

SB

51

<TARGET><BILL>SB 51</BILL><SUBJECT>SB
51</SUBJECT><COMM>SFIN27</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 4/1/11

FURTHER:

DATE TURNED
IN TO OFFICE: 01/27/12

Finance Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 51

SB 51-STATE VENDING LICENSES

"An Act relating to the operation of vending facilities on public property."

and recommends:

- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS SSSB 51 (LWC) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LEG
CED	LAW
COR	LWF
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
LWF			✓	

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Thomas	✓			
	Egan	✓			
	Ellis			✓	
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Stedman			✓	

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSSSSB051(L&C)
Fiscal Note Number _____
Publish Date _____

Identifier (file name) SB051CSSSSB(L&C)-DOLWD-CS-12-29-11 Dept. Affected Labor and Workforce Development
Title State Vending Licenses Appropriation Vocational Rehabilitation
Allocation Client Services
Sponsor Senator Davis
Requester Senate Finance OMB Component Number 1828

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated for 2012.

Prepared by Cheryl A. Walsh, Director
Division Division of Vocational Rehabilitation
Approved by Click Bishop, Commissioner
Department of Labor and Workforce Development

Phone 465-6926
Date/Time 12/8/11 8:00 AM
Date 12/29/2011

FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

BILL NO. CSSSSB051(L&C)

Analysis

The proposed legislation will remove individuals with significant disabilities from participating in the Business Enterprise Program (BEP) and will change the method of how vendors are licensed at a facility from a permit to a contract.

There is no fiscal impact to the department anticipated as a result of this legislation.

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Senator Bettve Davis@legis.state.ak.us
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Senator Bettve Davis

Senate Bill 51, 27-LS0079 -"An Act relating to the operation of vending facilities on public property."

Sponsor Statement

SB 51 restores to blind persons first priority for a contract to operate a vending facility on state and other public property. This bill amends the Alaska Chance Act of 1976 to require that the State Division of Vocational Rehabilitation Business Enterprise Program provide the same first priority to the blind on state and other public property as it does on federal property enforced under the Randolph-Sheppard Act of 1936. The Alaska Chance Act for the first time added disabled persons in addition to the blind in preference for vending licenses on public facilities. This loss of first priority and expansion of beneficiaries has thwarted the spirit and letter of the Randolph-Sheppard Act. The resulting decrease in vending opportunities for blind merchants in Alaska exacerbated their already extraordinarily high unemployment rates among all types and severities of the disabled and the population in general.

SB 51 recognizes that the blind are dissimilarly situated compared to other disabled persons who do not suffer the same degree of impairment and unemployment as an economic matter. Although the State has combined management and training opportunities for both the blind and other persons with disabilities under one Business Enterprise Program of the Division of Vocational Rehabilitation, this bill requires that it must give first priority to the blind for vending contracts on state, federal or other public property.

SB 51 comports with original legislative intent and gives first priority to the blind imposed under AS 23.15.100 prior to changes in 1974 and 2006 which added persons with disabilities and severe disabilities who currently compete with the blind for licenses on vending facilities on public property. It requires that the Division attempt to find and notify blind persons of vending opportunities as they arise on public property. These public properties may include among others court houses, military bases, state and federal office buildings, and other public properties.

Typically, blind individuals who receive Randolph-Sheppard contracts act as managers of large vending or cafeteria facilities, subcontracting with food service organizations to provide meals and/or vending services on a day to day basis. They also may independently operate lobby concession stands, or vending machine banks. In October, 2009 Alaska's Business Enterprise Program had only six sites operating in federal facilities under Randolph-Sheppard, and six sites operating in state facilities under the Chance Act. This bill should greatly expand opportunities for employment and vending locations for the blind.

LEGAL SERVICES

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MEMORANDUM

March 18, 2011

SUBJECT: Sectional summary of CSSSSB 51(), relating to the operation of vending facilities on public property (Work Order No. 27-LS0079\B)

TO: Senator Bettye Davis
Attn: Tom Obermeyer

FROM: *TB*
Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends a section dealing with powers and duties of the division of vocational rehabilitation (Agency). Removes references to persons with severe disabilities from the provisions dealing with the operation of vending facilities on public property.

Section 2. Directs the agency to issue a license for the operation of vending facilities on public property to blind persons who meet certain criteria, including criteria established by agency regulations. Requires these regulations to provide blind persons with first priority for a contract to operate a vending facility on public property.

Section 3. Adds new subsections to the section on the issuance of licenses for vending facilities on public property.

Sec. 23.15.133(c). Allows the agency to contract with a person who is not blind to operate a vending facility until the agency can locate a blind person who qualifies to operate the vending facility.

Sec. 23.15.133(d). When there is a vacancy in the operation of a vending facility on state property, requires the agency to attempt to contact blind persons directly about operating the vending facility. Directs the agency to work with private organizations to contact blind persons. This requirement is in addition to any other procurement requirements of AS 36.30 (the state procurement code). Newspaper advertising is not sufficient.

Sec. 23.15.133(e). Allows a blind person operating a vending facility to operate another vending facility if the agency cannot find a blind person to operate the other vending facility.

Senator Bettye Davis
March 18, 2011
Page 2

Section 4. Deletes a reference to persons with severe disabilities from a provision relating to hearings on agency actions that relate to vending facilities.

Section 5. Amends the definition of "licensee" to remove the reference to a person with a severe disability.

Section 6. Repeals a section relating to vending facilities operated by persons with severe disabilities.

Section 7. Indicates that the Act applies to vending facility licenses issued, and vending facility contracts entered into, on or after the effective date of this Act.

Section 8. States that the Act does not affect a contract entered into before the effective date of this Act.

If I may be of further assistance, please advise.

TLB:ljw
11-180.ljw

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Office of Senator Bettve Davis

Explanation of Changes

CS for Sponsor Substitute for Senate Bill 51(L&C), 27-LS0079\I

The Committee Substitute for Sponsor Substitute for SB 51(L&C), 27-LS0079\I returns the language to that of the original draft. It removes from the Sponsor Substitute the recent inclusion of municipal and school property in the definition of "public property." It was determined after diligent inquiry that the inclusion of municipal and school property, particularly school property, would greatly reduce revenues needed in school programs supported by vending revenues.

The intent of SB 51 and language in this Committee Substitute remains to give statutory priority in vending licenses to the blind in state and federal buildings under the current definition of public property which is managed by the Business Enterprise Program in the Division of Vocational Rehabilitation in the Department of Labor and Workforce Development.

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MEMORANDUM

September 2, 2010

SUBJECT: Bill relating to the operation of vending facilities on public property (Work Order No. 27-LS0079\A)

TO: Senator Bettye Davis
Attn: Tom Obermeyer

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above.

1. Equal protection. Although I had earlier mentioned that the limitation of vending facility license priority to blind persons might raise an equal protection question, I no longer believe that to be the case. Since this appears to be an economic matter, under federal law the scrutiny is minimal; all that is needed is that it needs to be is rationally related to a legitimate state interest, and the selection by the legislature of one type of persons with disabilities (here, blind persons) to receive the benefit does not appear to present a problem.¹ Under state equal protection requirements, as an economic matter, minimum scrutiny merely requires showing that the state's objectives are legitimate and that the legislation bears a substantial relationship to its purpose.²

2. Direct notification of blind persons. Can the agency use its vocational rehabilitation records to contact blind persons directly, or are they confidential? How do you want the agency to work with a private organization to contact blind persons directly?

If I may be of further assistance, please advise.

TLB:plm
10-296.plm

Enclosure

¹ See New Hampshire v. Department of Education, 2003 U.S. Dist. LEXIS, 92 - 95 (D.N.H. 2003), aff'd in part and vacated in part New Hampshire v. Ramsey, 366 F.3d 1, 2004 U.S. App. LEXIS 8475 (1st Cir. N.H. 2004).

² See Glover v. State Department of Transportation. Alaska Marine Highway System, 175 P.3d 1240, 1257 (Alaska 2008).

Article

2. State Vocational Rehabilitation Committee (§§ 23.15.220 — 23.15.320)
3. Employment Agencies (§§ 23.15.330 — 23.15.520)
4. Alaska Workforce Investment Board (§§ 23.15.550 — 23.15.585)
5. State Training and Employment Program (§§ 23.15.620 — 23.15.660)
6. Alaska Technical and Vocational Education (§§ 23.15.820 — 23.15.850)

Article 1. Vocational Rehabilitation.**Section**

10. Administration of vocational rehabilitation
20. Powers and duties of commissioner
30. Appointment of administrative officers
40. Division of vocational rehabilitation established
50. Director of vocational rehabilitation
60. Agreements under Social Security Act
80. Eligibility for vocational rehabilitation service
90. Priority as to eligibility
100. Powers and duties; vending facilities
110. Extension of services outside state
120. Cooperation with federal government
125. Assistive technology loan guarantee and interest subsidy program
130. Vocational rehabilitation small business enterprise revolving fund

Section

132. Vending facilities
133. Vendors' licenses
134. Active participation by licensees with severe disabilities
135. Committee of blind vendors
136. Group insurance for certain licensees
150. Custodian of funds
160. Gifts
170. Maintenance not assignable
180. Hearings
190. Misuse of lists and records
200. Limitation on political activity
210. Definitions

Administrative Code. — For vocational rehabilitation, see 8 AAC 98.

Collateral references. — 79 Am. Jur. 2d, Welfare Laws, §§ 32-37.

51B C.J.S., Labor Relations, § 1044; 81 C.J.S., Social Security and Public Welfare, §§ 102-106.

Sec. 23.15.010. Administration of vocational rehabilitation. The commissioner shall administer the vocational rehabilitation program. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960; am § 16 ch 58 SLA 1999)

Sec. 23.15.020. Powers and duties of commissioner. (a) The commissioner may cooperate with a federal agency, as provided and required by federal law for vocational rehabilitation.

(b) The commissioner shall comply with the federal laws and the conditions necessary to secure the full benefit of the federal vocational rehabilitation laws, and shall do all things necessary to entitle the state to receive the benefits of the federal laws.

(c) The commissioner may do all the things and adopt the regulations that are necessary to carry out the federal laws and the purposes of AS 23.15.010 — 23.15.210. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960; am § 17 ch 58 SLA 1999)

Sec. 23.15.030. Appointment of administrative officers. The commissioner may appoint administrative officers and delegate to them the authority necessary to carry out AS 23.15.010 — 23.15.210. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960; am § 18 ch 58 SLA 1999)

Sec. 23.15.040. Division of vocational rehabilitation established. The division of vocational rehabilitation is established under the commissioner to carry out AS 23.15.010 — 23.15.210. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 18 ch 208 SLA 1975; am § 19 ch 58 SLA 1999)

Sec. 23.15.050. Director of vocational rehabilitation. The commissioner shall appoint a director of the division of vocational rehabilitation. The director has the

administrative authority delegated by the commissioner and necessary to carry out AS 23.15.010 — 23.15.210 and the regulations and policies adopted by the commissioner. (§ 37-9-6 ACLA 1949; am § 2 ch 144 SLA 1957; am §§ 2, 3 ch 79 SLA 1960; am § 9 ch 96 SLA 1967; am § 19 ch 208 SLA 1975; am § 20 ch 58 SLA 1999)

Sec. 23.15.060. Agreements under Social Security Act. (a) The commissioner may enter into necessary agreements on behalf of the state with the Secretary of Health and Human Services to carry out the provisions of the federal Social Security Act, as amended, and as it is subsequently amended, relating to the making of determinations of disability under Title II and Title XVI of that Act.

(b) The Department of Revenue shall act as the custodian of funds paid by the federal government to the state, shall comply with agreements entered into under the Social Security Act, and shall disburse the funds in accordance with instructions from the director of the division of vocational rehabilitation. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 20 ch 208 SLA 1975; am § 1 ch 5 SLA 1978; am § 21 ch 58 SLA 1999)

Cross references. — For federal law relating to eligibility under Titles II and XVI of the Social Security Act, see 42 U.S.C. 422 and 1382.

Sec. 23.15.070. Personnel policies [Repealed, § 84 ch 58 SLA 1999.]

Sec. 23.15.080. Eligibility for vocational rehabilitation service. (a) Vocational rehabilitation service shall be provided directly or through a public or private instrumentality to an individual with a disability who

(1) is a resident of the state at the time of application for the service and whose vocational rehabilitation the agency determines after full investigation can be satisfactorily achieved; or

(2) is eligible for the service under an agreement with another state or with the federal government.

(b) In determining the types and extent of vocational rehabilitation services to be provided to an individual with a disability, the agency shall take into consideration any similar benefits that may be available to the individual under other programs. However, the agency may not take other benefits into consideration when doing so would significantly delay the provision of needed services to the individual with a disability. The agency need not take other benefits into consideration when they are for

(1) diagnostic and related services, including transportation and subsistence in connection with those services;

(2) counseling, guidance, and referral;

(3) training, including personal and vocational adjustment training, and necessary training materials;

(4) services to members of families of individuals with disabilities;

(5) job placement; and

(6) services necessary to assist individuals with disabilities to maintain suitable employment. (§ 37-9-7(1) ACLA 1949; am § 3 ch 144 SLA 1957; am § 2 ch 5 SLA 1978; am § 4 ch 25 SLA 2006)

Effect of amendments. — The 2006 amendment, effective May 10, 2006, substituted "an individual with a disability" for "a handicapped individual" in the introductory language of subsection (a) and twice in the introductory language of subsection (b), and substituted "individuals with disabilities" for "handicapped individuals" in paragraphs (b)(4) and (b)(6).

Sec. 23.15.090. Priority as to eligibility. If vocational rehabilitation service cannot be provided for all eligible individuals with disabilities who apply, the agency shall

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necessary to carry out AS 23.15.110 by the commissioner. (SLA 1960; am § 9 ch 1999.)

a) The commissioner shall advise the Secretary of Health and Human Services of the Social Security Act, as amended, of determinations of

costs paid by the federal government under the Social Security Act, in accordance with instructions from the Secretary of Health and Human Services. (SLA 1949; am § 2 ch 169; am § 1 ch 5 SLA 1978;

1999.]

Service. (a) Vocational rehabilitation services on public or private property

shall be provided for the person whose rehabilitation can be satisfactorily

accomplished or with the federal

government. Vocational rehabilitation services to be provided shall be taken into consideration any other programs. However, when doing so would result in a person with a disability. The cost shall be borne by the state and subsistence in

training, and necessary

services;

to maintain suitable living conditions. (SLA 1978;

of subsection (b), and substituted "individuals with severe disabilities" for "handicapped individuals" in paragraphs (b)(4) and (b)(6).

Vocational rehabilitation service cannot be provided, the agency shall

provide by regulation for determining the order to be followed in selecting those to whom the services will be provided. (§ 37-9-7(2) ACLA 1949; am § 3 ch 144 SLA 1957; am § 5 ch 25 SLA 2006)

Effect of amendments. — The 2006 amendment, effective May 10, 2006, substituted "individuals with disabilities" for "handicapped individuals."

Sec. 23.15.100. Powers and duties; vending facilities. (a) In carrying out AS 23.15.010 — 23.15.210, the agency shall

(1) take the action it considers necessary or appropriate to carry out the purposes of AS 23.15.010 — 23.15.210 and adopt regulations in conformity with these purposes;

(2) determine the eligibility of applicants for vocational rehabilitation service;

(3) submit to the governor annual reports of activities and expenditures and, before each regular session of the legislature, estimates of sums required for carrying out AS 23.15.010 — 23.15.210 and estimates of the amounts to be made available for this purpose from all sources;

(4) cooperate with public and private departments, agencies, and institutions in providing for the vocational rehabilitation of individuals with disabilities, studying the problems involved in providing this rehabilitation, and establishing, developing, and providing, in conformity with the purposes of AS 23.15.010 — 23.15.210, the programs, facilities, and services that may be necessary or desirable;

(5) survey the potential for providing vending facilities on public property and, when feasible, establish vending facilities operated by blind persons and persons with severe disabilities on public property;

(6) license blind persons and persons with severe disabilities in accordance with AS 23.15.133 for the operation of vending facilities on public property, with blind persons having first priority for operation of the vending facilities;

(7) provide the training and supervision necessary to enable blind persons and persons with severe disabilities to operate vending facilities;

(8) provide the equipment and initial stock necessary to enable blind persons and persons with severe disabilities to operate vending facilities.

(b) In carrying out AS 23.15.010 — 23.15.210, the agency may

(1) enter into agreements with other states to provide for the vocational rehabilitation of residents of the states concerned;

(2) establish and operate rehabilitation facilities and workshops and make grants to public and other nonprofit organizations for these purposes;

(3) supervise the operation of vending stands and other small businesses established under AS 23.15.010 — 23.15.210 to be conducted by individuals with severe disabilities;

(4) make studies, investigations, demonstrations, and reports, and provide training and instruction, including the establishment and maintenance of the research fellowships and traineeships with the stipends and allowances that are considered necessary, in matters relating to vocational rehabilitation; and

(5) adopt regulations necessary for carrying out the provisions of AS 23.15.010 — 23.15.210. (§ 37-9-8(1) (2) ACLA 1949; am § 4 ch 144 SLA 1957; am § 1 ch 75 SLA 1976; am §§ 1, 10 ch 69 SLA 1982; am § 6 ch 25 SLA 2006)

Cross references. — For present law covering the subject matter of former (b)(5) of this section, see AS 23.15.133.

Effect of amendments. — The 2006 amendment, effective May 10, 2006, substituted "individuals with disabilities" for "handicapped individuals" in para-

graph (a)(4) and substituted "persons with severe disabilities" for "severely handicapped persons" in paragraphs (a)(5), (a)(6), (a)(7), (a)(8), and substituted "persons with severe disabilities" for "severely handicapped individuals" in (b)(3).

Sec. 23.15.110. Extension of services outside state. Vocational rehabilitation service may be extended to the continental United States to all individuals eligible under

AS 23.15.010 — 23.15.210. The director may place professional or clerical personnel or both inside the continental United States to carry out the purposes of AS 23.15.010 — 23.15.210. (§ 37-9-8(3) ACLA 1949; am § 4 ch 144 SLA 1957; am § 22 ch 208 SLA 1975.

Sec. 23.15.120. Cooperation with federal government. (a) The agency shall cooperate with the federal government in carrying out the purposes of federal laws pertaining to vocational rehabilitation, including the licensing of blind persons to operate vending stands on federal property, and may adopt the methods of administration that are found by the federal government to be necessary for the proper and efficient operation of agreements or plans for vocational rehabilitation. The agency may comply with the conditions that are necessary to obtain the full benefits of the federal laws for the state and its residents.

(b) Upon designation by the governor, the agency may perform functions and services for the federal government relating to individuals under a physical or mental disability, in addition to those provided in (a) of this section. (§ 37-9-9 ACLA 1949; am § 5 ch 144 SLA 1957)

Sec. 23.15.125. Assistive technology loan guarantee and interest subsidy program. (a) An assistive technology loan guarantee fund is established in the agency. The fund consists of money appropriated to it. The agency may solicit and accept available public and private money for distribution from the fund.

(b) Subject to (c) and (d) of this section, the agency may use money in the fund established under this section to guarantee 90 percent of the principal amount of a loan or to subsidize the interest rate of a loan guaranteed by the agency for appropriate assistive technology that is best suited for enabling a person with a disability to

- (1) obtain or maintain employment; or
- (2) live more independently.

(c) The agency may guarantee a loan or subsidize the interest rate of a loan guaranteed under this section if

(1) the loan is made to a person with a disability or a member of the person's family to obtain assistive technology for the person with a disability within the limitations of (b) of this section;

(2) the loan is originated and serviced by a state or federally chartered financial institution located in the state;

(3) before a loan guarantee or subsidy is requested from a lending institution, the agency determines that the person requesting the loan guarantee or subsidy is not able to obtain the needed assistive technology from a less costly source;

(4) the lending institution determines that the person or the family of a child reasonably can be expected to repay the loan given their expected income or other resources; and

(5) for a loan to modify a vehicle to provide transportation for a person with a disability, the applicant has been steadily employed for the 90 days immediately preceding the date of the loan application.

(d) The director shall establish an assistive technology loan committee within the agency. The committee shall consist of the director, or the director's designee, a representative of a financial institution who is experienced with consumer loans, and at least one but not more than three persons with disabilities. The committee shall

(1) establish guidelines for providing loans under this section, including guidelines relating to the maximum amounts and duration of loans and guidelines to ensure that persons with disabilities who live in rural or remote areas of the state have adequate access to loans under this section;

(2) annually establish the percentage of money in the fund that may be used for subsidizing the interest rates on loans guaranteed under this section; and

(3) make a program.

- (e) In this
 - (1) "assistive devices;
 - (2) "person disability. (§

Effect of amendment effective May 10

Sec. 23.15. fund. (a) The vocational rel administered (b) Receipt vending facili (c) The com of this section revolving fund to make appr facilities.

(d) In this facility less th the agency. (A 1976; am § 2

Sec. 23.15. public proper commissioner (b) A vendi after consulti property to be facility by a ensuring that shall provide

Effect of amendment effective May 23, development" fol subsection (a) an (b).

Sec. 23.15. operation of e severe disabil for a license t (1) 20 U.S. (2) regulat persons with (b) A licens revoked if the with regulati

Effect of amendment effective May 10

or clerical personnel or
oses of AS 23.15.010 —
§ 22 ch 208 SLA 1975)

(a) The agency shall
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LA 1949; am § 5 ch 144

and interest subsidy
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the director's designee, a
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The committee shall
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of the state have adequate

und that may be used for
is section; and

(3) make reports and recommendations to the legislature on the operation of the loan program.

- (e) In this section,
 - (1) "assistive technology" means durable equipment, adaptive aids, and assistive devices;
 - (2) "person with a disability" means an individual having a physical or mental disability. (§ 1 ch 65 SLA 1995; am § 7 ch 25 SLA 2006)

Effect of amendments. — The 2006 amendment, effective May 10, 2006, deleted "a handicapped individual or" preceding "an individual" in paragraph (e)(2).

Sec. 23.15.130. Vocational rehabilitation small business enterprise revolving fund. (a) There is created in the state treasury a revolving fund designated as the vocational rehabilitation small business enterprise revolving fund. The fund shall be administered by the director.

(b) Receipts from the net proceeds of vending facilities on public property, other than vending facilities operated by a licensee, shall be paid into the fund.

(c) The commissioner of administration shall separately account for receipts under (b) of this section that are paid into the vocational rehabilitation small business enterprise revolving fund. The annual estimated receipts of the fund may be used by the legislature to make appropriations to the department to aid licensees in operating vending machine facilities.

(d) In this section "net proceeds" means the gross receipts from operating a vending facility less the costs of operation and a fair return to the operator, to be determined by the agency. (ACLA 1949, § 37-9-10, as enacted by § 6 ch 144 SLA 1957; am § 3 ch 75 SLA 1976; am § 2 ch 69 SLA 1982; am § 45 ch 138 SLA 1986)

Sec. 23.15.132. Vending facilities. (a) A vending facility may not be established on public property that is under the jurisdiction of the state except as authorized by the commissioner.

(b) A vending facility authorized by the commissioner shall be selected and located after consulting with the persons responsible for the maintenance and operation of the property to be served by the vending facility. A contract for the operation of the vending facility by a licensee shall be executed by the agency and must contain provisions ensuring that the licensee shall charge reasonable prices and that the vending facility shall provide high quality merchandise. (§ 3 ch 69 SLA 1982; am § 32 ch 40 SLA 2008)

Effect of amendments. — The 2008 amendment, effective May 23, 2008, deleted "of education and early development" following "commissioner" at the end of subsection (a) and in the first sentence of subsection (b).
Opinions of attorney general. — A coffee/pop fund operated by state employees to purchase coffee and soda pop for themselves is not a "vending facility" within the meaning of this section. April 12, 1988 Op. Att'y Gen.

Sec. 23.15.133. Vendors' licenses. (a) The agency shall issue a license for the operation of a vending facility on public property to a blind person or a person with a severe disability who is a resident of the state at the time of application and who qualifies for a license under

- (1) 20 U.S.C. 107 — 107f (Randolph-Sheppard Act); or
- (2) regulations adopted by the agency providing for licensing of blind persons or persons with severe disabilities.

(b) A license issued under this section does not expire. However, a license may be revoked if the agency finds that the licensee is not operating the facility in accordance with regulations adopted by the agency. (§ 3 ch 69 SLA 1982; am § 8 ch 25 SLA 2006)

Effect of amendments. — The 2006 amendment, effective May 10, 2006, substituted "a person with a severe disability" for "severely handicapped person" in the introductory language of subsection (a), corrected

a statutory reference in paragraph (a)(1), and substituted "persons with severe disabilities" for "severely handicapped persons" in paragraph (a)(2).

Sec. 23.15.134. Active participation by licensees with severe disabilities. The agency shall adopt regulations that ensure the opportunity for active participation by a licensee with severe disabilities in the administration of vending facilities operated by licensees with severe disabilities. The opportunity for active participation provided under this section must be at least as extensive as the opportunity for active participation provided for a blind licensee under AS 23.15.135. (§ 3 ch 69 SLA 1982; am § 9 ch 25 SLA 2006)

Effect of amendments. — The 2006 amendment, effective May 10, 2006, substituted "licensee with severe disabilities" for "severely handicapped li-

Sec. 23.15.135. Committee of blind vendors. (a) The Committee of Blind Vendors consisting of all blind licensees is established. The agency shall conduct a biennial election of a president, vice-president, secretary, and treasurer of the committee and may conduct elections to fill vacancies in office at any time.

(b) The commissioner shall assure active participation by the Committee of Blind Vendors in administrative, policy, and program development decisions concerning vending facilities operated by blind licensees. The agency shall, with active participation by the Committee of Blind Vendors,

(1) adopt regulations providing for the licensing of blind persons for the operation of vending facilities on public property;

(2) consider and respond to grievances of blind licensees;

(3) develop and administer a statewide system for the transfer and promotion of blind licensees;

(4) develop training and retraining programs for blind licensees and for blind persons interested in obtaining a license to operate a vending facility;

(5) organize meetings and conferences for blind licensees;

(6) adopt regulations necessary to assure that vending facilities operated by blind licensees are administered by the agency in a substantially equivalent manner whether a vending facility is located on state or federal property;

(7) designate public property as appropriate for the location of a vending facility operated by a blind licensee.

(c) To ensure the opportunity for active participation in decisions that affect the administration of vending facilities operated by blind licensees the agency shall, before each meeting of the Committee of Blind Vendors, provide the committee with written information on matters to be considered. The agency shall provide the committee with reasons in writing for decisions and actions of the agency that do not conform to recommendations submitted by the committee. (§ 3 ch 69 SLA 1982; am § 33 ch 40 SLA 2008)

Effect of amendments. — The 2008 amendment, effective May 23, 2008, deleted "of education and early development" following "commissioner" in the first sentence of subsection (b).

Sec. 23.15.136. Group insurance for certain licensees. The agency shall purchase group insurance coverage under AS 39.30.090 for licensees holding current operating agreements. The employer share of the insurance premium shall be paid from the vocational rehabilitation small business enterprise revolving fund. (§ 1 ch 38 SLA 1990)

Sec. 23.15.140. Vocational Rehabilitation Fund. [Repealed, § 2 ch 23 SLA 1968.]

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Sec. 23.15.150. Custodian of funds. The Department of Revenue is designated custodian of all vocational rehabilitation funds in the state. (ACLA 1949, § 37-9-12, as enacted by § 6 ch 144 SLA 1957)

Sec. 23.15.160. Gifts. The commissioner may accept a gift or donation from a public or a private source that is offered unconditionally for carrying out AS 23.15.010 — 23.15.210. The commissioner may accept a conditional gift if, in the judgment of the agency, the conditions are proper and consistent with AS 23.15.010 — 23.15.210. (ACLA 1949, § 37-9-13, as enacted by § 6 ch 144 SLA 1957; am § 3 ch 23 SLA 1968; am § 22 ch 58 SLA 1999)

Sec. 23.15.170. Maintenance not assignable. The right of an individual with a disability to maintenance under AS 23.15.010 — 23.15.210 is not transferable or assignable at law or in equity. (ACLA 1949, § 37-9-14, as amended by § 6 ch 144 SLA 1957; am § 10 ch 25 SLA 2006)

Effect of amendments. — The 2006 amendment, effective May 10, 2006, substituted "an individual with a disability" for "a handicapped individual."

Sec. 23.15.180. Hearings. (a) An individual applying for or receiving vocational rehabilitation who is aggrieved by the action or inaction of the agency is entitled to a fair hearing by the agency, in accordance with regulations.

(b) A blind person or a person with a severe disability aggrieved by a decision or action of the agency under AS 23.15.133 — 23.15.135 shall receive a hearing on request in accordance with AS 44.62.330 — 44.62.630 (Administrative Procedure Act). A blind person may also file a complaint in accordance with 20 U.S.C. 107d-1 for arbitration of a grievance. (ACLA 1949, § 37-9-15, as amended by § 6 ch 144 SLA 1957; am § 4 ch 69 SLA 1982; am § 11 ch 25 SLA 2006)

Effect of amendments. — The 2006 amendment, effective May 10, 2006, substituted "a person with a severe disability" for "severely handicapped person" in the first sentence of subsection (b).

Sec. 23.15.190. Misuse of lists and records. Except for purposes directly connected with the administration of the vocational rehabilitation program and in accordance with regulations, a person may not solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of a list of, names of, or information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly, derived from the records, papers, files, or communications of the state or an agency of the state, or acquired in the course of the performance of official duties. An officer or employee violating this provision is subject to discharge or suspension. (ACLA 1949, § 37-9-16, as amended by § 6 ch 144 SLA 1957)

Sec. 23.15.200. Limitation on political activity. An officer or employee engaged in the administration of the vocational rehabilitation program may not use official authority to influence or permit the use of the vocational rehabilitation program for the purpose of interfering with an election or affecting the results of an election or for a partisan political purpose. An officer or employee may not solicit or receive, and an officer or employee may not be obliged to contribute or render, a service, assistance, subscription, assessment, or contribution for a political purpose. An officer or employee violating this section is subject to discharge or suspension. (ACLA 1949, § 37-9-17, as amended by § 6 ch 144 SLA 1957)

Sec. 23.15.210. Definitions. In AS 23.15.010 — 23.15.210,

(1) "active participation" means a process through which the Committee of Blind Vendors or a licensee is provided the opportunity to exert a major influence in program

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policies, standards, and procedures affecting the operation of vending facilities, with the commissioner having final responsibility;

(2) "agency" means the division of vocational rehabilitation;

(3) "blind person" means a person 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 not greater than 20 degrees; an examination by an ophthalmologist or by an optometrist is necessary before a person is found to be blind;

(4) "director" means the director of the division of vocational rehabilitation;

(5) "individual having a physical or mental disability" means an individual who has a physical or mental condition that materially limits, contributes to limiting, or, if not corrected, will probably result in limiting the individual's activities or functioning;

(6) "individual with a disability" means an individual having a physical or mental disability that for that individual constitutes or results in a substantial barrier to employment and who can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services;

(7) "licensee" means a blind person or a person with a severe disability licensed by the division of vocational rehabilitation under 20 U.S.C. 107 — 107b and 107d — 107f (Randolph-Sheppard Act), AS 23.15.133, and regulations adopted under federal or state law;

(8) "person with a severe disability" means a person who has one or more physical or mental disabilities that seriously limit the person's functional capacities in terms of regular employment and whose vocational rehabilitation requires multiple vocational rehabilitation services over an extended period of time;

(9) "public property" means real or personal property owned or leased by the state or federal government or an agency of the state or federal government;

(10) "vending facility" means a vending machine, cafeteria, snack bar, shelter, cart, or counter where food, tobacco, newspapers, periodicals, and other articles are offered for sale to the general public and dispensed automatically or manually whether prepared on or off the premises; and excludes a facility in a hospital, school, or other institution where food or other articles are offered for sale only to patients, inmates, and persons enrolled in or employed by the institution;

(11) "vocational rehabilitation service" means goods and services, including diagnostic and related services, necessary to enable an individual with a disability to engage in gainful employment;

(12) "workshop" means a rehabilitation facility engaged in a production or service operation that is operated for the primary purpose of providing gainful employment or professional services to persons with disabilities as an interim step in the rehabilitation process for those who cannot readily be absorbed in the competitive labor market or during times when employment opportunities for them in the competitive labor market do not exist. (§ 37-9-5 ACLA 1949; am § 1 ch 169 SLA 1955; am § 1 ch 144 SLA 1957; am § 23 ch 208 SLA 1975; am § 2 ch 75 SLA 1976; am §§ 3-6 ch 5 SLA 1978; am §§ 5-8 ch 69 SLA 1982; am § 84 ch 58 SLA 1999; am § 12 ch 25 SLA 2006; am § 34 ch 40 SLA 2008)

Revisor's notes. — This section was reorganized in 1984 to place the defined terms in alphabetical order.

Effect of amendments. — The 2006 amendment, effective May 10, 2006, substituted "not greater" for "no greater" in paragraph (3), substituted "individual with a disability" for "handicapped individual" and "barrier" for "handicap" in paragraph (6), substituted "blind person or a person with a severe disability" for "blind or severely handicapped person" in paragraph (7), inserted paragraph (8), deleted former paragraph

(10) which defined "severely handicapped person," substituted "an individual with a disability" for "a handicapped individual" in paragraph (11), substituted "persons with disabilities" for "the handicapped" in paragraph (12), and renumbered paragraphs to properly reflect alphabetical order.

The 2008 amendment, effective May 23, 2008, deleted "of education and early development" following "commissioner" in paragraph (1).

Opinions of attorney general. — A collection fund operated by state employees to purchase coffee

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NOTES TO DECISIONS

Quoted in Bignell v. Wise Mechanical Contractors, 651 P.2d 1163 (Alaska 1982).

Article 2. State Vocational Rehabilitation Committee.

Section

- 220. Purpose
- 230. Appointment of committee
- 240. Selection and term of chair
- 250. Compensation and expenses
- 260. Meetings
- 270. Cooperation with other committees and agencies

Section

- 280. Appointment of advisors
- 290. Employ people with disabilities week
- 300. Manner of handling funds
- 310. Gifts
- 315. Fees
- 320. Annual report to governor

Legislative history reports. — For governor's transmittal letter for ch. 57, SLA 2010 (SB 83), establishing the State Vocational Rehabilitation Com-

mittee in place of the former Governor's Committee on Employment of People with Disabilities, see 2009 Senate Journal 77 — 78.

Sec. 23.15.220. Purpose. The purpose of AS 23.15.220 — 23.15.320 is to create a State Vocational Rehabilitation Committee for Alaska to carry on a continuing program to promote the employment of people of the state with disabilities by creating statewide interest in the rehabilitation and employment of people with disabilities, and by obtaining and maintaining cooperation with public and private groups and individuals in this field. (§ 1 ch 23 SLA 1960; am § 1 ch 7 SLA 1989; am § 1 ch 57 SLA 2010)

Effect of amendments. — The 2010 amendment, effective June 10, 2010, substituted "State Vocational Rehabilitation Committee" for "Governor's Committee on Employment of People with Disabilities".

Collateral references. — Accommodation requirement under state legislation forbidding job discrimination on account of handicap. 76 ALR4th 310.

Handicap as job disqualification under state legislation forbidding job discrimination on account of handicap. 78 ALR4th 265.

Damages and other relief under state legislation forbidding job discrimination on account of handicap. 78 ALR4th 435.

What constitutes handicap under state legislation forbidding job discrimination on account of handicap. 82 ALR4th 26.

When must specialized testing, training, or other work procedures be provided for benefit of qualified disabled employee or applicant to fulfill employer's reasonable accommodation requirement. 127 ALR Fed. 559.

Action under Americans with Disabilities Act (42 U.S.C.A. §§ 12101 et seq.), to remedy alleged harassment or hostile work environment. 162 ALR Fed. 603.

Sec. 23.15.230. Appointment of committee. The governor shall appoint the members of the State Vocational Rehabilitation Committee for staggered terms not exceeding three years. The composition of the committee must be consistent with the requirements of 29 U.S.C. 725 and 3003, as amended. A member may be reappointed, and a vacancy shall be filled by the governor. (§ 2 ch 23 SLA 1960; am § 5 ch 168 SLA 1990; am § 2 ch 57 SLA 2010)

Cross references. — For transitional provision relating to the continued service of members of the former Governor's Committee on Employment of People with Disabilities as members of the State Vocational Rehabilitation Committee, as the committee is

recomposed under this section, see § 5, ch. 57, SLA 2010, in the 2010 Temporary and Special Acts.

Effect of amendments. — The 2010 amendment, effective June 10, 2010, rewrote the section.

Sec. 23.15.240. Selection and term of chair. The members of the committee shall select a chair from among the voting members of the committee, subject to disapproval by

LEGISLATIVE RESEARCH REPORT

SEPTEMBER 27, 2010



REPORT NUMBER 11.032

BUSINESS ENTERPRISE PROGRAM FOR THE BLIND

PREPARED FOR SENATOR BETTYE DAVIS

BY TIM SPENGLER, LEGISLATIVE ANALYST

You asked how many states are in compliance with the federal Randolph-Sheppard Act, which provides employment opportunities for blind individuals through the establishment and operation of vending facilities on federal property.¹ Additionally, you wanted to know the results of a 2008 federal audit of the Alaska Division of Vocational Rehabilitation, Business Enterprise Program, regarding the state's compliance with the act. Briefly, only Wyoming is not in compliance with the act and Alaska has yet to receive results from the 2008 audit.

Through the Randolph-Sheppard Act programs, individuals who are blind are given priority in the contracting for vending facilities on federal property. Typically, blind individuals who receive Randolph-Sheppard contracts act as managers of vending facilities, subcontracting with food service organizations to provide meals and/or vending services on a day-to-day basis. Administered by state licensing agencies through the U.S. Department of Education's Rehabilitation Services Administration, Randolph-Sheppard Act programs are often labeled "business enterprise programs," as is the case in Alaska.

Alaska's Business Enterprise Program includes both the Randolph-Sheppard component and a similar state-created program, which was initiated with the Chance Act of 1976.² The Chance Act created a program similar to the Randolph-Sheppard Act but for blind *and* severely disabled individuals on *state and other property*. As of October 2009, Alaska's Business Enterprise Program had six sites operating in federal facilities, under Randolph-Sheppard, and six sites operating in state facilities, under the Chance Act. We include, as Attachment A, details on these 12 operations.³

Daniel Fry, management and program specialist, Randolph-Sheppard Programs, U.S. Department of Education, Rehabilitation Services Administration (RSA), informs us that while Randolph-Sheppard programs are not mandatory, every state except Wyoming chooses to participate.⁴ Mr. Fry relates that

¹ Public Law (P.L.) 74-732, as amended by P.L. 83-565, and P.L. 93-516; 20 USC 107 et seq.

² Section 1 ch 75 SLA 1976. AS 23.15.100 through 23.15.210 pertain to blind and severely disabled vendors.

³ A 13th vending site—at the Palmer Hospital—has been added to the programs within the last year.

⁴ Daniel Fry, management and program specialist, Randolph-Sheppard Programs, U.S. Department of Education, Office of Special Education and Rehabilitation Services, Rehabilitation Services Administration, can be reached at (202) 245-7308.

state programs are periodically audited by the RSA and a number are working on some form of improvement plan, based on RSA recommendations.⁵

The Rehabilitation Services Administration, in June of 2008, audited by conducting an on-site review, the State of Alaska's Business Enterprise Program. To date, however, Alaska has not received the results of the audit. Mr. Fry acknowledges that his agency has been unable to complete reviews in a timely fashion due to a large backlog of audits coupled with staffing shortages. He informs us that the RSA (now nearly fully staffed) is uncertain at this juncture when or if Alaska will receive a report regarding the 2008 audit. The agency may wait until Alaska is next audited (Mr. Fry was unable to estimate when this would occur) to produce a written report.

Mr. Fry suggests that if a dispute arises on a particular Randolph-Sheppard issue, an individual could contact his or her state's program coordinator to see if a resolution can be achieved. In Alaska, Pamela Geary is the business enterprise program coordinator.⁶ If such an intervention does not prove successful, and there is evidence of an egregious breach of the Randolph-Sheppard Act, the RSA can be contacted and may become involved.

For another perspective, we contacted Mark Maurer, president of the National Federation of the Blind (NFB).⁷ Mr. Maurer concurs with Mr. Fry that Wyoming is the only state without a Randolph-Sheppard Act program, and that states are often in the process of tweaking their programs to increase effectiveness. He is unaware of any major issues regarding Alaska's program during his 23 years as president of the NFB.

We hope you find this information to be useful. Please let us know if you have questions or need additional information.

⁵ According to Mr. Fry, there is no federal provision that speaks to a blind individual being a vendor in multiple locations, which was of interest to you.

⁶ Pamela Geary, Alaska's BEP coordinator, can be reached at (907) 269-3568. We spoke with Mark Dale, administrative manager for vocational rehabilitation, and Ms. Geary's supervisor. He asserts that the state is operating its program in a prudent, fair, and efficient way. Mr. Dale will send us a copy of any federal audit report that the program receives, which we will then pass along to your office.

⁷ Mark Maurer, president, National Federation of the Blind, can be reached at (410) 659-9314.

Attachment A

**Business Enterprise Program Vendors, State of Alaska, Business Enterprise Program,
October 12, 2009**

**BUSINESS ENTERPRISE PROGRAM VENDORS
STATE OF ALASKA
BUSINESS ENTERPRISE PROGRAM**

Effective 10/13/2009

FEDERAL FACILITIES: RANDOLPH SHEPPARD (6 sites)				
BUILDING & LOCATION	BUSINESS NAME	NAME	BUSINESS PHONE #	TYPE OF BUSINESS
FORT RICHARDSON, ANCHORAGE Gold Rush Inn Wilderness Inn		CLELAND, BOBBIE with teaming partner Blackstone Consulting	(907) 240-4516	Military Dining Facility
U.S. POST OFFICE AIRPORT FACILITY ANCHORAGE	DEBBIE'S FOOD CACHE	GRACE, DEBBIE	(907) 563-0368	Vending Machines
U.S. FISH & WILDLIFE ANCHORAGE	RUFOUS CAFÉ	BENNETT, ANDREW	(907) 244-2210	Snack Bar
FT. WAINWRIGHT, FAIRBANKS 5 Dining Facilities Hospital		LAFEVER, HARVEY with teaming partner Blackstone Consulting	(907) 356-7814	Military Dining Facility
FEDERAL BUILDING ANCHORAGE	BILL'S MINI CACHE	MISNER, BILL	(907) 279-9730	Dry Stand
ALASKA NATIVE MEDICAL CENTER ANCHORAGE	JIMES	SWARTZ, JAMES	(907) 250-6471	Snack Bar
ALASKA STATE FACILITIES: CHANCE ACT (6 sites)				
STATE COURTHOUSE ANCHORAGE	PENTAGON NORTH FOOD SERVICES	RENAUD, RICK	(907) 250-1684	Snack Bar
STATE OFFICE BUILDING JUNEAU	CLAUDIA'S CACHE	CRISS, CLAUDIA	(907) 586-3200	Snack Bar
FOURTH AVENUE JAIL ANCHORAGE	JOE'S FOOD SERVICE	LEGNER, JOE	(907) 398-0911	Snack Bar
STATE COURTHOUSE FAIRBANKS	BELLE' ROSE ESPRESSO	LUKE, HARRY	(907) 452-9249	Snack Bar
NATIONAL GUARD ARMORY FT. RICHARDSON, ANCHORAGE	THE CANTEEN	UNDER 1-YEAR CONTACT 11/01/09-10/31/10	(907) 428-0519	Cafeteria
ATWOOD BUILDING ANCHORAGE	JOE'S FOOD SERVICE	JOE LEGNER	(907) 748-0160	Vending Machines
BEP Coordinator contact information: Pamela Geary pamela.geary@alaska.gov			(907) 269-3568	1-888-274-5614
1251 Muldoon Rd. Suite 103, Anchorage, AK 99504				

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America's blind unemployment stands at 70 percent Advocates blame

Journal Record, The (Oklahoma City), Jul 6, 1999 by Lori Johnston Associated Press

ATLANTA -- In a labor market so tight that many employers are begging for workers, 70 percent of blind Americans who want a job can't find one, and advocates blame discrimination, a drop in Braille literacy and, perhaps most important, the computer mouse.

While the nation's overall unemployment rate is at a 29-year low of 4.2 percent, the level of joblessness among the blind has remained stagnant for about a decade, according to the U.S. Labor Department.

"The Americans with Disabilities Act seems to have had no impact on this," said Barbara Pierce, spokeswoman for the National Federation of the Blind at the group's annual convention in Atlanta. The act, passed in 1990, bans discrimination based on disability and requires employers to take "reasonable" steps to accommodate disabled people.

In addition to the 70 percent of the blind who are unemployed, 30 percent of those who are working are considered underemployed in relation to their qualifications, according to the Labor Department.

Over the years, technology has made things much easier for blind people. Converting text to Braille, once a painstaking process, can now be done by computers, and some office equipment is available with Braille-embossed buttons.

But other technology has hurt the employment chances of the 750,000 blind Americans.

Many blind people once worked as receptionists, taking dictation and answering the phone for managers and executives.

But voice mail and e-mail have changed the job description, requiring more computer skills.

And software that requires the user to move around the screen with a mouse and click on icons is nearly impossible for blind people to learn.

Peg Halverson, who has been out of a job for the past two years, said she could use software that includes graphics if someone would put it in a blind-friendly format that relies mostly on keystroke commands and speaks out loud to the user to alert him or her to what is on the screen.

"I want to be employed. I want to contribute to society," said Halverson, 44. "I'm thinking, 'I have a business degree, I have basically 20 years of administrative experience, and I can't even get a customer service job.'"

Pierce said software makers that convert point-and-click programs so that the blind can use them are a couple of years behind the rest of the fast-moving computer industry.

Advocates said another problem has been a decline in the number of blind children learning Braille. During the past 30 years, the percentage of blind children learning Braille in the United States has fallen from about 50 percent to less than 10 percent, according to the federation.

The reason: a push during the past two decades to get blind children out of special schools and "mainstream" them with other youngsters.

The federation backs mainstreaming, but according to Ms. Pierce, many school systems saw it as a chance to cut costs by hiring fewer teachers for disabled students and rolling back Braille instruction to only once or twice a week.

Another big obstacle for blind people trying to find jobs is employers' attitudes, advocates said. Many managers think blind people are helpless and can't be effective workers. "This is pity-based discrimination," Pierce said.

Advocates said there is technology to help the blind in many jobs.

Some companies may balk when told that a blind employee will require a \$3,000 Braille embosser that works like a computer printer that would cost less than \$500. However, Ms. Pierce said, there are state, federal and private programs that help employers pay for such equipment.

At the convention, blind people are attending workshops on writing resumes, interviewing and dealing with discrimination.

Lynn Mattioli, a hospital dietitian in Baltimore, said she doesn't try to avoid the subject of her blindness during job interviews. Instead, she tells employers exactly how she proposes to overcome her disability and get the job done.

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Employment Statistics for People Who Are Blind or Visually Impaired: U.S.

This document is being archived because the information it contains is not recent data and may be outdated. See [Featured Resources for Employment Statistics](#) for the most recent employment data pertaining to people with vision loss.

What are these statistics?

This set of statistics starts with the broadest grouping as background, that is, the entire U.S. population. It then narrows down, step by step, to focus on the employment status of relevant groupings of people who are blind (legally blind); those who are visually impaired (other people with serious difficulty seeing that cannot be corrected with ordinary glasses); and, for comparison, the general public with no serious visual or other impairment. Also shown are statistics for broad age groups *within* the vision groupings.

Where are these statistics from?

Most of the data come from a 1994-95 national survey conducted by the federal government's National Center for Health Statistics. That study provides details about employment status of legally blind and other visually impaired adults that are not available from other national studies. The specific definitions and methods of the study are explained in a report by AFB research staff (Kirchner et al., 1999).

How are the statistics organized here?

Each numbered set, from 1 to 10, deals with a different grouping. For example, one set refers to blind and visually impaired people grouped together, whereas another set refers only to people who are legally blind and the next set refers only to people who are visually impaired, excluding those who are legally blind.

Within each set—starting with #4—the lettered items differ by referring, A, to the number and percentage of people who *are* employed, and B, to the number and percentage who are *not* employed.

The employment data are also provided in a question and answer format. The questions and answers section follows after the numbered items.

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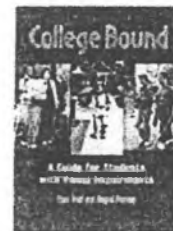
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College Bound:

A Guide for Students with Visual Impairments



1. Total Population of the United States

About 262 million (1994-95).

2. A. Estimated number of blind & visually impaired people of all ages, including institutionalized and homeless people

7 to 10 million (1994-5).

2. B. Estimated number of blind & visually impaired people who live in households (i.e., excluding institutionalized and homeless) of all ages

6 to 8 million (1994-5).

Note: Only people who live in households, including those who live alone, are covered by surveys used for statistics on employment. The range of estimates exists because various national studies use different definitions and methods.

3. Estimated number and percentage of household-based blind & visually impaired people who are of working age, defined as 18 through 69 years old

About 2 to 3 million (1994-95) or 35-40% of all blind & visually impaired household-based people.

4. A. Employed: estimated number and percentage of working age (18 to 69 years old) blind & visually impaired people who are employed

1 to 1.3 million people or 40-45% (1994-95).

4. B. Not Employed: estimated number and percentage of working age (18 to 69 years old) blind & visually impaired people who are not employed

1 to 1.7 million people or 55-60% (1994-95).

5. A. Employed: estimated number and percentage of legally blind people of working age (18 to 69 years old) who are employed

About 160,000 people or 30% (1994-95).

5. B. Not employed: estimated number and percentage of legally blind people of working age (18 to 69 years old) who are not employed

About 375,000 people or 70% (1994-95).

6. A. Employed: estimated number and percentage of visually impaired (excluding legally blind) people of working age (18 to 69 years old) who are employed

About 1.1 million people or 45% (1994-95).

6. B. Not employed: estimated number and percentage of visually impaired (excluding legally blind) people of

working age (18 - 69 years old) who are not employed

About 1.4 million people or 55% (1994-95).

7. A. Employed: estimated number and percentage of blind & visually impaired people of working age, by age category, who are employed:

- Ages 18 through 54 years—About 868,000 people or 54% (1994-95)
- Ages 55 through 69 years—About 217,000 people or 22% (1994-95)

7. B. Not employed: estimated number and percentage of blind & visually impaired people of working age, by age category, who are not employed:

- Ages 18 through 54 years—About 740,000 people or 46% (1994-95)
- Ages 55 through 69 years—About 769,000 people or 78% (1994-95)

8. A. Employed: estimated number and percentage of legally blind people of working age, by age category, who are employed:

- Ages 18 through 54 years—About 145,000 people or 42% (1994-95)
- Ages 55 through 69 years—About 17,000 people or 9% (1994-95)

8. B. Not employed: estimated number and percentage of legally blind people of working age, by age category, who are not employed:

- Ages 18 through 54 years—About 200,000 people or 58% (1994-95)
- Ages 55 through 69 years—About 171,000 people or 91% (1994-95)

9. A. Employed: estimated number and percentage of visually impaired people (excluding legally blind) of working age, by age category, who are employed:

- Ages 18 through 54 years—About 733,000 people or 59% (1994-95)
- Ages 55 through 69 years—About 149,000 people or 20% (1994-95)

9. B. Not employed: estimated number and percentage of visually impaired people (excluding legally blind) of working age, by age category, who are not employed:

- Ages 18 through 54 years—About 509,000 people or 41% (1994-95)
- Ages 55 through 69 years—About 598,000 people or 80% (1994-95)

10. A. Employed: estimated number and percentage of the general population with no serious impairments, of working age, who are employed:

- Ages 18 through 54 years—About 97,649,000 people or 82% (1994-95)
- Ages 55 through 69 years—About 1,453,000 people or 54% (1994-95)

10. B. Not employed: estimated number and percentage of the general population with no serious impairments, of working age, who are not employed:

- Ages 18 through 54 years—About 21,435,000 people or 18% (1994-95)
- Ages 55 through 69 years—About 9,756,000 people or 46% (1994-95)

Employment Statistics Questions and Answers

What percentage of working-age adults who are visually impaired (not including those who are legally blind) are employed in the U.S.?

Please note that this older estimate is provided pending the availability of more current information. In 1994-95, approximately 46% of working-age adults (ages 18-69) who were visually impaired but not legally blind were employed.

Definition and scope: This estimate includes adults aged 18-69 years, who have a vision loss with a visual acuity better than 20/200, and a visual field of better than 20 degrees.

Data source: National Center for Health Statistics (1998), National Health Interview Survey--Disability Supplement, 1994-95, www.cdc.gov/nchs/nhis.htm.

What percentage of working-age adults who are legally blind are employed?

Please note that this older estimate is provided pending the availability of more current information. In 1994-95, approximately 32% of working-age adults who were legally blind were employed.

Definition and scope: This estimate included adults 18-69

years of age who were legally blind. Legal blindness is a level of vision loss that has been defined by law to determine eligibility for benefits. It refers to central visual acuity of 20/200 or less in the better eye with the best possible correction, or a visual field of 20 degrees or less.

Data source: National Center for Health Statistics (1998), National Health Interview Survey--Disability Supplement, 1994-95, www.cdc.gov/nchs/nhis.htm. For further information, see Kirchner, C., Schmeidler, E., & Todorov, A. (1999). Looking at employment through a lifespan telescope: Age, health, and employment status of people with serious visual impairment. Mississippi State: Mississippi State University, Rehabilitation Research and Training Center on Blindness and Low Vision.

When age is taken into account, what percentage of working-age adults who are visually impaired (not including those who are legally blind) are employed in the U.S.?

Please note that this older estimate is provided pending the availability of more current information. In 1994-95, over three-fifths of visually impaired individuals in the "prime working years" of 22-50 years old were employed. About two-fifths of those 50-59 years old, and one-fifth of those 60 and older, were employed.

Definition and scope: This estimate includes adults aged 18-69 years, who have a vision loss with a visual acuity better than 20/200, and a visual field of better than 20 degrees.

Data source: National Center for Health Statistics (1998), National Health Interview Survey--Disability Supplement, 1994-95, www.cdc.gov/nchs/nhis.htm. For further information, see Kirchner, C., Schmeidler, E., & Todorov, A. (1999). Looking at employment through a lifespan telescope: Age, health, and employment status of people with serious visual impairment. Mississippi State: Mississippi State University, Rehabilitation Research and Training Center on Blindness and Low Vision.

When age is taken into account, what percentage of legally blind adults are employed?

Please note that this older estimate is provided pending the availability of more current information. In 1995, almost one-half of legally blind individuals in the 22-50-year-old range were employed. By contrast, fewer than one-quarter of legally blind people ages 50-59 years, and one-tenth of those older than 60 years, were employed.

Definition and scope: This estimate included adults 18-69 years of age who were legally blind. Legal blindness is a level of vision loss that has been defined by law to determine eligibility for benefits. It refers to central visual acuity of 20/200 or less in the better eye with the best

possible correction, or a visual field of 20 degrees or less.

Data source: National Center for Health Statistics (1998), National Health Interview Survey--Disability Supplement, 1994-95, www.cdc.gov/nchs/nhis.htm. For further information, see Kirchner, C., Schmeidler, E., & Todorov, A. (1999). Looking at employment through a lifespan telescope: Age, health, and employment status of people with serious visual impairment. Mississippi State: Mississippi State University, Rehabilitation Research and Training Center on Blindness and Low Vision.

What is the explanation for the discrepancy in the rates of employment between younger (ages 22-50) and older (ages 50-59) visually impaired and legally blind working-age adults?

The lower employment rates for older adults raise the following possibilities:

1. The younger workers have had better access to education.
2. There is age discrimination against older workers.
3. There are more economic disincentives to employment for those closer to retirement age.
4. Adults who have lost their vision late in life have fewer of the skills they would need as employees to cope with their visual impairments.
5. Health problems that might prevent employment increase with age.

Definition and scope: This explanation included adults 18-69 years of age with vision loss, including those who are legally blind. The term vision loss refers to individuals who are visually impaired and, thus, have trouble seeing, even when wearing glasses or contact lenses. These visually impaired individuals have a visual acuity better than 20/200, and a visual field of better than 20 degrees. The term vision loss also refers to individuals who are legally blind or unable to see at all. Legal blindness is a level of vision loss that has been defined by law to determine eligibility for benefits. It refers to central visual acuity of 20/200 or less in the better eye with the best possible correction, or a visual field of 20 degrees or less.

Data source: National Center for Health Statistics (1998), National Health Interview Survey--Disability Supplement, 1994-95, www.cdc.gov/nchs/nhis.htm. For further information, see Kirchner, C., Schmeidler, E., & Todorov, A. (1999). Looking at employment through a lifespan telescope: Age, health, and employment status of people with serious visual impairment. Mississippi State: Mississippi State University, Rehabilitation Research and Training Center on Blindness and Low Vision.

When health is taken into account, how does it affect the rates of employment among visually impaired and blind working-age adults?

Health has a major effect on rates of employment. For visually impaired adults under the age of 55, of those who were in "excellent" or "very good" health, 83% were employed, the same as the percentage for sighted adults. If, however, visually impaired adults under age 55 were in "poor" health, only 20% were employed.

The situation is similar for legally blind adults. Of those under 55 years old who reported "excellent" health, 60% were employed, in comparison to a 5% employment rate for those in "poor" health.

Please note that this older estimate is provided pending the availability of more current information.

Definition and scope: This explanation included adults 18-69 years of age with vision loss, including those who are legally blind. The term vision loss refers to individuals who are visually impaired and, thus, have trouble seeing, even when wearing glasses or contact lenses. These visually impaired individuals have a visual acuity better than 20/200, and a visual field of better than 20 degrees. The term vision loss also refers to individuals who are legally blind or unable to see at all. Legal blindness is a level of vision loss that has been defined by law to determine eligibility for benefits. It refers to central visual acuity of 20/200 or less in the better eye with the best possible correction, or a visual field of 20 degrees or less.

Data source: National Center for Health Statistics (1998), National Health Interview Survey--Disability Supplement, 1994-95, www.cdc.gov/nchs/nhis.htm. For further information, see Kirchner, C., Schmeidler, E., & Todorov, A. (1999). Looking at employment through a lifespan telescope: Age, health, and employment status of people with serious visual impairment. Mississippi State: Mississippi State University, Rehabilitation Research and Training Center on Blindness and Low Vision.

What is the explanation for the discrepancy in the rates of employment between individuals who are blind or visually impaired and those who are sighted?

Seventy-four percent of the sighted working-age public are employed, compared to approximately 46% of working-age adults who are blind or visually impaired. However, the sighted public, as a group, is both younger and in better health than are people who are visually impaired or legally blind, and these two factors have major effects on rates of employment. Please note that the older estimate this explanation is based upon is provided pending the availability of more current information. More current information most likely resembles these older employment estimates.

Definitions

Legal Blindness is a clinical measure that, in the U.S., means a person's central visual acuity is 20/200 or less in

the better eye, when using the best correction that can be provided by ordinary eyeglasses, or he/she has a visual field of 20 degrees or less.

For the data used here, survey respondents reported if they were legally blind, after having responded "Yes" when asked whether they have "serious difficulty seeing, even with glasses." Others with "serious visual impairment" were respondents who answered "yes" to the question about serious difficulty seeing, and "no" to legal blindness.

"Employment" is based on responses to a survey question asking whether the person had worked at a job or business in the two weeks prior to the interview, or—for those who said "no"—whether they had a job but were on vacation, sick or on layoff. "Not employed" includes people who were actively looking for work as well as those who, for various reasons, were not actively looking for work, although they may have been interested in working.

Reference

Kirchner, C., Schmeidler E., Todorov, A., (1999) *Looking at Employment Through a Lifespan Telescope: Age, Health and Employment Status of People with Serious Visual Impairment*, Mississippi State, MS: Rehabilitation Research and Training Center on Blindness and Low Vision.

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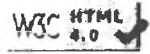
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Unemployment Rates and Reasons

Dissing the Blind

by James S. Nyman

From the Editor: The following remarks were delivered by Dr. James Nyman at the annual White Cane Banquet of the Omaha Chapter of the National Federation of the Blind of Nebraska, Saturday, November 8, 2008. After teaching for a number of years at the university level, Jim Nyman became director of Nebraska Services for the Blind in 1974, a post in which he continued until his retirement in 1998. He reports the first Federationist he met was Jacobus tenBroek. Here are Dr. Nyman's remarks:



In 1994, on our way to visit a friend in South Africa, my wife and I stopped over for a day in Athens. I had looked forward for a long time to visiting this birthplace of western philosophy. Shortly before we arrived there, some Greek archeologists announced they believed they had excavated the prison cell where Socrates had died after drinking a cup of hemlock, a poisonous concoction derived from the hemlock plant. He had been condemned to death for corrupting the youth of Athens by seeking the truth. With some difficulty we found the excavation site on Mount Phillipapou, and I had my wife photograph me standing where Socrates died for the truth. Socrates had discovered that the search for truth sometimes leads into the dens of politics with, in his case, deadly consequences. It has been said that, in politics, truth is often the first casualty. Well, tonight I hope to rescue truth from the hazards of politics but still find it in a topic that is vitally important to blind persons. Unless I am singularly lucky, I may find myself following in the footsteps of Socrates, treading on the same dangerous ground. When I conclude my remarks, don't be offended if I decline any beverage you may offer me.

What is this truth I am seeking? You will probably have guessed that it has something to do with the unemployment rate for blind people. You would be right in part, but I will also be looking for the reasons that explain that rate--whatever it turns out to be. I have to confess up-front that I don't have a definite answer to either question. We have all heard that the unemployment rate for blind people is 70 percent or more. We have heard that percentage repeated many times, and it has achieved the status of a great truth. This is a shocking number, and it may be that the shock itself puts it beyond questioning. If repetition is the measure of truth, we may already have found what I said I was seeking. On the other hand, we might be well advised to heed the ironic caution of a very wise philosopher named Ludwig Wittgenstein, who suggested that this procedure is, "As if someone were to buy several copies of the morning paper to assure himself that what it said was true."

If we can't rely on repetition as the measure of truth, we will have to adopt some other method in the search. The nineteenth-century British statesman Benjamin Disraeli observed that there are three kinds of lies: lies, damned lies, and statistics. If I were to suggest that the repeated claim of a 70 percent unemployment rate is either a lie or a damned lie, I suspect I would have very quickly passed

from the search for truth into the realm of politics and the cup of hemlock would have been handed to me forthwith. So I suppose I will have to fall back on statistics to pursue the truth.

We can start with some official statistics. Each month the U. S. Department of Labor issues a report on the unemployment rate for the previous month. Over the past few years that rate has ranged from 4.2 percent to 6.1 percent. If we accept 70 percent as an accurate figure for the unemployment rate of blind people, the ratio between the Labor Department rate for the general population and the claimed rate for the blind would be anywhere from 11.5 to 16.7 times higher for the blind. In Nebraska the unemployment rate has hovered around 3.5 percent for the past few years, so the ratio would be about twenty times higher in our state. Typically, when individuals and organizations invoke the much higher rate for the blind, it is either implicitly or explicitly equated with the official unemployment rate. Before we can accept this identification, we need to know what the official rate involves.

The concept appears to be simple enough: "Unemployment rate means the ratio of unemployed to the total civilian labor force expressed as a percent." It gets a bit more complicated when we explore the meaning of some of the terms that go into this computation. The Department provides definitions for five terms that are involved:

1. civilian noninstitutional population includes everyone over sixteen except those in institutions and the military;
2. the civilian labor force includes everyone in the civilian population who is either employed or unemployed;
3. employed means working as an employee or in a business, farm, or profession;
4. unemployed is anyone who is available for work and has made specific efforts to obtain a job; and
5. unemployment rate is the percentage of unemployed persons in the labor force.

To simplify and clarify: the civilian labor force is the fraction of the civilian noninstitutionalized population who are either employed or unemployed. At the end of 2007 this was 62.8 percent. In order to be included in the calculation of the unemployment rate, an individual must meet four requirements: he or she must first be sixteen years or older; second, have no employment; third, be available for work; and fourth, have made specific efforts to find employment during the period of reporting. When it is claimed that 70 percent of blind people of working age are unemployed, are we asserting that seven out of every ten blind people satisfy these four requirements of the Labor Department's strict meaning of unemployed, within the civilian labor force? If not, we need to find a more illuminating way to express the shocking truth about the low level of participation of the blind in remunerative employment.

An initial formulation that does not rely on the guidelines for statistical reporting might read: "Seventy percent of people over sixteen who are blind in the civilian noninstitutionalized population are not currently employed. This formulation suggests that 30 percent of blind people of working age are, in fact, employed and are therefore counted in the civilian labor force. This contrasts with the 62.8 percent of the overall civilian population who were in the labor force at the end of 2007. This rate of participation is approximately double that of the blind. What of the 70 percent who are claimed as unemployed?"

A glance at statistics for the civilian population helps to illuminate the question. By simply subtracting the 62.8 percent from the total civilian population, we are left with 37.2 percent who are not presently in the labor force. We can reasonably assume that, due to medical and age-related complications associated with blindness in addition to the usual reasons, blind people are absent from the civilian labor force at a somewhat higher rate than that of the general population. Those reasons include such factors as continued education, especially in the younger age range; family

responsibilities; early retirement; disinclination to work; discouragement during job-seeking; and, for a fortunate few, sufficient wealth to eliminate the need for remunerative employment.

Given that 30 percent of blind people are employed and more than 37.2 percent are simply absent from the labor force, we can now ask what percentage can be counted as unemployed. We can only speculate, but 32.8 percent is the absolute maximum and not the 70 percent that is claimed. If we employed the same formula to compute the Department of Labor official unemployment rate as advocates use to calculate the 70 percent figure, we would arrive at the startling conclusion that the monthly unemployment rate had fluctuated between 41.4 percent and 43.3 percent rather than the 4.2 percent and 6.1 percent that has been reported. This, of course, includes the 37.2 percent of the civilian population who simply did not work. One can just imagine the shock waves that would run through Wall Street and the political world if this were reported. Nevertheless, the method used to arrive at this figure would be precisely parallel with that used by advocates to calculate the 70 percent unemployment rate for the blind; that is, it includes all those who are absent from the labor force by choices unrelated to work.

Combining the 30 percent of employed blind persons and the 37.2 percent or more of those absent from the labor force, we arrive at a figure of more than 67.2 percent of those who cannot be counted as unemployed. Less than 32.8 percent appears to be the remainder. Is this, then, the true unemployment rate of the blind? If we now return to the Labor Department statistical reporting standard, the answer will have to be no.

What is the status of this lower percentage? You will recall that, in order to meet the strict standards of the Department of Labor, individuals are counted as "unemployed" only if they are not employed, as defined but "had made specific efforts to find employment." They must also be available for employment, but I will address the question of availability a bit later in my remarks. Meanwhile, for present purposes, "specific efforts to find employment" can include a set of activities as minimal as checking job listings in the local newspaper or on some Internet site, following up on an employment lead, arranging an interview, sending out a résumé, making a cold call, conferring with a rehabilitation counselor, checking with friends and acquaintances in a network of associates, participating in a job training program at a community college, or attending a job fair. While some of this activity will be recorded in documents of one sort or another, it is otherwise a matter of conjecture what portion of these individuals has engaged in one or more of the "specific efforts" enumerated. A full 100 percent would be a generous estimate. Anything less than that would further reduce the percentage who could be counted as unemployed, even under the looser guidelines.

Since being available for employment is one of the Labor Department's criteria for being counted as unemployed, when medical complications and age are considered, the number of blind people who are available for employment is further diminished. While age and medical conditions are not an absolute bar to employment, we know that a higher proportion of the blind experience these additional complications. I cannot quantify the impact of these factors on employment statistics, but the effect is to reduce the unemployment rate significantly below the 32.8 percent that I said was the absolute maximum. If I were not a very modest man, I think I might claim at this point that I had, in the span of a few minutes, cut the unemployment rate for the blind by more than one half. But, it will take more than statistical wizardry to make a substantive difference in the lives of those who fall into the ranks of the unemployed. While it may be politically less dramatic than 70 percent, even the lower percentage is unacceptably high. The lower number, however, should allow us to focus on the fact that it is not a global percentage that we need to reduce, but rather the lives of many individuals that we need to improve.

To recapitulate the analysis: 30 percent of the blind of working age are employed, and around 40 percent are neither seeking employment nor available for work, so that 30 percent or fewer are technically unemployed. This change of perspective should permit us to focus our attention on the particular factors that explain the unacceptably low rate of participation in the labor force. It puts us in a better position to formulate individual plans and general policies to attack the problem.

Dissing the Blind

For simplification I have identified a half dozen factors that, singly or in some combination, are involved in most cases of unemployment. Since each of these factors begins with the three letters D-I-S, I call this "Dissing the blind." Thus we have 1. discrimination, 2. disincentives, 3. distance, 4. discouragement, 5. disinclination, and 6. disability. We can only hope that the complexity of particular situations will not leave us in the position of the unfortunate centipede in the poem:

The centipede was happy quite,
Until the toad, in fun, said, "Pray:
Which leg comes after which?"
Which brought its mind to such a pitch,
It lay distracted in a ditch.

1. Discrimination: As blind people we are fortunate if we get from one end of a day to the other without experiencing some form of discrimination. It is a pervasive phenomenon with many manifestations. Any time we confront some form of differential treatment, even if it is intended to benefit us, it reflects an underlying attitude that places us in a class outside ordinary membership in the human community. No single approach can effectively cope with the many forms that discrimination takes. The National Federation of the Blind has evolved many strategies to reduce or eliminate the impact of this differential treatment by legislation, litigation, and public education.

Obtaining legislative action has proved relatively easy over the past forty years with the adoption of White Cane Laws in most states and passing of civil rights legislation at the federal level with Section 504 of the 1973 Rehabilitation Act, the Americans with Disabilities Act, and laws pertaining to the education of disabled children enacted in the past thirty years. Unfortunately, the mechanisms enforcing these laws are so cumbersome and lawyer-driven that blind and otherwise disabled people are fortunate if the resolution of particular cases isn't posthumous or doesn't extend into old age. Court rulings have so diminished the value of antidiscrimination laws that Congress found it necessary to adopt and the president to sign the Americans with Disabilities Amendment Act to return to the original intent of the law. Ironically, a constitutional amendment in Nebraska, the Civil Rights Initiative, intended to end both preferential treatment and discrimination, in its very language discriminates against the disabled. The operative section of the proposition reads: "The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting." It is far from clear what this language means, but one thing is evident: disabilities do not even merit a mention in the enumeration of classes of affected people.

Clearly it is not easy to change a whole culture and the attitudes that govern behavior toward disabled people. Optimists may claim that over the past half century great strides have been made, but evidence for this claim is fragmentary at best. Persuasion and occasional favorable rulings can resolve individual cases in employment, education, and access to public benefits, but discrimination is a continuing reality that blind individuals and the blind as a group must confront.

Forty years ago, when I was seeking employment as a college teacher, I recall at least two rejection letters that flatly stated that a blind person could not manage the responsibilities of a faculty member.

We are not likely to encounter such open declarations in today's atmosphere of social consciousness, but the more subtle forms are probably more difficult to combat. Because those who discriminate rarely leave a trail of evidence to document the discrimination, it is difficult to quantify the scale of actual discrimination. One thing is certain: the accumulation of anecdotal evidence cannot all be dismissed as the product of a paranoid imagination. The National Federation of the Blind, by public education, legislation, litigation, negotiation, and innovation, has succeeded in having some of the barriers to employment identified and lowered. Unfortunately, barriers have proved more amenable to modification than the underlying attitudes that lead to their erection in the first place.

2. Disincentives: In 1968, when we organized a new affiliate of the National Federation of the Blind in Illinois, I served as the legislative representative, becoming an official registered lobbyist in the state. One of the first undertakings I carried out was to write a letter to all the members of the Illinois Congressional delegation, urging them to support an increase in the earnings allowance for blind recipients of Social Security Disability Insurance (SSDI). The NFB has long argued that restrictions in the earnings limitations discouraged blind people from seeking employment since, when the limit was reached, recipients would experience a sudden drop in income and loss of medical benefits.

The more things change, the more they stay the same. When Supplemental Security Income (SSI) was implemented in 1974, an even more restrictive earnings limitation was applied. Until 1996 the earnings limitation for blind SSDI recipients was linked to those for Social Security recipients between the ages of sixty-five and seventy. In that year that coupling was eliminated, and, while the earnings limits increased at an accelerated rate for older people, it lagged significantly for the blind. In 2008 this disparity is between \$18,840 for the blind and \$36,120 for older people: a total of \$17,280, or \$1,440 a month. On May 15 the House of Representatives passed the Blind Persons Earnings Fairness Act, which would gradually re-couple earnings limitations for blind and senior recipients. If this is finally adopted by both House and Senate, one of the significant disincentives to seeking employment will have been greatly reduced.

When Medicare became a part of SSDI benefits in 1965, the argument became more compelling. Many blind beneficiaries needed medical services for other conditions covered by Medicare. Under these circumstances it is understandable that fear of losing medical benefits associated with the SSDI program has been one of the greatest disincentives to seeking employment. To counteract these obvious disincentives, the period of eligibility for medical benefits has been extended for ninety-three months so that the threat of losing these benefits immediately after cash benefits are terminated no longer exists. Nevertheless, fears have a tendency to outlive the facts, so it is incumbent on the Social Security Administration, rehabilitation personnel, and advocates to impress the facts on potential job seekers. Some positive incentives besides extended medical coverage have been incorporated into SSDI to reduce or eliminate disincentives, including discounting work-related expenses and imposing no limitations on earnings during a trial work period of nine months to a year. If parity is reached with the earnings limits for older recipients, a moderate income and living standard with some security against the devastation of medical costs will have been achieved. These measures and others have significantly reduced the disincentives to seeking and obtaining employment.

3. Distance: Let's take a fanciful journey into the next generation. Everyone will be driving smart cars. To be more precise, smart cars will be driving everyone. Earlier this year, at the annual showcase of the electronics industry in Las Vegas, an experimental vehicle was demonstrated. With global positioning technology and other systems for controlling the movements of the vehicle, all the passenger needed to do was enter a destination into the GPS and sit back and wait until the car arrived.

Many aspects of ordinary life are impaired by the limited options that confront a blind person. Social, economic, recreational, entertainment, religious, educational, and family participation can involve the necessity of devising alternatives for simply getting there. At best public transportation is a poor option, except in the largest metropolitan areas. The private automobile has come to dominate social existence, including work, to the point that in some settings blindness can virtually immobilize an individual. The lack of imagination and resources among those who operate public transportation systems makes it clear that no solution to the problem of simply getting there, wherever there might be, is likely to come from that quarter. If a quarter century turns out to be an accurate projection for the introduction of smart cars, I will be just a little over a hundred years old and probably not seeking employment, but it would represent the elimination of one of the serious obstacles to the employment of blind people. But employment is only part of life, and the other dimensions would also be greatly enhanced. I said it would be a fanciful journey, but some of the younger members of the audience may live to see it realized.

4. Discouragement: Anyone who has experienced repeated failures to obtain employment may feel discouraged and drop out of the labor force. The likelihood of experiencing repeated failure if one is blind is many times greater than it is for members of the general public. I know of no way to quantify the fraction of unemployed blind people who are simply discouraged and have withdrawn from the job search. Workshops by consultants, books and articles by experts, job fairs, and individual counseling can lay out many brilliant strategies for job seeking, but the realities of discrimination and indifference more often than not reduce these to exercises in futility. Meanwhile, discouragement and withdrawal from the job search continue to swell the ranks of unemployed blind people and account for a significant fraction of the unemployment rate. Repeated assertions of the 70 percent unemployment rate can hardly be encouraging to these individuals.

5. Disinclination: Some people in this world would prefer not to work. Some of them are blind. If people are blind in this society, there is a pretty good chance they can qualify for a variety of public supports: SSDI, Medicare, SSI, public housing, food stamps, and other benefits. If an individual settles into a comfort zone in this framework, a disinclination to work can be sustained. I recall suggesting to Robert Newman that he create a scenario of a blind character for his Thought Provoker in which an individual found a comfort zone of adequate resources and a lifestyle that nurtured a disinclination to work. The vehemence of reaction to this scenario suggests that our well-known commitment to the work ethic will minimize this factor. No matter how much we may deplore this rejection of the work ethic, most of us know someone who prefers this lifestyle. Technically, anyone who is so inclined is not counted under the Labor Department strict standard for being unemployed, but he or she would satisfy the more general notion of unemployment. Fear of rejection or discouragement after repeated failures may explain the attitude, but the reality must be acknowledged. I know no way to quantify the contribution of this phenomenon to the unemployment of blind people.

6. Disability: In 1917 Nebraska adopted a definition of blindness that still provides the statutory meaning of this visual condition. The definition reads: "The term blind includes all persons whose sight is so defective as to seriously limit their ability to engage in the ordinary vocations and activities of life." The misleading aspect of this definition is that it directly links the degree of defectiveness with the limitations on ability to engage in vocational and other activities. Unfortunately, this perception is deeply ingrained in popular beliefs about the relationship between visual acuity and ability to function in the world, including the world of work. This statutory definition, however, is open to a different interpretation, one that suggests that limitations can be overcome. In the familiar formulation of Kenneth Jernigan: "If a blind person has proper training and opportunity, blindness can be reduced to a physical nuisance." The critical qualification, of course, is, "with proper training in the alternative techniques of blindness." When positive attitudes drive and sustain the motivation to employ the alternative techniques, then blindness is significantly reduced as a factor. It is not an

accident that individuals who complete a training program in the orientation center in Lincoln have an employment rate of around 90 percent. Further evidence for the value of training in the alternative techniques is provided by Dr. Ruby Ryles of Louisiana Tech and Dr. Fred Schroeder, who have documented that 90 percent of employed blind people are proficient Braille readers. In the modern economy Braille literacy and computer literacy combined are indispensable skills. Without such training it is difficult to see how individuals could, in the strict requirements of Labor Department statistics, be said to be available for employment.

While it is only a guess, I am willing to wager that the unemployment rate could be cut in half again if proper training in alternative techniques and the adoption of positive attitudes were available to all blind people nationally.

Conclusion

I began by saying that I was seeking the truth about the rate of unemployment of blind people. The conventional wisdom and political rhetoric suggest that this rate is 70 percent. When viewed in light of Labor Department guidelines, this asserted rate is more a matter of politics than an accurate description of reality. But official statistics only hint at a serious problem. It is more illuminating to examine the reasons for the low rate of participation in the labor force. In other words, the problem is not how we can reduce a statistical unemployment rate, but how we can increase participation in the remunerative labor force.

I have suggested that discrimination, disincentives, distance, discouragement, disinclination, and disability account for most of the absence from the work place. Administrative and judicial remedies may affect discrimination in limited ways, but public education activities by the National Federation of the Blind and the examples of blind individuals will do more to effect changes in the social attitudes underlying discrimination. However, as the saying goes, "Don't hold your breath!" Much has been done to reduce the disincentives associated with SSDI, SSI, and Medicare, but the impact of these benefits must be communicated by the Social Security Administration, advocacy organizations, and rehabilitation agencies. We need to do a better job of education and counseling. Transportation will continue to be a significant problem for blind people to resolve, requiring a combination of individual ingenuity and initiative and some public action. Perhaps in the next generation technology may make the convenience of the private automobile as available to the blind as it is to everyone else. Discouragement stemming from repeated failures and disinclination to work may be overcome when success replaces failure. Encouragement by advocates and professionals can sustain efforts toward employment, but, as they say, "Nothing succeeds like success." Finally, disability is the most pervasive and the most remediable factor that explains the low rate of participation of the blind in the labor force. It is a sad truth that the vast majority of blind people have not had the opportunity for proper training in the alternative skills of blindness and the sustaining attitudes that would render them successful job seekers and workers.

If we are guided by the Biblical injunction, "Seek the truth, and the truth shall set you free," rather than contributing to the creation and perpetuation of myths and misconceptions about a 70 percent unemployment rate, we may indeed find the truth we have been seeking. Well, what is this truth that can set us free? It turns out not to be all that mysterious and, I hope, not at all hazardous to the seeker. I would say that this is the truth that the National Federation of the Blind has pursued since its founding in 1940. It is the truth that blindness can be managed in the social and physical environment by proper training, adopting a positive philosophical attitude, and persuading others to understand this truth. Little by little, but a little too slowly, this truth is beginning to prevail.

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Sunday, March 16, 2008

Forbes: Blind people in the workplace

In media terms, a significant aspect of David Paterson, who legally blind, ascending to the NY governor's job is the flurry of news and feature stories about life with blindness in general. *Forbes* looked at the business angle of blind people in the workplace in a [March 14 story](#), talking to some corporate executives who are blind.

But the story also lays out the specifics of the high unemployment rate for blind people. The American Foundation for the Blind (AFB) reports a 70% unemployment rate among blind adults of employment age. However, AFB explains in the *Forbes* story what accounts for some of this. For example, many people become blind later in life and decide to quit working because they aren't too far from retirement. "It's hard to persuade people who are newly blinded in their 50s and 60s to get back into rehabilitation and training so they can go back to work," Carl Augusto, AFB president, says in the article.

However, for young blind people the future is rosier. "The younger generation of blind workers is different than their older counterparts, says Augusto. They are employed at the same rate as sighted people. Schools are preparing them better for careers, and they're taking advantage of technology."

But discrimination against blind people in hiring still exists and accounts for the high unemployment rate. "The single largest factor is discrimination and bias," says Steven Rothstein, president of Perkins School for the Blind in Massachusetts. "There's a belief among employers that people who are blind can't do jobs."

The story also included the experiences of Barry Honig, who is blind and president of Honig International, a Manhattan-based executive search and management consulting firm, and Al Gayzagian, a blind Harvard graduate who struggled for three years to find a job, but found one as a typist and then rose to the level of senior financial officer at John Hancock.

The *Forbes* story, by Tara Weiss, does a good job of giving a nuanced report about the positive and negative aspects affecting blind people who try to obtain employment.

Posted by BA Haller at 7:36 PM

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Lighthouse for the Blind - St. Louis Earns National Industries for the Blind Award for Sustaining and Increasing Employment for People Who Are Blind

We are proud to provide employment opportunities for people who are blind, said John Thompson, President of Lighthouse for the Blind-Saint Louis

ST. LOUIS, MO, January 27, 2011 /Missouri PR News/ -- Lighthouse for the Blind - St. Louis was recently honored for its efforts to increase employment retention, growth, and upward mobility for people who are blind in 2010.

The award was presented by National Industries for the Blind (NIB) in recognition of Lighthouse for the Blind - St. Louis' success and commitment to increasing employment and economic opportunities for people who are blind.

"We are proud to provide employment opportunities for people who are blind," said John Thompson, President. "Over 90% of our direct labor force, including our supervisors, are legally blind and represent a loyal, dedicated and capable workforce. We are honored to serve as an example in the community of the capabilities of people who are blind. We are please to provide quality products, on time and at competitive prices to the federal government as well as commercial customers."

The 2010 Employment Award winners receive cash payments from a \$1 million fund created to recognize and encourage NIB associated agencies that grow or sustain employment for people who are blind. Emphasis is also placed on efforts to increase upward mobility in the workplace and job placements.

With a 70 percent unemployment rate for working aged Americans who are blind, all efforts to create jobs for this population help to change this statistic and provide economic and personal freedom for people who are blind.

"It is an honor for me to recognize agencies such as Lighthouse for the Blind - St. Louis that are dedicated to creating jobs and high-growth career opportunities for people who are blind," said Kevin A. Lynch, president and CEO of NIB. "I truly appreciate their efforts to reduce the unemployment rate for this population."

Also known as LHB Industries, the Lighthouse was founded in 1933 and today maintains offices and manufacturing facilities that currently employ more than 60 legally blind persons at two locations in Saint Louis County.

The Lighthouse manufactures, assembles, warehouses and sells high-quality products to government and commercial customers nationwide including first aid kits, medical kits, catheters, aerosol and liquid paints, aerosol and liquid cleaning products and many others.

For more information, contact Abby Barnett at toll-free 800.542.3697, or 314.423.4333 ext.130, or visit the website <http://www.lhbindustries.com>.

At National Industries for the Blind (NIB), our mission is to enhance the opportunities for economic and personal independence of persons who are blind by creating, sustaining and improving employment opportunities. NIB and 90 associated agencies serve as the largest employer for people who are blind. These employees make and sell SKILCRAFT products and services to the federal government and Department of Defense through the AbilityOne Program, established by the Javits-Wagner-O'Day Act. www.NIB.org.

The Lighthouse for the Blind is a privately chartered, 501(c)3 non-profit corporation established in 1933. Through the manufacture and sale of products to various government agencies as well as commercial customers and individuals, we are able to further our mission of assisting individuals who are legally blind maintain dignity and independence by making available employment, education and support services. We are committed to providing a supportive environment where our employees can count on developing new and productive skills that will assist them in reaching amazing levels of independence. For more information, please visit us online at www.lhbindustries.com.