The original documents are located in Box 13, folder "1974/10/29 HR14225 Amendments to the Rehabilitation Act of 1973 and the Randolph-Sheppard Act of 1936 (vetoed) (1)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON ACTION

Last Day - October 29

October 26, 1974

MEMORANDUM FOR: THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill H.R. 14225
Amendments to the Rehabilitation Act of 1973 and the Randolph-Sheppard Act of 1936

BACKGROUND

This bill would extend the Rehabilitation Act of 1973 (which expires at the end of FY 75) and expand the priority, scope, and income of the blind vendor program under the Randolph-Sheppard Act.

Title I would provide FY 76 appropriation authorizations of $849.1 million for the Vocational Rehabilitation program. This authorization represents a seven percent increase over existing authorization levels and a 15 percent increase over the current 1975 budget requirement. $40 million of the increase would have to be spent through a State formula grant entitlement program. Organizationally, Title I would transfer the Rehabilitation Services Administration (RSA) from Social and Rehabilitation Services within HEW to the Office of the Secretary of HEW. Senate confirmation of the RSA Commissioner would also be required.

Title II, by amending the Randolph-Sheppard Act which governs the operation of blind vending stands on Federal property, would require that a substantial portion of income from vending machines on Federal properties be paid either to licensed blind vendors or to State blind licensing agencies. It would also require the Secretary of HEW to approve the availability of blind vending sites before any Federal property could be acquired, leased, or renovated in a major way.

Title III would authorize the President to call a White House Conference on the Handicapped within two years.

CURRENT SITUATION

As passed by the House, this legislation consisted only of Title I, the amendments to the Rehabilitation Act of 1973. The Senate added Titles II and III. The conference report was passed by a vote of 334-0 in the House and by voice vote in the Senate.

However, during consideration in the Senate, GSA, VA, the Postal Service, DOD, and HEW opposed various provisions of the bill and expressed particular concern over the assignment of vending machine income to the blind and the dominant role of HEW in determining the proper circumstances and locations for the placement of blind vending facilities.

OPTIONS

1. Sign the bill.

   Pro: Would be evidence of Administration concern for the needs of the handicapped, expand opportunities for blind vendors, and position rehabilitation programs in HEW so as to have greater visibility.

   Con: Would seriously undermine the Secretary of HEW's management flexibility, would discriminate against the nonblind who currently receive revenue from vending machines, and the $40 million budget increase would endanger your efforts to control the Federal budget.

2. Veto and issue veto statement pledging to work with the Congress toward enacting more adequate legislation to aid the handicapped.

   Pro: Would prevent at least $40 million additional to be added to the Federal budget, would maintain the authority of the Secretary of HEW to delegate functions, and would prevent discrimination in favor of blind vendors.

   Con: Could portray the Administration as anti-handicapped and could very well be overridden.

VIEWS

Ash, OMB -- veto: (Additional information at Tab A)

> "...on the merits, the enrolled bill has little to commend it. Congress has extended the Rehabilitation Act in a manner which would require an add-on of at least $40 million to the 1976 budget. The Randolph-Sheppard Act Amendments do not represent an equitable balance between the objectives of promoting the interests of blind vendors and effective management of Federal property. A White House Conference on the Handicapped would be duplicative..."

Weinberger, HEW -- veto:

> "The bill contains very little of a desirable nature."

Sampson, GSA -- veto:

> Vigorously objects to Randolph-Sheppard provisions.

Roudebush, VA -- veto:

> Cannot recommend approval due to Randolph-Sheppard.

Civil Service Commission -- approval:

> (Commented only on provisions relating to personnel)

Bill Timmons -- veto:

> Concurs in veto recommendation

RECOMMENDATION

That you veto the bill and issue the attached veto statement. Authorizations for the Rehabilitation Act do not expire until the end of FY 75, so a veto now would not have immediate adverse effects on the program.

DECISION - H.R. 14225

_____Sign

_____Veto
Veto message at
Tab B

VETOED
10/29/74
(Veto message delivered to Clerk of House of Representatives 10/29/74 at 5:25 pm)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 24 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 14225 - Amendments to the Rehabilitation Act of 1973 and the Randolph-Sheppard Act of 1936

Description of the Bill

Title I of H.R. 14225 would: provide appropriation authorizations for fiscal year 1976 for the Vocational Rehabilitation program; transfer the Rehabilitation Services Administration (RSA) from the Social and Rehabilitation Services (SRS) to the Office of the Secretary of HEW; and require Senate confirmation of the RSA Commissioner. The bill would also expand the definition of "handicapped" for those sections of the Rehabilitation Act dealing with affirmative action against discrimination in hiring and in the administration of Federal programs, and contains several other objectionable provisions.

Title II of H.R. 14225 would amend the Randolph-Sheppard Act to require that a substantial portion of income from vending machines on Federal properties be paid either to licensed blind vendors or to State blind licensing agencies. Cafeterias, snack bars, and cart services would be included in the expanded scope of food operations for which blind vendors would be given priority.

Title II would also require the approval of the Secretary of HEW regarding the availability of blind vending sites before any Federal property could be acquired, leased, or renovated in a major way. The bill mandates the assignment of 10 additional staff to administer the Randolph-Sheppard Act, and the Secretary of HEW would provide for and pay the costs of binding arbitration of grievances of blind vendors.

Under Title III of the bill, the President would be authorized to call a White House Conference on Handicapped Individuals within two years of enactment, and $2 million plus "such sums as may be necessary" would be authorized to fund the Conference.

Attached is a more detailed memorandum covering this enrolled bill and agency recommendations.

Major arguments for approval

-- Appropriation authorizations for fiscal year 1976 represent only a 7 percent increase over current authorization levels, far smaller than such levels in earlier, vetoed bills, and less than the current inflation rate. It is possible that all but $40 million of the increase could be controlled via the budget and appropriations processes.

-- Transfer of RSA to the Office of the Secretary of HEW would give the program a more highly placed and visible location than in SRS where welfare programs are emphasized.

-- The Secretary of HEW, with overall Randolph-Sheppard responsibility, could provide more consistent and beneficial treatment of blind vendors than individual agencies could.

-- The priority given to the blind in establishing vending facilities and the assignment of vending machine income to the blind would substantially increase the viability of blind vending facilities and employment opportunities for blind persons.

-- A White House Conference would help focus existing programs more effectively on the needs of the handicapped.

-- The Administration would be viewed more favorably and sympathetically by approving this bill, when contrasted with the fact that two vocational rehabilitation bills were vetoed in the past three years.

Major arguments for disapproval

-- Appropriation authorizations represent a 7 percent increase over existing authorization levels and a 15 percent increase over the current 1975 budget request. Moreover, $40 million of the increase would have to be spent.

-- The management flexibility of the Secretary of HEW would be seriously undermined by mandated organizational changes contained in the bill.

-- Marginal cafeteria operations on Federal property would be endangered by assignment of vending machine income, on which they now depend, to blind vendors. Many existing cafeteria contracts would have to be renegotiated with concessionaires, with probable increased cafeteria prices.

-- Many employee welfare and beneficent activities which depend upon vending machine income would have to be curtailed.

-- The management responsibilities of individual agencies would be seriously hampered by the requirement for the approval of the Secretary of HEW for all new building acquisition, leasing, or renovation to assure appropriate sites for blind vending facilities.

-- The expanded definition of "handicapped" would confuse the administration of the existing affirmative action and anti-discrimination provisions of the Rehabilitation Act.

-- The White House Conference would probably raise strong pressures for increased funding for programs for the handicapped.

Recommendation

I recommend disapproval.

Director

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 14225 - Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, White House Conference on Handicapped Individuals
Sponsor - Rep. Brademas (D) Indiana and 3 others

Last Day for Action

October 29, 1974 - Tuesday

Purpose

Extends through fiscal year 1976 and increases the appropriation authorizations of the Rehabilitation Act of 1973; mandates administration of the Act in the Office of the Secretary of HEW and amends the Act in other respects; expands the priority, scope, and income of the blind vendor program under the Randolph-Sheppard Act; authorizes a White House Conference on Handicapped Individuals.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Department of Health, Education, and Welfare	Disapproval (Veto message attached)
General Services Administration	Cannot favor approval
Veterans Administration	Cannot recommend approval of Title II
Department of Defense	No objection to approval of Title II
Department of Labor	Defers to HEW
Postal Service	No recommendation
Civil Service Commission	Approval

Discussion

This legislation was initiated in the Congress and, as passed by the House, consisted only of amendments to the Rehabilitation Act of 1973 (Title I). The Senate added Titles II and III, which would, respectively, amend the Randolph-Sheppard Act in major respects and authorize the convening of a White House Conference on Handicapped Individuals. The conferees adopted all three titles with minor modifications. The conference report was passed by a vote of 334-0 in the House and by voice vote in the Senate.

The following describes the main features of the enrolled bill, which are discussed in greater detail in the attached agency views letters.

Title I -- Rehabilitation Act Amendments of 1974

The Federal-State vocational rehabilitation (VR) program dates back to 1920 and is currently operated by the Rehabilitation Services Administration (RSA) within the Social and Rehabilitation Service (SRS) component of HEW. The legislation providing authority for the VR program is the Rehabilitation Act of 1973, which was approved on September 26, 1973 after two previous vetoes by President Nixon.

The appropriation authorizations in the Rehabilitation Act of 1973 are scheduled to expire at the end of fiscal year 1975. By far the largest single authorization is for formula grants to States at an 80 percent matching rate. Under the Act, these grants constitute an entitlement of the States, and the full authorization must be allocated if the States have adequate matching funds.

Although the present authorization provides authority through June 30, 1975, the House initiated H.R. 14225 this year in order to give the States advance notice of how much they could expect to receive in fiscal year 1976 so that they would be able to plan their programs for next year effectively. The report of the House Committee on Education and Labor indicates that extensive hearings and a longer extension of the VR programs are contemplated in the near future.

The following are the major features of Title I of H.R. 14225.

Appropriation authorizations. The enrolled bill would authorize a total of $849.1 million for fiscal year 1976 for the various activities of the Rehabilitation Act of 1973. The following table compares the fiscal year 1976 authorizations in H.R. 14225 with the fiscal year 1975 authorizations in current law and the amended 1975 budget request.

(In millions of dollars)

	Current 1975 authorizations	1975 budget request as amended	1976 authorizations in H.R. 14225
Formula grants to States for VR services	680	680	720
Innovation and expansion grants	39	--	42
Research and training	52.7	42.2	64
Other	19.5	13.9	23.1
Total	791.2	736.1	849.1

* Note: The enrolled bill also contains "such sums" authorizations for construction grants and certain other activities.

Because the State grant allotments are computed on the basis of the authorization, the $40 million increase provided in H.R. 14225, from $680 million to $720 million, would have to be requested in the 1976 Budget. The other specific authorizations, representing an increase in fiscal year 1976 of $73 million over the amended fiscal year 1975 budget request are subject to the normal budget and appropriations process, but will undoubtedly create pressures for increased funding.

The Administration's position during congressional consideration was that either the formula grants should be extended at the fiscal year 1975 level or the Act should be amended so that appropriations rather than authorizations would be the basis for the State allotments.

Organizational provisions. Despite strong opposition by HEW, H.R. 14225 would provide for the transfer of RSA from SRS to the Office of the Secretary, effective 60 days after enactment. The expressed reasons for this shift are (1) to remove the VR program from the primarily welfare-oriented SRS and (2) to give handicapped persons a more highly placed and visible location within HEW.

Under the enrolled bill, confirmation by the Senate would be required for the Presidentially-appointed Commissioner heading the RSA. The Commissioner would be directly responsible to the Secretary, the Under Secretary, or an appropriate Assistant Secretary, as designated by the Secretary. The bill would prohibit the delegation of the Commissioner's functions to any officer not directly responsible to him both with respect to program operations and administration.

H.R. 14225 would also prohibit the delegation of the Secretary's responsibilities under section 405 of the Rehabilitation Act of 1973 (relating to planning, research, and evaluation) to any person with operational responsibilities for any program designed to benefit handicapped individuals.

HEW strongly objects to these provisions as an infringement on the Secretary's ability to marshall the Department's resources in an effective and efficient manner.

HEW also believes the enrolled bill would require Senate confirmation of the incumbent RSA Commissioner, an unconstitutional infringement on the President's appointment authority. The Justice Department, however, believes that the bill should be read as not affecting the tenure of the incumbent Commissioner and, accordingly, that it does not present a substantial constitutional issue.

Other significant amendments. Title I of H.R. 14225 would make various miscellaneous revisions in the Rehabilitation Act of 1973, chief among them:

-- expanding, only for the purposes of Titles IV and V of the Act, the definition of "handicapped individual," to remove the present orientation toward employment and

employability resulting from VR services. This change in definition would not apply to the basic VR activities. Its main objective is to clarify that the Congress did not intend to limit the term "handicapped individual" by employment criteria for purposes of section 503 (requiring Federal contractors to take affirmative action for hiring and advancing handicapped individuals) or section 504 (prohibiting denial of benefits or discrimination against a handicapped individual under any program or activity receiving Federal assistance).

-- requiring each State agency and facility receiving VR funds to take affirmative action to hire and advance in employment qualified handicapped persons on the same terms and conditions applicable to Federal contractors under section 503 of the Act.

-- adding under the special project and demonstration grant authority a new authority to operate programs to demonstrate methods of making recreational activities fully accessible to handicapped persons.

-- providing authority for the interagency Architectural and Transportation Barriers Compliance Board, which was established in the 1973 Act, to make grants or contracts to carry out its functions and to order withholding or suspension of Federal funds with respect to standards prescribed under the Architectural Barriers Act.

Title II -- Randolph-Sheppard Act Amendments

Title II of the enrolled bill would substantially amend the Randolph-Sheppard Act which governs the operation of blind vending stands on Federal property. There have been growing complaints in recent years that the growth of vending machines has in general adversely affected the economic conditions surrounding the operation of such stands. In response, Senator Randolph has introduced legislation for the last five years to take this development into consideration and to expand the rights of blind vendors in other respects.

The major changes proposed by Title II are:

-- Priority rather than preference would be given to blind licensees in the operation of vending facilities on Federal property.

-- The scope of food service operations for which blind vendors would be given priority would be significantly expanded to include cafeterias, snack bars, cart service, etc.

-- All income from vending machines in direct competition with a blind vending facility would be assigned to blind vendors or used for their benefit; 50 percent of income from vending machines not in direct competion (30 percent at properties where a majority of hours worked are outside normal working hours) would be so assigned. This provision would not cover military exchanges, the Veterans Canteen Service, or those facilities where income from vending machines not in direct competition does not exceed $3,000. "Vending machine income" would be defined as either (1) commissions paid by a commercial vending company (which average about 10 percent on gross sales), when the machines are on Federal property by franchise arrangement or lease or (2) net receipts, after subtracting the cost of goods sold (including reasonable service and maintenance), when the machines are owned by a Federal agency.

-- The Secretary of HEW, rather than the head of the individual agency, would be assigned direct responsibility for determining, in consultation with the agency controlling the Federal property, and with the State licensing agency, where blind vending facilities would have to be provided in properties to be acquired, leased, or renovated, and where exceptions would be permissible, subject to a new requirement that, effective January 1, 1975, such properties should include satisfactory sites for such facilities.

-- The Secretary of HEW would have to provide for binding arbitration of grievances of blind licensees or State licensing agencies and would have to pay all reasonable costs of such arbitration.

-- HEW would be directed to assign 10 additional full-time personnel to RSA, including an additional supergrade position, to administer the Randolph-Sheppard program.

-- The Secretary of HEW would be required to make recommendations on the establishment of a nationally administered retirement, pension, and health insurance system for blind licensees.

During consideration by the Senate Labor and Public Welfare Committee, GSA, VA, the Postal Service, DOD and HEW opposed various provisions of Title II, with major concern expressed over the assignment of vending machine income to the blind, the inclusion of cafeterias for possible operation by the blind, and the tightened requirements and dominant role of HEW in determining the proper circumstances and locations for the placement of blind vending facilities.

Title III -- White House Conference on Handicapped Individuals

This title of the enrolled bill, which incorporates a separate measure passed by the Senate in 1973, would authorize the President to call a White House Conference on Handicapped Individuals not later than two years after the date of enactment to develop recommendations and stimulate a national assessment of problems and solutions to such problems facing individuals with handicaps.

A 28-member National Planning and Advisory Council would be appointed by the Secretary of HEW to help plan the conference. A final report of the Conference would be submitted by the Council to the President, and made public, not later than 120 days after the Conference is called. The Council and Secretary would be required to transmit to the President and the Congress within 90 days after the report their recommendations for administrative action and legislation.

The Secretary would be authorized to make a grant to each State of between $10,000 and $25,000 to assist the States in participating, including conducting at least one conference in each State. The enrolled bill would authorize $2 million for the Conference itself and "such additional sums as may be necessary" for the State grants.

During debate on the House floor, Congressmen Quie and Brademas indicated that an additional year might be necessary to prepare for the Conference. They agreed that if at the beginning of next year this is found to be the case they would extend the time for a year.

Arguments for approval

1. If fully funded, the 1976 authorization increase in H.R. 14225 would represent approximately a 15 percent increase over the current 1975 budget request, but only 7 percent over the current 1975 authorization level. All but the $40 million increase for State formula grants (which is a legal entitlement) is subject to some control through the appropriations process. At the current rate of inflation, this $40 million increase would probably not be unreasonable to maintain actual vocational rehabilitation services at the current level.

2. Congressional proponents argue that the rehabilitation program is a human development program and therefore RSA should be transferred out of the Social and Rehabilitation Service where welfare programs are emphasized. In their view, the transfer of RSA to the Office of the Secretary would give greater visibility to the handicapped and the Federal programs for their rehabilitation.

3. The Randolph-Sheppard program has been criticized in the Congress for not being faithfully executed by some agencies. The comprehensive supervisory power over other agencies assigned to HEW under the Randolph-Sheppard Act Amendments is intended to eliminate this problem and provide for more consistent treatment of blind vendors.

4. Blind vendors have claimed that their economic viability has been threatened in recent years by the growing numbers of vending machines on the same premises. A statutory formula for allocating vending machine income to blind licensees and State agencies would assure additional income to blind licensees and thereby help secure the viability of blind vending facilities.

5. A White House Conference on Handicapped Individuals would help focus on how existing programs might be best utilized and what further steps might be taken to improve the lives of the handicapped.

6. In view of the two fairly recent vetoes of VR legislation, disapproval of this bill could be viewed as further evidence of lack of concern by the Administration for the needs of the handicapped.

Arguments against approval.

1. Of the total increase of $113 million in the 1976 authorization levels contained in H.R. 14225 above the actual 1975 budget request, at least $40 million--the portion for State formula grants--would have to be allocated to the States since it is an entitlement, and could not therefore be controlled through the appropriations process. While this particular increase would not in itself add substantially to inflationary pressures, it is one source of strain which, if repeated throughout Federal programs, would seriously endanger the Administration's efforts to bring the Federal budget under control.

2. The mandating of several organizational structures and the restrictions on delegation of functions through statute seriously undermines the management flexibility the Secretary of HEW needs and represents unnecessary interference by the Congress in the administration of the VR program. Also objectionable is the statutory requirement that the Secretary assign ten additional full-time personnel, including one supergrade, to the Office for the Blind and Visually Handicapped in RSA to manage the Randolph-Sheppard program.

3. There is no sound basis for assigning by law all or a substantial portion of commissions or net receipts from vending machines to blind licensees or State licensing agencies. This discriminatory provision of the enrolled bill would simply increase the present subsidy to blind vendors at the expense of others who now obtain revenue from the machines. For example, it would endanger the economic viability of many existing, marginal cafeteria operations which rely on such income. GSA points out that an undetermined number of cafeteria

contracts would have to be renegotiated to accommodate the loss of income to cafeteria concessionaires, with a resulting increase in cafeteria prices. In addition, many employee welfare and beneficent activities which depend on vending machine income would have to be curtailed or eliminated altogether.

4. All the agencies concerned object to the requirement that the Secretary of HEW be responsible for approving the construction, leasing, renovation, etc., of Federal properties in order to assure appropriate sites for blind vending facilities, on the basis that this requirement would seriously interfere with the proper management responsibilities of the agency which controls the property. VA, in particular, expresses serious concern about the potential adverse effect of this requirement on the Veterans' Canteen Service. It fears that the most profitable locations would be assigned to blind vendors, leaving the marginal locations to the Canteen Service, which would either have to close them or support them with Federal funds. It also fears increases in the prices charged to hospitalized veterans.

5. A White House Conference on Handicapped Individuals could result in costly program increases and would largely duplicate many of the responsibilities of HEW. From previous experience, White House conferences result in pressures for major new programs and substantially increased funding of existing programs. In addition, HEW, under the Rehabilitation Act of 1973, is conducting special studies on the needs of the handicapped and is responsible for long-range planning and evaluation of on-going programs. The Department believes that such a conference is unnecessary and might even interfere with its ability to carry out the 1973 Rehabilitation Act effectively.

6. Several other provisions of H.R. 14225 would also be undesirable, i.e.:

-- The new program in RSA to demonstrate methods of making recreational activities fully accessible to handicapped individuals, thus seriously diluting the vocational emphasis of the vocational rehabilitation program.

-- New grant and contract authority of the Architectural and Transportation Barriers Compliance Board, which is duplicative of existing HEW and DOT authority and is inappropriate for a regulatory agency.

-- The State licensing agency affirmative action hiring program, which is one more burden on the States that would be also difficult to administer.

-- The expanded definition of "handicapped" for the affirmative action employment and anti-discrimination provisions of the Rehabilitation Act is so broad, vague, and subjective, that it would be extremely difficult to identify objectively the affected population, thereby further aggravating the difficulties of administering these provisions. Labor believes the effect of the new definition would be to weaken rather than strengthen the affirmative action program.

7. The arbitration provisions of the Randolph-Sheppard title would also be difficult to administer. No specific time limits are prescribed for the filing of a complaint with the Secretary or for the Secretary to convene an arbitration panel. In addition, the Secretary would be required to pay all reasonable costs of arbitration which could be expensive in complex arbitration proceedings.

Agency recommendations

HEW recommends that the enrolled bill not be approved, indicating that, with the exception of a few provisions, "the bill contains very little of a desirable nature." HEW states, however, that in view of the overwhelming congressional support for this bill it is doubtful that a veto would be upheld.

GSA states that it cannot favor Presidential approval of the bill. The agency vigorously objects to the Randolph-Sheppard provisions which it believes would adversely affect cafeteria operations in its buildings and to the comprehensive supervisory role given to HEW.

VA objects to the Randolph-Sheppard Act Amendments because it could conflict with the basic purpose of the Veterans' Canteen Service. VA states that if the enrolled bill

becomes law, "it may be necessary in the future to seek legislation clearly exempting VA health care facilities from the provisions of the Randolph-Sheppard Act." It concludes that "While we cannot recommend approval of this provision of the enrolled bill, we do not feel we can recommend a Presidential disapproval solely on the basis of such provision, especially if it is determined that the other provisions of the bill require approval by the President."

Postal Service objects to the provisions "which would involve the layering of bureaucracy on top of bureaucracy" by requiring the Postal Service to obtain advance approval by the Secretary of HEW and state licensing agencies before undertaking to acquire a Federal building. Nevertheless, "The Postal Service makes no recommendation with regard to Presidential action because approval or disapproval of H.R. 14225 should properly turn on the probable effect on the economy of Title I of the bill with regard to which the Postal Service has no special knowledge or expertise."

Defense has no objection to approval of the Randolph-Sheppard Act Amendments because "the House of Representatives in its consideration of the Act as presented by a Joint Conference Report specifically stated in its discussion, the intent to exempt military exchanges, officer and enlisted messes, and other military nonappropriated fund instrumentalities."

The Civil Service Commission recommends approval, although it objects to the provision creating ten additional positions in the Office for the Blind and Visually Handicapped of RSA, including one at the supergrade level, stating that "This kind of legislation denies the flexibility needed for the CSC to successfully manage supergrade resources."

* * * * *

We believe that, on the merits, the enrolled bill has little to commend it. While it would be desirable to extend the authorizations of the Rehabilitation Act in advance of fiscal year 1976, the Congress has done so in a manner which would require an add-on of at least $40 million to the 1976 Budget.

The Randolph-Sheppard Act Amendments do not represent an equitable balance between the objectives of promoting the interests of blind vendors and the effective management of Government property taking into account the interests of Federal employees and others who would be affected. There is the further question of the equity of singling out the blind as the sole handicapped group deserving of special, heavily subsidized, treatment on Federal property.

A White House Conference on Handicapped Individuals would, as noted above, be duplicative of ongoing activities and would create more pressures for increased Federal spending for the handicapped.

Accordingly, we concur with HEW in recommending disapproval of H.R. 14225, although we recognize that the Congress has given this bill its overwhelming approval.

HEW has prepared a draft veto message which does not mention the constitutional issue raised by the Department concerning Senate confirmation of the incumbent RSA Commissioner. However, HEW has notified us informally that it would like to see the material included in its views letter on this issue incorporated in such a message.

Our draft veto message does not address the constitutional question in view of the disagreement between Justice and HEW, noted earlier in this memorandum. (A letter from Justice on this provision of the bill is attached.) We will attempt to get this matter resolved so that appropriate language on this issue can be incorporated, if needed, in any statement you make when you act on this bill.

Director

Enclosures

TO THE HOUSE OF REPRESENTATIVES:

I am today returning, without my approval, H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, and the White House Conference on Handicapped Individuals Act. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

The Vocational Rehabilitation Amendments of 1974 pose some fundamental issues which far transcend this particular bill.

No group in our country is more in need of supportive services than the Handicapped. Our handicapped citizens have demonstrated time and again that, given a fair break, they can lead as full and productive lives as other citizens.

Throughout my years in Congress I consistently supported good Federal programs designed to assist the handicapped.

During the last two years spending on the basic grant programs for Vocational Rehabilitation has grown from $589 million to $680 million. The key issue posed by this bill is not how much money will be spent. The issue posed is how well the programs will be run.

This bill passed the House of Representatives without any hearings. Had hearings been held we would have explained the disruption that would result from such a massive legislative incursion into the administration of a program.

The Congress has the responsibility to legislate, but I have the responsibility for the successful administration of the programs they enact. This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason - indeed for very bad reasons. It dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that

wasteful and
are duplicative and it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man ~~bureauey~~ crazy in HEW to duplicate functions carried out elsewhere in the Executive Branch.

Most importantly, the bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my Cabinet Secretaries accountable. Under this legislation accountability would be diffused.

I find myself obliged to return to the Congress unsigned a bill that would disrupt existing Federal programs and ill serve the needs of our Nation's handicapped citizens.

The present Vocational Rehabilitation legislation does not expire until mid 1975. Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped rather than create the disruptions that will inevitably result from this hastily drawn piece of legislation. I have requested HEW Secretary Weinberger to meet with congressional leaders immediately upon their return to initiate this process.

Senate Confirmation of OMB Director and Deputy Director

The President's Message to the Senate Vetoing Bill Requiring Senate Confirmation of the Two Positions. May 18, 1973

To the Senate of the United States:

I am today returning without my approval S. 518, a bill which would require Senate confirmation of those who serve as Director and Deputy Director of the Office of Management and Budget.

This legislation would require the forced removal by an unconstitutional procedure of two officers now serving in the executive branch. This step would be a grave violation of the fundamental doctrine of separation of powers. In view of my responsibilities, it is my firm duty to veto this bill.

Under present law, the Director and Deputy Director of the Office of Management and Budget are appointed by the President and serve at his pleasure. S. 518 would abolish these two positions effective thirty days after enactment and then provide for their immediate reestablishment. If the officers now lawfully occupying these Office of Management and Budget positions were to continue to serve, they would have to be reappointed by the President, subject to the advice and consent of the Senate.

The constitutional principle involved in this removal is not equivocal; it is deeply rooted in our system of government. The President has the power and authority to remove, or retain, executive officers appointed by the President. The Supreme Court of the United States in a leading decision, *Myers v. United States,* 272 U.S. 52, 122 (1926), has held that this authority is incident to the power of appointment and is an exclusive power that cannot be infringed upon by the Congress.

I do not dispute Congressional authority to abolish an office or to specify appropriate standards by which the officers may serve. When an office is abolished, the tenure of the incumbent in that office ends. But the power of the Congress to terminate an office cannot be used as a backdoor method of circumventing the President's power to remove. With its abolition and immediate re-creation of two offices, S. 518 is a device—in effect and perhaps in intent—to accomplish Congressional removal of the incumbents who lawfully hold those offices.

Disapproval of this legislation is also required because of the nature of the positions it would subject to Senate confirmation. For over 50 years the Office of Management and Budget and its predecessor agency, the Bureau of the Budget, has been headed by a Director appointed by the President without Senate confirmation.

The positions of Director and Deputy Director of the Office of Management and Budget were established in the Executive Office of the President to provide the President with advice and staff support in the performance of his budgetary and management responsibilities. These positions cannot reasonably be equated with cabinet and subcabinet posts for which confirmation is appropriate.

The responsible exercise of the separate legislative and executive powers is a demonstration of the workability of the American system. But, if it is to remain workable, I must continue to insist on a strong delineation of power and authority, the basis of which is too fundamental to allow to be undermined by S. 518.

The point was made most succinctly by James Madison in 1789:

"If there is a principle in our Constitution, indeed in any free constitution more sacred than another, it is that which separates the legislative, executive and judicial powers. If there is any point in which the separation of the legislative and executive powers ought to be maintained with great caution, it is that which relates to officers and offices."

RICHARD NIXON.

The White House,
May 18, 1973.

Digest of Other White House Announcements

Following is a listing of items of general interest which were announced to the press during the period covered by this issue but which are not carried elsewhere in the issue. Appointments requiring Senate approval are not included since they appear in the list of nominations submitted to the Senate, below.

May 14

The President today announced the appointment of H. Guyford Stever, Director of the National Science Foundation, as Acting Chairman of the Federal Council for Science and Technology.

The President today acknowledged the retirement of Robert M. Weston as an Associate Judge of the Superior Court of the District of Columbia.

The President today announced the appointment of the following three persons to be members of the Board of Governors of the American National Red Cross for terms of 3 years: Kenneth Rush, Deputy Secretary of State; Caspar W. Weinberger, Secretary of Health, Education, and Welfare; and James T. Lynn, Secretary of Housing and Urban Development.

The President today acknowledged the retirement of Marion C. Matthes, of St. Louis, Mo., as Chief Judge of the U.S. Court of Appeals for the Eighth Circuit, effective July 14, 1973.

Veto Message--H.R. 14225
Rehabilitation Act Amendments of 1974

I have today returned to the Congress without my approval H.R. 14225, the Rehabilitation Act Amendments of 1974.

While I fully support the extension of appropriations authority for the programs authorized by the Rehabilitation Act of 1973 which this bill would provide, the undesirable features of the bill are so numerous that I cannot give it my support.

First, the bill would impose severe restrictions on the manner in which the Secretary of Health, Education, and Welfare may organize the resources of his Department in order to carry out the programs authorized by the Rehabilitation Act. In order to ensure the prompt and effective delivery of services under the Act to handicapped individuals, the Secretary must be able to organize his personnel in a manner best suited to meeting the needs of such individuals. By requiring responsibility for these programs be vested in a particular organizational structure within the Department to the exclusion of other, perhaps more appropriate, units, and by restricting the degree to which the Secretary may delegate certain of his functions under the Act, the Congress would be forcing the Secretary to work within a bureaucratic framework which may not be well suited to the efficient delivery of services of the type which handicapped individuals need and in the locations where they need them.

My second objection to this legislation concerns the amendments to the Randolph-Sheppard program under which blind persons are given a preference in obtaining rights to operate vending facilities on Federal property. I have supported and will continue to support this activity, but the Congress by these amendments would require the Secretary of Health, Education,

and Welfare to ensure that blind licensees receive priority in all vending operations in government buildings, including more than 100 employee cafeterias serving hundreds of thousands of government workers. Not only is the expansion of the program on such a scale not warranted by the existing need, but the Secretary of Health, Education, and Welfare would be unable with his existing resources to supervise the operation of the program in the manner called for by this bill.

Thirdly, I see no need for the expenditure of the millions of dollars called for by this bill for the purpose of convening a White House Conference on Handicapped Individuals. This Administration and the prior Administration have placed an unprecedented emphasis on finding ways to help handicapped individuals lead a full and meaningful life. In addition to many existing programs serving the handicapped, such as the Education of the Handicapped Act and the Rehabilitation Act, the Department of Health, Education, and Welfare, in conjunction with other Federal, State, and private agencies, is engaged in numerous studies, evaluations, and cooperative efforts to improve and expand knowledge about the handicapped and the ways they can be assisted in reaching their full potential. I believe that those efforts should be allowed to continue but that we should not at this time, when every conceivable means is being undertaken to hold down Federal spending, initiate new and expensive activities which in many ways merely duplicate existing efforts.

Although a number of provisions in this bill--such as the extension of the Rehabilitation Act and the clarification of the definition of handicapped individuals for the purposes

of the antidiscrimination provisions in that Act--have my full support, those features of the bill are clearly outweighed by the provisions outlined above which would result in undue interference by the Congress in the functions of the Executive Branch and would further require additional and unnecessary appropriations. For these reasons, I cannot approve the bill.

We assume that the form of this message including the title and the first paragraph, will be revised to conform with the approach taken in the veto message on H.R. 11541--the National Wildlife Refuge System, dated October 22, 1974.

TO THE HOUSE OF REPRESENTATIVES

I am today returning, without my approval, H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, and the White House Conference on Handicapped Individuals Act.

While this legislation has certain worthy objectives, it contains so many objectionable and inequitable features that I cannot give it my support.

The bill would, first of all, make major changes in the Randolph-Sheppard Act under which for many years preference has been given to blind persons to operate vending facilities on Federal property. H.R. 14225 seeks to correct certain criticisms which have been made by the blind vendors about the operation of the Act. However, the bill goes too far and would in fact create new inequities.

All net receipts and commission income from vending machines on Federal properties operated in direct competition with blind vendors (except for military exchanges and the Veterans Canteen Service) would have to be assigned to the vendors or their State licensing agencies. Half of such income would have to be assigned in the case of machines not in direct competition with the vendors.

The bill would also unwisely enlarge the scope of food service operations for which blind vendors would be given priority to manage, including cafeterias, snack bars, and cart services.

I see no sound basis for the far reaching provisions of this bill. Their effect would be to expand the existing program on an unwarranted scale, to endanger cafeteria operations which now depend on income from vending machines,

FOR IMMEDIATE RELEASE OCTOBER 22, 1974

Office of the White House Press Secretary
(Cleveland, Ohio)

THE WHITE HOUSE

TO THE HOUSE OF REPRESENTATIVES:

~~I am withholding my approval from H.R. 11541, a bill which would amend the National Wildlife Refuge System Administration Act of 1966~~. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

insert in 1st ¶ according to Dick Gilbert's office (Comm, ext 4710) (also Rommel's office)

This bill would amend section 4(d) of the Act of October 15, 1966, by adding a new standard in determining the authority of the Secretary of the Interior to allow certain rights-of-way across lands of the National Wildlife Refuge System. This new standard would require the Secretary to review all reasonable alternatives to the use of such area, and then make a determination that the proposed right-of-way use is the most feasible and prudent alternative for such purpose.

If we are to have adequate energy-transmission and communication facilities, we must have rights-of-way on which to locate them. Of course, when such lands have a special status as wildlife refuges or national parks, we must fully protect this status when portions of these areas are sought for use as rights-of-way.

However, I believe that such protection is properly provided under existing law which requires environmental impact review and further requires the Secretary of the Interior to determine that granting a right-of-way across a national wildlife refuge or national park must be compatible with the purposes for which the park or refuge had been established. Only last year, Congress enacted legislation which had the effect of reiterating this protection in the case of refuges.

In short, our wildlife refuges are properly protected by existing law. We should avoid changes in the law that could create further obstacles and delays in the construction of vitally needed facilities, particularly those facilities designed to help meet urgent energy needs.

Accordingly, I am withholding my approval from H.R. 11541.

GERALD R. FORD

THE WHITE HOUSE,
October 22, 1974

# # # # # #

We assume that the form of this message including the title and the first paragraph, will be revised to conform with the approach taken in the veto message on H.R. 11541--the National Wildlife Refuge System, dated October 22, 1974.

TO THE HOUSE OF REPRESENTATIVES

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insert "A" statement

While this legislation has certain worthy objectives, it contains so many objectionable and inequitable features that I cannot give it my ~~support~~ approval.

The bill would, first of all, make major changes in the Randolph-Sheppard Act under which for many years preference has been given to blind persons to operate vending facilities on Federal property. H.R. 14225 seeks to correct certain criticisms which have been made by the blind vendors about the operation of the Act. However, the bill goes too far and would in fact create new inequities.

All net receipts and commission income from vending machines on Federal properties operated in direct competition with blind vendors (except for military exchanges and the Veterans Canteen Service) would have to be assigned to licensed blind ~~the~~ vendors or their State licensing agencies. Half of such income would have to be assigned in the case of machines not in direct competition with the vendors.

The bill would also unwisely enlarge the scope of food service operations for which blind vendors would be given priority to manage, including cafeterias, snack bars, and cart services.

I see no sound basis for the far-reaching provisions of this bill. Their effect would be to expand the existing program on an unwarranted scale, to endanger cafeteria operations which now depend on income from vending machines,

and to cause the curtailment or disruption of Federal employee welfare and other activities which likewise rely on vending machine income.

In addition, the Secretary of (Health, Education, and Welfare), rather than the individual agency head, would be required to determine that a satisfactory site is provided for blind vending facilities in all Federal property to be acquired, substantially altered or renovated, and where exceptions would be permissible. This would interfere with the proper management responsibility of each agency head over the property of the agency.

I am also concerned about the provisions of H.R. 14225 which would amend the Rehabilitation Act of 1973.

Certain of these provisions would require specific organizational arrangements in (the Department of Health, Education, and Welfare) for administering the vocational rehabilitation program. Others contain prohibitions on the delegation of functions within the Department. These provisions would impose severe restrictions on the ability of the Secretary of (Health, Education, and Welfare) to organize the resources of his Department.

The appropriation authorizations provided for the vocational rehabilitation program for fiscal year 1976 represent a 15 percent increase over the budget request submitted to the Congress for the current fiscal year. Under the terms of the Rehabilitation Act, $40 million of this increase is entirely uncontrollable and would have to be spent next year. Such actions on individual bills put an ever-increasing strain on the Federal budget and seriously endanger our efforts to curb inflation.

Finally, I see no need to spend several million dollars for a White House Conference on Handicapped Individuals, as is called for by this bill. In recent years, the Government has placed an unprecedented emphasis on finding ways to help handicapped individuals lead better lives. Various programs and special studies to further this objective are already underway. Accordingly, I am opposed to the proposed Conference in H.R. 14225.

The Rehabilitation Act of 1973 will require extension before the current fiscal year ends. I believe that, working together, the Congress and the Executive Branch can produce sound legislation, ~~in place of H.R. 14225,~~ which will serve the best interests of the handicapped and of the Nation.

THE WHITE HOUSE

October , 1974

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

OCT 22 1974

Dear Mr. Ash:

This is in response to Mr. Rommel's request of October 17, 1974, for a report on H.R. 14225, an enrolled bill "To extend the authorizations of appropriations in the Rehabilitation Act of 1973 for one year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals."

Section 101(a) of the enrolled bill amends section 3(a) of the Rehabilitation Act of 1973 to establish the Rehabilitation Services Administration (RSA) in the Office of the Secretary of Health, Education, and Welfare. The RSA would be headed by a Commissioner, appointed by the President by and with the advice and consent of the Senate. The functions of the Commissioner could not be delegated to any officer not directly responsible to the Commissioner.

Sections 102 through 110 of the bill would extend the authorizations of appropriations in the Act for one year, through fiscal year 1976.

Section 111(a) of the bill would amend the definition of the term "handicapped individual" to make it clear that sections 503 (relating to affirmative action with regard to the handicapped by Federal contractors) and 504 (prohibiting discrimination against the handicapped in any activity receiving Federal financial assistance) of the Act apply to all handicapped individuals, not just

those who have benefitted or expect to benefit from vocational rehabilitation services.

Section 111(g) of the bill would extend from February 1, 1975, to June 30, 1975, the time during which the Secretary is to conduct, under section 130 of the Act, a comprehensive study on service needs for handicapped individuals. The Department had requested such an extension through September 30, 1975.

The other subsections of section 111 contain numerous miscellaneous amendments to the Act relating to affirmative action in employment under State vocational rehabilitation plans, requirements for early eligibility determinations, individualized written rehabilitation programs, and other matters, including a prohibition of any delegation of the Secretary's responsibilities under section 405 of the Act (relating to planning, research, and evaluation in programs for the handicapped) to any person with operational responsibilities for any programs designed to benefit handicapped individuals. Under this prohibition, the Office for the Handicapped and the Rehabilitation Services Administration could both be placed under the Assistant Secretary for Human Development, but those functions would have to be separated within that Office.

Title II of the enrolled bill contains amendments to the Randolph-Sheppard Act, the blind vendor program. Section 202 amends the first section of that Act to require the Secretary of Health, Education, and Welfare to prescribe regulations designed to assure that priority is given to blind persons in authorizing vending facilities on Federal property and that such facilities are, wherever feasible, located on all Federal property. Any limitation on the placement of such a facility on any Federal property based on a determination that it would adversely affect the interests of the United States would have to be made in writing to the Secretary who would be required to make a binding determination as to whether such limitation is justified.

Sections 203 through 205 of the bill contain a number of miscellaneous amendments relating to Federal and State responsibilities under the Act and repeal of outdated provisions in the Act. The most significant of these amendments would require that after January 1, 1975, no department or agency of the United States shall acquire or substantially alter or renovate any building unless it contains satisfactory sites for blind vending facilities.

Section 206 adds a number of new sections to the Act. New section 5 would provide for arbitration of grievances of blind licensees and State licensing agencies before a panel convened by the Secretary. Section 6 would establish procedures for such arbitration. Section 7 would require (with certain exceptions) income from the operation of vending machines on Federal property to accrue to blind licensees or to retirement, pension, health insurance, and paid sick leave or vacation plans for such licensees. Section 8 would require the Commissioner of RSA to promulgate regulations designed to provide certain rehabilitation services for blind individuals.

Section 209 of the bill would require the Secretary to assign ten additional personnel to the Office of the Blind and Visually Handicapped, five of whom would be required to carry out duties related to the Randolph-Sheppard program.

Section 210 would require the Secretary to promulgate national standards for pension and health insurance funds and provisions for sick and annual leave for blind vendors. The section would also require the Secretary to conduct a study of the feasibility of establishing a nationally-administered retirement, pension, and health insurance fund for such persons.

Title III of the enrolled bill would authorize the President to call a White House Conference on Handicapped Individuals within two years from the date of enactment. The Conference would be planned and directed under the direction of a National Planning and Advisory Council. The bill sets

forth a list of 17 problem areas which the Conference shall consider.

Section 305 of the bill authorizes grants to States of from $10,000 to $25,000 each to defray the expenses of participating in the program. Section 306 authorizes the appropriation of a total of $2,000,000 to carry out the Conference.

Rehabilitation Act Amendments

The Department has consistently opposed the provisions in this bill which require the transfer of the Rehabilitation Services Administration from the Social and Rehabilitation Service to the Office of the Secretary and which prohibit the delegation of any functions of the Commissioner of RSA to any officer not directly responsible to him. We have also opposed the provisions of the bill which would limit the ability of the Secretary to delegate functions relating to the Office of the Handicapped, although the bill as finally passed would permit such delegation to persons other than those responsible for the operation of programs to benefit handicapped individuals.

The basis of our objections to these provisions is that the mandating of organizational structures and relationships within the Department seriously infringes upon the ability of the Secretary to marshall the Department's resources in an efficient and effective manner. Furthermore, the transfer of RSA would come at a time when that agency is in the midst of implementing the numerous requirements in the Rehabilitation Act of 1973, particularly the major new emphasis on the most severely handicapped. An administrative restructuring at this time would unduly interfere with the ability of the agency to carry out its responsibilities in a timely manner.

The Conference Report on the enrolled bill clarifies somewhat the provisions relating to delegation of RSA functions by indicating that routine administrative services

such as budget formulation, grant administration, financial administration, and personnel administration could be carried out by the centralized offices in the Department responsible for those functions. We remain concerned, however, that the restriction on the delegation of such functions will substantially inhibit our efforts to develop and operate coordinated service delivery systems at the regional level.

Because the provisions of the enrolled bill discussed above would result in undue interference by the Congress in functions of the Executive Branch with regard to the administration of this program, we remain opposed to this portion of the bill.

We also object to that portion of the Amendments that would require Senate confirmation of the incumbent RSA Commissioner. In the message accompanying his veto of S. 518, a bill to subject the incumbent Director and Deputy Director of the Office of Management and Budget to Senate confirmation, the President, treating the bill as a removal of officers previously appointed by him, stated:

> "The constitutional principle involved in this removal is not equivocal; it is deeply rooted in our system of government. The President has the power and authority to remove, or retain, executive officers appointed by the President. The Supreme Court of the United States in a leading decision . . . has held that this authority is incident to the power of appointment and is an exclusive power that cannot be infringed upon by the Congress."

The objection raised by the President in connection with S. 518 has equal application to the instant bill.

Randolph-Sheppard Amendments

We agree with the provisions in section 202 of the bill regarding the priority that should be given to blind persons

in operating vending facilities on Federal property. However, the bill contains a number of amendments to the Randolph-Sheppard Act concerning which we have reservations:

(1) Section 203(d) of the bill would require that the Secretary of Health, Education, and Welfare determine that satisfactory sites for blind vending facilities exist in each building acquired, constructed, or substantially renovated by Federal departments and agencies. Such a determination should more appropriately be made by the head of each agency.

(2) The provisions for arbitration contained in the new sections 5 and 6 of the Act are unnecessary. Current fair hearing procedures are adequate to protect the rights of blind persons and the State licensing agency. To impose an arbitration procedure on top of that machinery would be costly, time consuming, and administratively burdensome.

(3) Although the provisions concerning the assignment of vending machine income to blind licensees have been modified by eliminating the requirement for the Secretary to determine by regulation how vending machine income not required to be assigned to blind licensees shall be used, we still are concerned as to the effect of this provision on the financial base of employee welfare activities. We do not object to blind licensees being assigned some income from vending machines with which they compete, but the amount of such income required to be assigned under this bill--100 percent of such income from machines in direct competition with blind vending facilities and 50 percent of such income from machines not in direct competition--seem excessive.

(4) The requirement in section 209 for 10 additional personnel to be assigned to RSA for the Office for the Blind and Visually Handicapped is another example of Congressional infringement on the management prerogatives of the Secretary. We continue to object to such requirements being imposed as a matter of law.

(5) We do not believe that the study into the feasibility of a nationally-administered retirement, pension, and health insurance program for blind licensees is desirable. Such systems would be a more appropriate function of the State agency.

We have been unable in the short time available to make a realistic estimate of the number of additional positions which would be required by the Department to implement the requirements described above. However, in view of the many additional responsibilities that would devolve upon the Secretary--reviewing building plans of each agency to determine the adequacy of facilities for blind vendors, supervising the new arbitration mechanism, and conducting an extensive study into a nationally-administered retirement and health insurance program--enactment of this bill would undoubtedly require a substantial increase in the number of persons assigned to administer this program.

White House Conference on Handicapped Individuals

We believe that the convening of a White House Conference on the Handicapped at this time would be duplicative of completed, current, and anticipated activities relating to the handicapped. In particular, the Rehabilitation Act of 1973, which has been effective only since December of 1973, contains several provisions for conducting special studies on the various needs of the handicapped, including a study of comprehensive services needs, the role of workshops in the rehabilitation process, the method of allotting basic support funds and the housing and transportation needs of the handicapped. The Act also contains authority for the establishment of interagency activities designed to further meet the needs of the handicapped in such areas as employment, architectural and transportation barriers, and nondiscrimination in the use of Federal contract and grant funds.

The Rehabilitation Act of 1973 also assigns to the Secretary specific responsibilities for long-range planning, continuing evaluation of program effectiveness, coordinating planning

for maximum effectiveness of all programs serving the handicapped, utilization of research affecting the handicapped, and establishing a central clearinghouse for information and resource availability for handicapped individuals.

Given the Departmental activities outlined above which are designed to accomplish essentially the same functions as the White House Conference, we feel that such a conference is unnecessary and might even interfere with our ability to proceed effectively in carrying out the requirements of the 1973 Act.

We have outlined above our major reasons for objecting to the enactment of the enrolled bill. We believe those objections are serious and well-founded. Furthermore, except for the extension of the Rehabilitation Act appropriations authorities, the extension of time for the comprehensive needs study, and the clarification of the definition of "handicapped individuals", the bill contains very little of a desirable nature.

On the other hand, you should be aware that there is overwhelming Congressional support for this bill. The bill was originally passed by the House of Representatives on a roll call vote of 400 to 1 and by the Senate on a voice vote. The conference report was adopted by the House by a roll call vote of 334 to 0 and was adopted by the Senate again by a voice vote. In view of that fact, it is doubtful that a veto by the President would be upheld.

Nonetheless, our objections to the bill are so substantial that we recommend that it not be approved. A proposed veto message is enclosed.

Sincerely,

Frank Carlucci

Acting Secretary

Enclosure

Veto Message--H.R. 14225
Rehabilitation Act Amendments of 1974

I have today returned to the Congress without my approval H.R. 14225, the Rehabilitation Act Amendments of 1974.

While I fully support the extension of appropriations authority for the programs authorized by the Rehabilitation Act of 1973 which this bill would provide, the undesirable features of the bill are so numerous that I cannot give it my support.

First, the bill would impose severe restrictions on the manner in which the Secretary of Health, Education, and Welfare may organize the resources of his Department in order to carry out the programs authorized by the Rehabilitation Act. In order to ensure the prompt and effective delivery of services under the Act to handicapped individuals, the Secretary must be able to organize his personnel in a manner best suited to meeting the needs of such individuals. By requiring responsibility for these programs be vested in a particular organizational structure within the Department to the exclusion of other, perhaps more appropriate, units, and by restricting the degree to which the Secretary may delegate certain of his functions under the Act, the Congress would be forcing the Secretary to work within a bureaucratic framework which may not be well suited to the efficient delivery of services of the type which handicapped individuals need and in the locations where they need them.

My second objection to this legislation concerns the amendments to the Randolph-Sheppard program under which blind persons are given a preference in obtaining rights to operate vending facilities on Federal property. I have supported and will continue to support this activity, but the Congress by these amendments would require the Secretary of Health, Education,

and Welfare to ensure that blind licensees receive priority in all vending operations in government buildings, including more than 100 employee cafeterias serving hundreds of thousands of government workers. Not only is the expansion of the program on such a scale not warranted by the existing need, but the Secretary of Health, Education, and Welfare would be unable with his existing resources to supervise the operation of the program in the manner called for by this bill.

Thirdly, I see no need for the expenditure of the millions of dollars called for by this bill for the purpose of convening a White House Conference on Handicapped Individuals. This Administration and the prior Administration have placed an unprecedented emphasis on finding ways to help handicapped individuals lead a full and meaningful life. In addition to many existing programs serving the handicapped, such as the Education of the Handicapped Act and the Rehabilitation Act, the Department of Health, Education, and Welfare, in conjunction with other Federal, State, and private agencies, is engaged in numerous studies, evaluations, and cooperative efforts to improve and expand knowledge about the handicapped and the ways they can be assisted in reaching their full potential. I believe that those efforts should be allowed to continue but that we should not at this time, when every conceivable means is being undertaken to hold down Federal spending, initiate new and expensive activities which in many ways merely duplicate existing efforts.

Although a number of provisions in this bill--such as the extension of the Rehabilitation Act and the clarification of the definition of handicapped individuals for the purposes

of the antidiscrimination provisions in that Act--have my full support, those features of the bill are clearly outweighed by the provisions outlined above which would result in undue interference by the Congress in the functions of the Executive Branch and would further require additional and unnecessary appropriations. For these reasons, I cannot approve the bill.

Approved by:

Cole

Ash

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Timmons

TO THE HOUSE OF REPRESENTATIVES:

I am today returning, without my approval, H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, and the White House Conference on Handicapped Individuals Act. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

OK

The Vocational Rehabilitation Amendments of 1974 pose some fundamental issues which far transcend this particular bill.

No group in our country is more in need of supportive services than the Handicapped. Our handicapped citizens have demonstrated time and again that, given a fair break, they can lead as full and productive lives as other citizens.

Throughout my years in Congress I consistently supported good Federal programs designed to assist the handicapped.

During the last two years spending on the basic grant programs for Vocational Rehabilitation has grown from $589 million to $680 million. The key issue posed by this bill is not how much money will be spent. The issue posed is how well the programs will be run.

This bill passed the House of Representatives without any hearings. Had hearings been held we would have explained the disruption that would result from such a massive legislative incursion into the administration of a program.

The Congress has the responsibility to legislate, but I have the responsibility for the successful administration of the programs they enact. This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason - indeed for very bad reasons. It dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that

wasteful and
are duplicative and it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man ~~bureauey~~ crazy in HEW to duplicate functions carried out elsewhere in the Executive Branch.

Most importantly, the bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my Cabinet Secretaries accountable. Under this legislation accountability would be diffused.

I find myself obliged to return to the Congress unsigned a bill that would disrupt existing Federal programs and ill serve the needs of our Nation's handicapped citizens.

The present Vocational Rehabilitation legislation does not expire until mid 1975. Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped rather than create the disruptions that will inevitably result from this hastily drawn piece of legislation. I have requested HEW Secretary Weinberger to meet with congressional leaders immediately upon their return to initiate this process.

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I am also concerned about the provisions of H.R. 14225 which would amend the Rehabilitation Act of 1973.

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The Rehabilitation Act of 1973 will require extension before the current fiscal year ends. I believe that, working together, the Congress and the executive branch can produce sound legislation, which will serve the best interests of the handicapped and of the Nation.

THE WHITE HOUSE

THE WHITE HOUSE

WASHINGTON

October 23, 1974

MEMORANDUM FOR: ROBERT LINDER

FROM: PHILLIP AREEDA PA

With respect to your question about the Rehabilitation Act Amendments of 1974, H. R. 14225:

1. It is perfectly all right to process the bill we now have and to sign it or veto it as the President chooses.

2. We should accept a new page from the House Enrolling Clerk only on a formal basis. He could make a formal substitution if he is empowered by the Adjournment Resolution to make minor technical corrections in enrolled bills. This correction would seem to fall within that "minor" category.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 23, 1974

MEMORANDUM FOR ROBERT D. LINDER

Subject: Rehabilitation Act Amendments (H.R. 14225)

In response to your memo of yesterday to Phil Buchen, my preliminary examination into the issue of the absence of an enacting clause on subject bill indicates that the enrolled bill nevertheless represents a valid enactment. My understanding is the White House Counsel's Office has reached a similar conclusion.

However, OMB does intend to recommend a veto on substantive grounds. In addition, Section 101 of the bill raises a constitutional issue similar to the one which produced a Presidential veto of the original OMB Director confirmation bill: namely, legislative removal of a Presidentially appointed officer. Both we and the Counsel's Office are looking into this further.

Stanley Ebner
General Counsel

cc:
William E. Casselman, II
Kenneth R. Cole
Jerry H. Jones
Phillip Areeda

TO THE HOUSE OF REPRESENTATIVES:

I am today returning, without my approval, H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, and the White House Conference on Handicapped Individuals Act. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

The Vocational Rehabilitation Amendments of 1974 pose some fundamental issues which far transcend this particular bill. No group in our country is more in need of supportive services than the Handicapped. Our handicapped citizens have demonstrated time and again that, given a fair break, they can lead as full and productive lives as other citizens.

Throughout my years in Congress I consistently supported good Federal programs designed to assist the handicapped.

During the last two years spending on the basic grant programs for Vocational Rehabilitation has grown from $589 million to $680 million. The key issue posed by this bill is not how much money will be spent. The issue posed is how well the programs will be run.

This bill passed the House of Representatives without any hearings. Had hearings been held we would have explained the disruption that would result from such a massive legislative incursion into the administration of a program.

The Congress has the responsibility to legislate, but I have the responsibility for the successful administration of the programs they enact. This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason - indeed for very bad reasons. It dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that are wasteful and duplicative and it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the Executive Branch.

Most importantly, the bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my Cabinet Secretaries accountable. Under this legislation accountability would be diffused. I find myself obliged to return to the Congress unsigned a bill that would disrupt existing Federal programs and ill serve the needs of our Nation's handicapped citizens. The present Vocational Rehabilitation legislation does not expire until mid 1975. Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped rather than create the disruptions that will inevitably result from this hastily drawn piece of legislation. I have requested HEW Secretary Weinberger to meet with congressional leaders immediately upon their return to initiate this process.