportunity to participate fully in the economic life of our communities.

Unlike the programs managed by National Industries for the Blind, (NIB), and particularly those of the National Industries for the Severely Handicapped, (NISH), many blind licensed vendors carp more than do the program officials who operate the program.

While NIB, working within updated Federal Wage and Hour Laws, pay blind workers in sheltered workshops, at or above the prevailing Federal Minimum Wage, Local Nonprofits, operated under the NISH umbrella, can, and do, pay disabled workers far below the Federal Minimum Wage, including on DOD Contracts, while NISH executives make very substantial salaries.

All disabled employees working in Randolph-Sheppard Vending Facilities make at least the prevailing Federal Minimum Wage or better.

A major problem for blind vendors in the employment of disabled workers is our lack of ability to identify whether employment candidates qualify as disabled. The NISH local participating nonprofits are set up, by their very nature, to evaluate potential candidates to determine if they meet the qualifications as disabled. There simply is no comparable system in place for the Randolph-Sheppard programs for the blind. Unless a potential employee is referred by the Vocational Rehabilitation Agency in the State, the individual blind vendor will have no means of determining if potential employees qualify as disabled. All of that is to say, that I believe that our employment of disabled workers is far higher than our reports would indicate.

It is the sincere hope of RSVA that this Oversight Hearing will lead to constructive recommendations on ways and means to strengthen the Randolph-Sheppard program and further expand employment opportunities for blind and visually impaired individuals. One step would be to recommend designated funding to support the growth and expansion of the Randolph-Sheppard program through a separate appropriation for that purpose to the Rehabilitation Services Administration.

A Senate Resolution demanding that the major Federal Property Managing Agencies immediately take steps to comply with the priority contained in the act might get some long overdue attention.

Again, thank you for the opportunity to present these comments.

RANDOLPH SHEPPARD VENDORS OF AMERICA,  
TERRYTOWN, LA 70056-4104,  
*October 20, 2005.*

Hon. MIKE ENZI,  
*Chairman,*  
*Committee on Health, Education, Labor, and Pensions,*  
*U.S. Senate,*  
*Washington, D.C. 20510.*

DEAR SENATOR ENZI: I am Richard Bird, President of the Randolph-Sheppard Vendors of America (RSVA), the oldest and largest organization of Licensed Blind

Managers working in the Randolph-Sheppard Vending Facilities program for the Blind.

The purpose of my letter is to express our dissatisfaction with the handling of the oversight hearings on the JWOD and Randolph-Sheppard programs scheduled for October 20, 2005.

In the first place, we only learned of the subject of the hearing on Wednesday, October 12, 2005, leaving us very inadequate time to be able to communicate our concerns on important issues to the members and staff of the Senate HELP Committee. If your staff did not, in fact, get around to scheduling this oversight hearing until October 12, then it says volumes about the efficiency of the committee's work. If they planned it earlier, and simply did not notify us earlier, then it speaks volumes about staff insensitivity to the rights of program participants to communicate their views to the U.S. Senate.

In the second place, the staff did not invite a Licensed Blind Manager, to testify at the hearing, or to name a representative to speak on our behalf. Similarly, no one from any State Licensing Agency (SLA) was invited to testify. I understand that in the case of the JWOD program, a blind worker from a sheltered workshop has been invited to testify.

The only blind person invited to testify is Jim Gashel who represents the National Federation of the Blind, one of many organizations working on issues of concern to blind and visually impaired Americans. Jim does not speak for the American Council of the Blind (ACB), the Nation's largest consumer based organization, or the RSVA, which, as I said earlier, is the largest organization of Licensed Blind Managers working in the program.

Let me tell you that blind managers throughout the Nation, and their families, have already begun to recognize that the U.S. Senate, in particular, and the Congress, in general, are indifferent to our needs and concerns, even though the Randolph-Sheppard program for the Blind represents the only successful employment program ever created by Congress and the Federal Government.

The actions of the staff of the HELP Committee to block us out of the process will only increase our sense of disenfranchisement.

Obviously, it is too late to do anything about the lack of adequate notice, but it is not too late to permit us to name a representative to appear before the HELP Committee during the oversight hearings.

Sincerely,

RICHARD BIRD,  
*President.*

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PREPARED STATEMENT OF THE AMERICAN REHAB ACTION NETWORK (ARAN)

The American Rehab ACTION Network (ARAN) is an organization of public and private professionals, educators, persons with disabilities and their families, friends, and businesses, working together to positively affect the public Vocational Rehabilitation (VR) program.

ARAN thanks the HELP Committee for this opportunity to express its support for the Randolph-Sheppard and Javits-Wagner-O'Day (JWOD) programs. These programs provide essential services to individuals with disabilities, which can not be supplanted by other comparable services. Many individuals with significant disabilities can not achieve employment without provision of an array of rehabilitation and vocational services. ARAN urges the committee not to modify the Randolph-Sheppard and JWOD programs without full participation of consumers and other stakeholders in assessing their benefits, costs, efficiencies, and deficiencies, and the implications of proposed changes for other programs, including the public Vocational Rehabilitation program.

Vocational Rehabilitation programs are highly effective in helping persons with disabilities achieve competitive, community integrated employment. A Congressionally-mandated, 3 year longitudinal study of the VR program carried out by the Research Triangle Institute showed that 69 percent of VR consumers achieved an employment outcome as a result of VR services. Seventy-five percent of consumers receiving VR services achieved jobs in the competitive labor market. Of this population, 83 percent remained employed after 1 year. Among individuals completing VR services, 44 percent no longer required public assistance.

ARAN appreciates the attention of the HELP Committee and its commitment to strengthening employment opportunities for people with disabilities. ARAN would like to express the following concerns related to the committee's investigation and report:



### **1. Quality and Extent of Federal Oversight is Lacking**

The committee report found a significant lack of information, data, and oversight of Randolph-Sheppard and JWOD programs on the part of the Department of Education. ARAN is concerned that recent, substantial reductions in the numbers of experienced, qualified staff at the Rehabilitation Services Administration (RSA) will further weaken the Department's ability to offer effective and comprehensive technical assistance to, and oversight of, State VR agencies and the programs they administer. ARAN believes that a strong RSA, headed by a Commissioner who demonstrates knowledge and expertise of vocational rehabilitation services and staffed by experienced personnel in sufficient numbers to provide assistance and demand accountability, is the best tool to improve performance in job training programs for individuals with disabilities. This level of knowledge of and expertise in employment services for persons with disabilities is not evidenced by current Department of Education staffing plans.

### **2. The Demands on the Public VR System are Increasing**

The number of families/individuals on welfare has declined by approximately 40 percent since 1996. As States move deeper into their TANF caseloads, they are finding substantial numbers of individuals with unidentified or undisclosed disabilities facing barriers to employment. State welfare agencies are increasingly turning to VR agencies for assistance in getting these individuals into the workforce.

Similarly, heightened efforts are being made to coordinate VR services with schools to serve students with disabilities who are transitioning from special education and dependency on public benefits to work. The return on the Federal investment in special education can only be maximized with a strong public VR program that is able to serve these youth. This population of transitioning youth now represents 13.5 percent of the consumers participating in VR services.

Given adequate resources, the public VR program can serve these young people very successfully and cost-effectively. Sixty-three percent of young adults below age 25 who received VR services successfully went to work, with most entering competitive employment. Young adults with disabilities entering competitive employment had a significantly reduced need for public financial assistance, such as SSI benefits.

### **3. The Public VR Program is Severely Underfunded**

VR is a cost-effective program, and every dollar invested in it returns more than \$10 in consumer employment taxes paid and reduced reliance on public financial assistance. The reauthorization of the Rehabilitation Act, and the new challenges of the changing environment mentioned above, place increasing demands on the VR program. The resources available to VR to meet these challenges are not keeping pace. Appropriated Federal funding, matched with State monies, is adequate to meet the needs of only one in 20 individuals with disabilities who could benefit from Vocational Rehabilitation. While VR caseloads have increased, and the cost of providing its services has grown substantially, its funding has gone up only as much as the consumer price index. As the demands on VR rise, its funding is severely lagging behind the real cost of providing services to its growing population.

BOOZ ALLEN HAMILTON INC.,  
MCLEAN, VA 22102-3838,  
*October 25, 2005.*

Hon. MICHAEL B. ENZI,  
*Chairman,*  
*Committee on Health, Education, Labor, and Pensions,*  
*Washington, D.C. 20515.*

DEAR CHAIRMAN ENZI: I am writing in response to your report and recent hearing on Federal programs for the employment of people with disabilities. I write to you as a Board Member of ServiceSource, a Community Rehabilitation Program; from the perspective of a CEO from a major private company, Booz Allen Hamilton; and most importantly as the father of a son working on a Javits-Wagner-O'Day (JWOD) contract. ServiceSource, Inc., based in Alexandria, VA, has over 45 JWOD Government contracts providing a wide range of services, including the mail services contract at the U.S. Department of Agriculture in Beltsville, MD where my son Mark is employed as a mail clerk.

While there is always room to improve any business function or program, I feel that the JWOD program has been one of the best, if not the best, employment program for people with disabilities in the United States.

I would like to address a number of issues related to your report and recent hearings.

1. Your report cites a lack of outplacement from the JWOD program as an “Undesirable Employment Outcome.” I respectfully disagree with the report’s assumptions that the lack of placement is a negative aspect of JWOD. In fact, the desire to maintain the JWOD job often shows the importance of the job and the good job match for the employee.

People with disabilities often do not want to leave their JWOD jobs because their JWOD service jobs pay more than the average placement job and because they receive a variety of wrap-around support services from their non-profit employer. The JWOD program requires that each worker be assessed annually and offered competitive employment outplacement assistance. Mr. Lawheed’s testimony that CRPs keep their most skilled workers with disabilities on JWOD jobs to remain productive is simply false.

JWOD wages are determined by the Department of Labor’s Wage Determination. In addition, as part of the Service Contract Act, JWOD jobs pay for health benefits, which are crucial to all Americans and especially to people with disabilities. People working on JWOD jobs at ServiceSource currently earn an average of \$10.89 per hour plus an additional \$2.59 per hour which is used to provide health insurance coverage. These wages are comparable to other Government contract jobs for the same work.

2. Your report cites that JWOD does not fulfill Congressional intent. The report states that JWOD does not help people with disabilities move up and out of JWOD into “normal” jobs. Your report goes on to say that JWOD jobs are not consistent with the current laws of IDEA, ADA and the Rehabilitation Acts which encourage integration.

First, it is offensive to say that JWOD jobs are not “normal.” My son’s job is important to him and is as normal as any other job on the market. Secondly, the JWOD Government contract job is as integrated as any Government contract operation. The Government has a requirement to fulfill a specific service. ServiceSource secures that contract and fills the positions with people with disabilities. These committed employees are integrated in the Government office setting and interact with both ServiceSource colleagues and other Federal Government employees.

While I applaud the advances that the IDEA, ADA and Rehabilitation Acts have brought for people with disabilities, the unemployment rate, currently at 70 percent, has not improved. We must do more. We should not dismantle one program that is working. Instead, we should model this program, promote greater use of it by the Federal Government, and encourage the business sector and State and local governments to follow suit.

Maintaining the 75 percent ratio is a safeguard for the JWOD program to ensure that a majority of the jobs filled on JWOD contracts are done so by people with disabilities. The suggestion to reduce this ratio would only result in reducing the already unacceptably low number of jobs for people with disabilities.

3. Your report and the public comments made by members of the HELP Committee suggest that all of you are looking to maximize opportunities for people with disabilities and have come up with a way that Randolph-Sheppard and JWOD can work together.

At Fort Carson, Colorado, ServiceSource currently works as a subcontractor to Kevan Worley and Associates on a dining facility attendant (DFA) contract. Worley is the prime contractor and blind entrepreneur operating under the Randolph-Sheppard Act, while ServiceSource holds a subcontract for more than 140 direct labor positions filled by people with disabilities under the JWOD program.

This working model is a good place to start the dialogue that will allow both programs to succeed and take full advantage of what the programs were originally intended to do.

4. Your report cites the compensation of a few Chief Executive Officers whose CRPs participate in the JWOD program as examples of “exploiting” the JWOD program for financial gain.

While I share your concern over ensuring financial accountability, I urge you to remember that these are five examples out of more than 600 CRPs participating in the JWOD program. I am confident that these examples are the exception and not the norm.

Further, and as a Board Member of a large CRP, it is my responsibility to ensure that we meet both the letter and intent of IRS executive compensation requirements and that the CEO of our company is fairly and competitively compensated. We do a formal annual review, which has been independently audited, to ensure we are meeting legal, fiduciary and good mission standards given the size, scope, and complexity of our company.

In closing, I thank you for your efforts to improve Federal programs that provide jobs for people with disabilities. It is imperative that we do more and dramatically increase the number of people with disabilities who are employed through JWOD (currently 45,000).

Currently, less than 1 percent of Federal procurement dollars are spent on the Javits-Wagner-O'Day Program. If every Government agency was more aggressive in its use of procurement options to encourage employment for people with disabilities under JWOD, we could begin to impact the 15 million Americans with disabilities who want to work but are unable to secure jobs.

I have enclosed a letter from my son Mark along with additional information about ServiceSource and our involvement with the Javits-Wagner-O'Day program. I encourage you to visit our programs, particularly the DFA contract at Fort Carson, CO, where the Randolph-Sheppard program and JWOD are thriving.

Sincerely,

RALPH W. SHRADER, PH.D.,  
ServiceSource Board of Directors.

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PREPARED STATEMENT OF ROBERT R. HUMPHREYS, ESQ.

Chairman Enzi and members of the committee, thank you for the opportunity to provide this statement for the record on the oversight hearing entitled "Opportunities for Too Few," a review of the Randolph-Sheppard blind vending facility program and the programs operating under the Javits-Wagner-O'Day Act.

By way of introduction, I was a member of the staff of this committee from 1971 to 1977, serving as its Special Counsel. In that capacity I was responsible for drafting for this committee's action the Rehabilitation Act of 1973, the Black Lung Benefits Act, and the Randolph-Sheppard Act Amendments of 1974, among other legislation. Subsequent to my service with the Senate, I was Commissioner of the Rehabilitation Services Administration. In that capacity I managed national policy and administration for the vocational rehabilitation and independent living programs, the President's Committee on Mental Retardation, the Developmental Disabilities Administration, and rehabilitation research and utilization. Additionally, insofar as my background and experience pertain to this hearing, I was also responsible for national policy and administration for the Randolph-Sheppard blind vending facility program. Following my tenure as RSA Commissioner to the present day, I have devoted a large part of my professional life to addressing legal matters surrounding the Randolph-Sheppard program, as an arbitrator, as an attorney at both trial and appellate levels, and as Legal Counsel to the Randolph-Sheppard Vendors of America.

I want to begin by relating to the committee some of the relevant history of the vending facility program, and my impressions of its current status. Then I will address the NISH community rehabilitation program, and problems arising from competition for military dining service contracts. Finally, and respectfully, I would like to make some suggestions as to what the committee might do to stabilize relations between the two programs and enable them to live together in harmony rather than discord.

THE BLIND VENDING FACILITY PROGRAM

The 1974 amendments to the Randolph-Sheppard Act, 20 U.S.C. § 107-107f., dramatically strengthened the program for blind vendors by requiring a *priority* for blind vendors on *all* Federal property. The amendments severely curtailed **any** limitation on the placement or operation of blind vending facilities. Most income from vending machines on Federal property was assigned to the Randolph-Sheppard programs in each State. Substantial power and authority were vested in State committees of Blind Vendors through joint decisionmaking on program policy, plans, and management.

Congress expected the program to flourish as a result of these changes, asserting that the number of blind vendors could be expected to double within 5 years. More than 30 years later, the total number of blind vending facilities has declined substantially—from approximately 3,400 to 2,600. Hundreds of blind Americans, ready and able to work, have been denied satisfying gainful employment because of the erosion of the program. The obstacles to growth in the Randolph-Sheppard program have not been removed. Indeed, the unemployment rate for blind people in the United States is approximately 75 percent, a level that should shock every American. Congressional intent has been ignored, misapplied, and frustrated by Federal property managing agencies, by courts, and even by the Department of Education,

which is responsible for the program's administration and advocacy for blind vendors.

The Department of Education has eliminated the regional offices of the Rehabilitation Services Administration, which will result in less technical assistance, monitoring, and oversight for State licensing agencies administering Randolph-Sheppard programs. The Office for the Blind and Visually Impaired at RSA's central office, which includes the staff who administer the vending facility program, is being abolished as well. Only two professional individuals remain to provide support for the entire Randolph-Sheppard program. One of those individuals works essentially full time on arbitrations under the act. The 1974 amendments required that 10 additional staff would be supplied to RSA for Randolph-Sheppard program administration. In 1982, as a consequence of litigation against the Department of Education by national blindness organizations, the Department agreed to provide the additional staff. Although some work time of regional staff was allocated to this purpose, the full complement of Randolph-Sheppard staff has never been provided by the Department. With the abolition of the regional offices, even the part-time responsibilities of several staff have been eliminated, in contravention of the 1982 settlement agreement.

The Department of Defense has resisted the placement of blind vending facilities on DOD property. Moreover, even though the Congress demanded otherwise, DOD has protected its nonappropriated fund activities at the expense of blind vendors and their livelihoods, and State programs have been severely weakened as a result. Although income from vending machines on all Federal property was intended by the Congress and this committee to be shared with blind vendors and their programs, DOD has evaded its responsibilities by transferring vending machines to the Army and Air Force Exchange Service and the Navy Exchange, asserting that exchange systems are exempt from income sharing. That was not the intent of Congress. In addition, despite the clear priority for blind vendors set forth in the Randolph-Sheppard Act, DOD installations have allowed community rehabilitation programs under NISH (formerly National Industries for the Severely Handicapped) to operate military dining facilities. I understand that this is one of the primary issues the committee intends to address, and I will express my concerns about this matter later in this statement.

The Department of Veterans Affairs has for many years contested the application of the blind vendor priority to VA hospitals and other VA facilities, engaging States such as Alabama in protracted litigation that is without merit. There are but a handful of blind vendors in VA facilities nationwide.

Although the U.S. Postal Service has accepted placement of a substantial number of blind vending facilities, Post Offices have charged blind vendors commissions to operate on their properties—a clear violation of the act—and have refused to allow the creation of blind vendor operated routes of vending machines at postal stations.

The General Services Administration has set up food courts in larger Federal buildings, and blind vendors either have been removed from GSA vending facilities, or they have been precluded from operating within the food court environment.

All the foregoing restrictions have limited the placement of vending facilities on Federal property, in direct violation of the Randolph-Sheppard Act. Moreover, increased security at all Federal buildings and installations has reduced blind vending facility patronage at such buildings and installations. That fact, coupled with the ever increasing number of options available to Federal employees through national fast food franchises and food courts, and the use by Federal employees of microwave ovens and coffee makers, have all resulted in a constriction in the incomes of many blind vendors, and the elimination of new opportunities for vending operations.

#### THE JAVITS-WAGNER-O'DAY PROGRAM

The Javits-Wagner-O'Day Act, or JWOD, was created to provide sheltered workshop employment and rehabilitative work activity for severely disabled individuals. The JWOD program is accorded a preference in the provision of services to Federal agencies, such as grounds maintenance, janitorial service, and typewriter repair, through NISH (formerly National Industries for the Severely Handicapped) community rehabilitation programs. The President's Committee for Purchase from People who are Blind or otherwise Disabled puts NISH services on a procurement list, from which Federal agencies are to provide a preference in acquiring such services. Currently some 40,000 individuals, including persons with physical disabilities as well as those with mental retardation, mental illness, drug addiction, and alcohol addiction, are believed to be employed under this program. Under an exemption from the Fair Labor Standards Act and the Service Contracts Act, many such individuals earn far less than the minimum wage. Each contract awarded by a Federal agency

to a NISH community rehabilitation program must include a fee amounting to 4 percent of the contract amount, which goes to NISH for administrative costs.

In the late 1980s military installations began to award to NISH community rehabilitation programs food service contracts to provide kitchen assistance and food preparation, ignoring the blind vendor priority. Prior to that time such duties were performed by uniformed enlisted personnel. The number of those contracts grew over the ensuing years, and they now number over 100. In 1993 the Louisiana State licensing agency succeeded in obtaining the first military dining services contract under Randolph-Sheppard at Barksdale Air Force Base, and a blind vendor was assigned to manage the contract. Since then, some 35 contracts have been awarded to State licensing agencies for operation by blind vendors. Several Federal courts have ruled that the Randolph-Sheppard priority is superior to the Javits-Wagner-O'Day preference, and NISH's insistence that it should be awarded military dining contracts resulted in congressional activity that for the past 3 years has frozen both Randolph-Sheppard and NISH contracts in place, denying State licensing agency access to any NISH contracts, despite the priority accorded State agencies under the Randolph-Sheppard Act.

Organizations supporting NISH have argued that community rehabilitation programs operating military dining contracts provide employment to many people with disabilities, while a blind vending facility provides lucrative work to just one blind vendor. It is even asserted that blind vendors operating military dining contracts have become millionaires. Quite apart from the fact that acquiring wealth is part of the American Dream, and that a person should not be denied wealth because he or she is blind or otherwise disabled, the average blind military dining service provider's income is around \$100,000, and many such blind vendors make considerably less than that.

It is respectfully suggested that this committee investigate the salaries of the non-disabled NISH agency managers of military dining contracts, and compare those with the minuscule wages paid their disabled workers. The 4 percent of gross military dining contract awards provided to NISH agencies brings NISH millions of dollars annually. NISH workers may make as little as 80 cents per hour.

It is not my purpose to castigate NISH, but to point out the unfairness of claims and assertions by NISH and its supporting organizations made against the blind vending facility program. NISH and its agencies have a wide array of opportunities for providing employment to disabled workers in a constellation of service industries. Blind vendors generally operate only in the food service industry. Blind vendors do not oppose the use of NISH workers in subcontracts for military dining service, to provide kitchen service, cleaning, and food preparation. They do, however, strenuously oppose any erosion of the priority accorded them under the Randolph-Sheppard Act. They have a legitimate fear and concern that once the priority is abolished in one area, it is more than likely that the priority will be abolished in all areas, and their jobs hang in the balance.

#### HARMONIZING THE RANDOLPH-SHEPPARD AND JWOD PROGRAMS

I believe both NISH and its community rehabilitation programs and the blind vending facility programs operating through the States can operate military dining services without unhelpful or destructive actions by Congress or any affected organization. I believe the Randolph-Sheppard Vendors of America, the American Council of the Blind, and other organizations of and for the blind would support policy, regulation, or legislation that would (1) preserve the Randolph-Sheppard priority, and (2) ensure the continued and expanded employment of severely disabled NISH workers at military installations. These dual purposes can be realized by reaffirming the blind vendor priority for any new military dining contracts, together with a contract requirement that any subcontract for mess attendant (kitchen, cleaning, and food preparation) services shall be offered first to a qualified community rehabilitation agency. Thus, NISH worker jobs would be preserved and blind vendors would be assured that their priority is not affected.

Mr. Chairman, I stand ready to assist the committee and its staff in developing a constructive solution to an issue that is in need of your attention.

Respectfully submitted,

ROBERT R. HUMPHREYS.

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#### PREPARED STATEMENT OF STEVEN B. SCHWALB

Mr. Chairman and members of the committee, I am pleased to submit the following statement regarding the committee hearing held on October 20, 2005.

### **Background**

The Senate Health, Education, Labor, and Pensions (HELP) Committee held a hearing on October 20, 2005, titled, “Opportunities for Too Few? Oversight of Federal Employment programs for Persons with Disabilities.” The hearing, and the HELP staff investigation conducted prior to the hearing, examined both the Randolph-Sheppard program and the Javits-Wagner-O’Day (JWOD) program. Although the JWOD program does not fall under the direct oversight of the HELP Committee, and the Federal agency responsible for administering the JWOD Act (41 U.S.C. 46–48c) was not asked to provide testimony, some questions and comments raised during the hearing have led the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee for Purchase) to submit a written statement for the record.

### **Statement**

The JWOD program generates employment for over 45,000 people who are blind or severely disabled, through more than 600 community-based nonprofit agencies across the Nation. In fact, it is the single largest employer of people who are blind or have other severe disabilities in the United States. There are many different, valid opinions regarding the best way for our Government to assist in the employment of Americans with the most significant disabilities. The Committee for Purchase believes that the JWOD program is meeting its clearly defined statutory purpose, which is to create jobs for these Americans in the manufacture of products and delivery of services for the Federal Government, through nonprofit agencies that have no less than 75 percent of all direct labor performed by people who are blind or who have other severe disabilities.

As the Federal agency responsible for administering the JWOD Act, the Committee for Purchase guides and monitors the JWOD program’s performance. In accordance with the committee’s authorizing statute, the committee has designated and authorized two Central Nonprofit Agencies (CNAs), the National Industries for the Blind (NIB) and NISH—Creating Employment Opportunities for People with Severe Disabilities. These CNAs provide technical assistance, training and work allocation for the qualified nonprofit agencies participating in the JWOD program. They also assist the Committee for Purchase staff in monitoring the nonprofit agencies’ compliance with various statutory and regulatory requirements.

The Strategic Plan of the Committee for Purchase envisions that all individuals who are blind or severely disabled will have the opportunity to achieve their maximum employment potential. Within the JWOD program, the Committee for Purchase requires that JWOD-participating State and local nonprofit agencies make provisions to place individuals with other employers in the community, and its Strategic Plan explicitly supports and measures both upward mobility and competitive placements. Further, in its administration of the JWOD program, the Committee for Purchase is continuously seeking innovative ways to increase employment opportunities, maximize personal choice and enhance job quality for all persons who are blind or severely disabled.

As noted in the legislative history, the JWOD Act was enacted by Congress to serve individuals with the most significant barriers to competitive employment—people who are currently unable to obtain or maintain jobs on their own. While some in the rehabilitation community may dispute whether any person with a severe disability is unable to achieve competitive employment, the fact remains that in 2005, nearly 70 percent of this population is not employed at all. This shortfall in employment is the foundation for the position of the Committee for Purchase that more, not fewer, employment choices must be offered to people with severe disabilities.

The rehabilitation community is not in total agreement on the status or the value of sheltered—or, what many in the field refer to as, extended—employment, and it should be noted that those witnesses at the hearing who are not in favor of such employment only represent a part of that community. There are people and organizations equally committed and involved who believe that extended employment represents one of the many solutions that must be utilized in providing jobs for people with severe disabilities—the Committee for Purchase endorses and supports this approach.

As stipulated under the JWOD Act of 1971 and its ensuing regulations, a severe disability other than blindness is defined as a severe physical or mental impairment which so limits the person’s functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in “normal competitive employment” over an extended period of time. Note that the presence of a severe mental or physical impairment by itself does not qualify an individual as eligible for the JWOD program, and the coupling of such an im-

pairment with functional capability targets only those most in need. The Committee for Purchase has always considered "normal competitive employment" to mean obtaining and maintaining a job in the commercial sector without work-related supports. Most other disability programs consider those who require the provision of work-related support services as being competitively employed as long as they work in the community.

The simplified, segregated sheltered employment model portrayed in the October 20 hearing does not accurately reflect the diverse body of nonprofit agencies that participate in the JWOD program, nor does it accurately reflect the breadth of employment opportunities and choices available. The Committee for Purchase encourages Congress not to characterize the JWOD program by the "lowest common denominator" in facility-based employment for people facing the most challenges. JWOD-participating nonprofit agencies range from modern, high-tech production plants to small-scale manufacturing operations. Further, some JWOD-participating nonprofit agencies have no facility-based work, performing all direct labor in public, community settings such as Federal buildings or military installations. In addition, the average wage being paid to JWOD employees in fiscal year 2004 was \$8.98 (the average of wages for people working on products and services, well above the \$5.15 minimum wage). While this average is positively influenced by the Service Contract Act wage provisions, both NISH- and NIB-associated nonprofits exceeded the \$5.15 rate average even for product manufacturing. It is also noteworthy that all JWOD employees on Service Contract Act projects receive benefits with a value of \$2.87 per hour on top of their base wage, and without regard to their productivity.

Just over 70 percent of the people employed through the JWOD program work on service contracts, and do not actually work at the participating nonprofit's facility. To clarify, onsite JWOD service employees work together as a team not because they are being subjected to segregation, but because a physical or virtual team structure is consistent with the way any commercial or other nonprofit entity would perform similar work. Further, JWOD-participating nonprofit agencies are pioneering new employment models, such as an apprentice program for vehicle maintenance that pairs every journeyman position for a person with a severe disability to a master repair technician position that is nondisabled.

In the products area, most JWOD items are not the simple subcontracting or packaging type projects described by Mr. Robert Lawhead, one of the witnesses testifying at the October 20 hearing. Products include complex sewn products such as chemical protection suits and military uniforms worn and used every day by our Nation's warfighters. The norm is that employees with severe disabilities are integrated with the nondisabled employees who are also performing direct or indirect labor.

During his testimony at the hearing, Mr. Lawhead stated his belief that JWOD-participating nonprofit agencies have strong disincentives to pursue competitive placements, because they wish to retain their most productive employees to meet product or service contract requirements. To clarify, both the JWOD Act and our regulations require participating nonprofit agencies to professionally evaluate their employees annually for competitive employability, and to provide access to competitive placement services. Once a person with a severe disability is evaluated as capable of competitive employment, his/her direct labor may not be counted toward the JWOD statutory requirement of 75 percent for the nonprofit agency, thus encouraging the nonprofit agency to seek outplacement for that employee.

In fact, the number of individuals who move directly from JWOD employment to competitive employment, noted in the HELP Committee report at 2,370 for fiscal year 2004 or approximately 5 percent, tells only part of the story. Nonprofit agencies participating in the JWOD program often facilitate the employment of people with disabilities for whom JWOD-related direct labor employment is not needed. In the last 2 years, the nonprofit agencies participating in the JWOD program placed more than 53,000 people with severe disabilities into competitive and supported jobs. The low rate of placements from JWOD jobs is partly a reflection of the program's very stringent definition of severe disability (cited above) that focuses on only a small portion of the disability population with the highest level of need, and it is not due simply to a nonprofit's desire to keep productive workers. Another important consideration is the principle of individual choice. Many people with severe disabilities who work on JWOD service contracts choose to continue making an average of \$10.25 an hour (the average wage on JWOD services) plus \$2.87 an hour in fringe benefits, rather than to accept a competitive market job at a lower wage, with no benefits.

With respect to the issue of program governance and stewardship, the Committee for Purchase believes that the establishment of board governance and executive compensation guidelines for participating nonprofit agencies are in the best long-

term interest of the JWOD program. With this in mind, the Committee for Purchase issued a Notice of Proposed Rulemaking in November 2004. While it withdrew the initial proposed rule to allow sufficient time to consider and incorporate the relevant public comments and recommendations to make the final rules more comprehensive and easily understood, the Committee for Purchase intends to publish a revised rule on governance and executive compensation in the next few months. All JWOD-participating organizations were notified of this in a letter from the Committee for Purchase dated August 24, 2005 (see attached letter).

The Committee for Purchase shares the HELP Committee's deep concern over excessive compensation and questionable governance practices by any nonprofit participating in the JWOD program. However, we would caution against assuming that the examples of excessive compensation as related in recent reports are representative of the majority of nonprofits participating in the program. Quite the contrary, our preliminary review suggests that a very small percentage of the nonprofit agencies were operating outside of our initial proposed regulations. The Committee for Purchase also would caution against the conclusion that these nonprofits only perform JWOD-related work and thus that the JWOD program is the sole source of their revenue. For example, in two cases of participating nonprofits cited at the October 20 hearing, Social Vocational Services (SVS), Inc. and PRIDE Industries, Inc., the SVS revenue from its JWOD contracts in 2003 was \$60,300, which was a little more than one-tenth of one percent of the total revenue of approximately \$47,700,000 reported on their IRS 990 filing. While PRIDE Industries had significant revenues from JWOD-related work, these still represented about 42 percent of the nonprofit's total revenues.

The Committee for Purchase appreciates the interest of the Congress in finding solutions to leverage programs to maximize employment for both people who are blind and those with other severe disabilities. We share the HELP Committee's interest in considering legislative changes that could improve the JWOD program. The Committee for Purchase intends to work within the Administration to propose improvements for consideration by the Congress. Because the JWOD program operates within the Federal acquisition system to create employment, the Committee for Purchase believes it prudent that any changes be considered and enacted with a thorough understanding of this environment. Further, we have been and will continue to work closely with the Departments of Education and Defense to productively resolve the current issues between the Randolph-Sheppard and JWOD programs regarding their applicability to military food service contracts.

On behalf of the 15 Presidential appointees responsible for managing and directing the JWOD program, I thank the HELP Committee for the opportunity to submit this statement for the hearing record. My colleagues and I are available to answer any questions you or the HELP Committee staff may have regarding the program, and we welcome the opportunity to improve this unique Federal socioeconomic procurement initiative on behalf of Americans who are blind or have other severe disabilities.

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COMMITTEE FOR PURCHASE FROM PEOPLE  
WHO ARE BLIND OR SEVERELY DISABLED,  
ARLINGTON, VA 22202-3259,  
*August 24, 2005.*

CHAIRPERSONS AND BOARD MEMBERS,  
*Javits-Wagner-O'Day (JWOD) Associated Central Nonprofits,*  
*Other Nonprofit Agencies.*

DEAR CHAIRPERSONS AND BOARD MEMBERS: Over the past 20 months I have sent you three letters, in which I outlined the committee's intent and plan to implement a number of comprehensive changes to the JWOD program's regulatory guidance on Board governance and executive compensation for JWOD affiliated nonprofit agencies.

In my last letter, dated December 8, 2004, I reported that we had published in the Federal Register on November 10, 2004 a proposed set of standards for Board governance and executive compensation, and that the committee would review and analyze all comments received through the public comment process.

The committee has completed our initial review and analysis of the comments from 167 sources, and based on this review and analysis, the committee has made two determinations. First, we reaffirm that we have the statutory authority to establish specific regulatory standards for Board governance and executive compensation for JWOD affiliated nonprofit agencies, and, second, as announced on July 1,



2005 in the Federal Register, we have withdrawn the proposed rules as outlined in the Federal Register on November 10, 2004.

However, the purpose of this withdrawal was not to cancel the proposed rules; rather, it was to allow time to better incorporate many of the public suggestions, thus making the final proposed rules both comprehensive and more easily understood.

We are mindful that a large number of JWOD affiliated nonprofit agencies are either opposed to the establishment of any governance or compensation guidelines, or they counsel a “wait-and-see” approach. But, the committee’s Presidential appointees are still committed to some reforms and we are unanimous in our belief that the establishment and publication of Board governance and executive compensation rules are in the best long-term interest of the JWOD program.

We also see no advantages to waiting for Congressional or other Federal agency action. The JWOD program has a unique standing in the Federal acquisition environment, and as such, the committee must ensure that we are both maintaining and strengthening our accountability and transparency to Congress and to the American taxpayers.

Therefore, I expect that before the end of calendar year 2005, the committee will publish in the Federal Register a proposed set of standards for Board governance and executive compensation for JWOD affiliated nonprofit agencies. We ask that when the latest set of proposed rules is published, you sit down with your management team and review these proposed rules not from a “should we be doing this” perspective, but rather from “how best can we do this, so that we can continue to help people who are blind or severely disabled?”

Sincerely,

STEVE SCHWALB,  
*Chairperson.*

[Whereupon, at 4:18 p.m., the committee was adjourned.]

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