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Rehabilitation Research and Training Center on
Employment Policy for Persons with Disabilities

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Public Policy Forum**

**How Disability Employment Protection
Laws Affect Employer Accommodation
Provisions**

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Welcome and Introduction

Susanne Bruyère:

OKAY. I THINK WE'RE GOING TO GET STARTED. AND WE HAVE ONE MORE GENTLEMAN COMING AND WE HAVE COFFEE COMING. BUT IT'S BEEN DETAINED. I WANT TO FIRST LET THE GROUP KNOW IF THERE'S ANYONE IN THE AUDIENCE WHO WOULD LIKE SIGN LANGUAGE INTERPRETING -- YOU WANT TO JOIN ME - - SIGN LANGUAGE INTERPRETING, WE DO HAVE SIGN LANGUAGE INTERPRETERS HERE FOR THE DURATION OF THE PROGRAM, SO THEY WILL BEGIN WITH SOME INTERPRETING BUT WE'LL HAVE THEM AVAILABLE. WE WON'T DO IT THE WHOLE TIME UNLESS WE KNOW THERE IS A NEED.

SO THANK YOU FOR THAT.

MY NAME IS SUSANNE BRUYERE AND I AM THE EMPLOYMENT AND DISABILITY INSTITUTE DIRECTOR AT THE TRAINING CENTER FUNDED BY THE NATIONAL INSTITUTE OF DISABILITY AND REHABILITATION RESEARCH AND I'M GOING TO GET OVER HERE SO THAT I CAN CHANGE THESE SLIDES AS I SPEAK. THIS CENTER HAS BEEN FUNDED BY NIDRR FOR -- WE ARE IN OUR NINTH YEAR NOW.

WE ARE A COLLABORATION OF PARTNERS AT CORNELL UNIVERSITY MATHEMATICAL POLICY RESEARCH INCORPORATED, THE AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES AND ANDY IMPARATO HAS PARTICULARLY BEEN OUR PARTNER AND HIS COLLEAGUE, ANN SUMMERS, ON THESE POLICY FORUMS. THEY HAVE BEEN INSTRUMENTAL TO HELPING US ORGANIZE THESE AS WELL AS RUTGERS UNIVERSITY SCHOOL OF MANAGEMENT AND LABOR RELATIONS RESEARCH. WE DO A COMBINATION IN THESE FORUMS ABOUT OUR PRESENTATION IN OUR OWN RESEARCH AS WELL AS IDENTIFYING KEY EMPLOYMENT DISABILITY POLICY-RELATED TOPICS THAT WE BRING OTHER REPRESENTATIVES FROM OTHER COLLABORATING ORGANIZATIONS IN TO PRESENT INFORMATION.

ANOTHER -- I'LL MAKE A BRIEF ANNOUNCEMENT. WE TRY TO DO FOUR OF THESE PRESENTATIONS -- WELCOME, JOHN. COME ON UP.

WE TRY TO DO FOUR OF THESE POLICY FORUMS EITHER IN THIS LOCATION OR ANOTHER WASHINGTON, D.C. LOCATION EVERY YEAR; APPROXIMATELY EVERY THREE MONTHS.

OUR NEXT ONE DOES COME A LITTLE BIT CLOSER IN. WE'RE SCHEDULED FOR MARCH 21, AGAIN IN THE SAME LOCATION, ON THE TOPIC AND WE WILL HAVE OTHERS IN THE SUMMER AND IN THE FALL.

TODAY, I AM REALLY PARTICULARLY HAPPY TO HAVE AN OPPORTUNITY TO

SHOW CASE SOME OF OUR OWN RESEARCH. RICHARD BURK HAASER IS ONE OF THE COPRINCIPAL INVESTIGATORS IN THIS EMPLOYMENT POLICY PEOPLE WITH DISABILITIES, RRTC AND REPRESENTATIVE FROM OTHER COLLEGES, THIS IS AN ACROSS COLLEGE IN CORNELL AND HE WILL BE JOINED IN THIS, TALKING ABOUT OUR RESEARCH GRANT FROM NIDRR, HE'LL BE JOINED BY MICHAEL COLLINS, THE EXECUTIVE DIRECTOR ON THE NATIONAL COUNCIL ON DISABILITY AND JOHN KEMP, THE DIRECTOR OF U.S. BUSINESS AND LEADERSHIP NETWORK WHO JUST JOINED US AND WILL BE COMING UP SOON. HI, JOHN. WELCOME. WE'LL GET YOU RIGHT OVER HERE.

>> JOHN: SORRY.

>> SUSANNE BRUYERE: NO PROBLEM. OCCASIONALLY YOU MAY BE HEARING BACKGROUND NOISE AND IT IS BECAUSE WE TRY TO ASSIST THOSE WHO ARE NOT ABLE TO PHYSICALLY GET TO WASHINGTON, D.C. OR ARE IN D.C. BUT ARE NOT ABLE TO JOIN US BECAUSE THEY HAVE CONFLICTS BY WEBINAR, SO THIS IS ALSO BEING BROADCAST TO ANYONE WHO WANTS TO SIGN IN AND SEE THIS AT THEIR DESK.

SO WE OCCASIONALLY GET SOME BACKGROUND NOISE AND BE PATIENT WITH THAT AND WE MAY -- AT THE END, WE MAY HAVE OUR PARTICIPANTS IN THE REMOTE LOCATIONS HAVE AN OPPORTUNITY TO GIVE US QUESTIONS. WE WILL ASK THEM TO SEND THEIR QUESTIONS IN ADVANCE TO JEFF TRONSIT AND JEFF, OUR MODERATOR AT ETHICA AND CORNELL WILL BE COALESCING THOSE QUESTIONS FOR US SO AT THIS END WE HAVE A CHANCE TO GET REMOTE QUESTIONS.

SO WITH THAT, I'M GOING TO INTRODUCE DR. BURK HAASER WHO IS GOING TO ADDRESS US ON THE TOPIC FOR TODAY, HAS THE AMERICANS DISABILITIES ACT CHANGED WORKPLACE ACCOMMODATIONS?

EVIDENCE FROM THE HEALTH AND RETIREMENT STUDY.

Richard Burkhauser:

THANK YOU. IT'S A PLEASURE TO BE HERE. SUSANNE HAS MADE IT DIFFICULT FOR ME TO SPEAK TO YOU TODAY, BECAUSE AS A PROFESSOR, I'M USED TO TALKING IN 15-MINUTE CHUNKS AND I'VE ONLY GOT 20, SO I'M GOING TO TRY TO GIVE YOU THE ESSENCE OF WHAT WE'RE DOING IN 20 MINUTES.

THIS IS THE JOINT NETWORK OF BOB WEATHERS WHO A COUPLE OF YEARS WAS AT CORNELL UNIVERSITY BUT SINCE HE'S DOING MATHEMATICS IS NOW AT THE SOCIAL SECURITY ADMINISTRATION, BUT I HAVE KNOWN BOB FOR A LONG TIME. HE WAS A GRADUATE STUDENT OF MINE AT SYRACUSE UNIVERSITY WHERE HE GOT HIS PH.D. IN ECONOMICS.

THIS IS HAS THE AMERICANS WITH DISABILITIES ACT CHANGED WORKPLACE ACCOMMODATIONS?

AND I DON'T HAVE TO SPEND MUCH TIME I THINK WITH THIS AUDIENCE WITH REGARD TO WHAT THE AMERICANS WITH DISABILITIES ACT OF 1990 WAS AND ITS IMPORTANCE. IT HAS TREMENDOUS SIGNIFICANCE IN TERMS OF THE SYMBOLIC PASSAGE AND A DAWNING OF I THINK THE NEW AGE OF POWER OF PEOPLE WITH DISABILITIES TO SHAPE LAWS TO GAIN THE SAME SORT OF CIVIL RIGHTS LEGISLATION THAT OTHER GROUPS HAD IN THE PAST.

THE ANTIDISCRIMINATION GOALS OF THE ADA IS SORT OF CONTROVERSIAL, BUT WHAT HAS BECOME CONTROVERSIAL IS WHETHER IN FACT ACHIEVEMENT... THAT IS, DID THE AMERICAN WITH DISABILITIES ACT OF 1990 INCREASE FIRST THE OVERALL EMPLOYMENT OF PEOPLE WITH DISABILITIES?

AND SECOND, DID IT INCREASE THE LIKELIHOOD THAT SOMEONE WHO EXPERIENCED THE ONSET OF A DISABILITY ON THE JOB WAS MORE LIKELY TO GET ACCOMMODATION FROM THEIR EMPLOYER?

I'M NOT GOING TO TALK ABOUT THE FIRST PART, WHICH IS VERY CONTROVERSIAL, AND THAT IS WHETHER THE ADA, IN FACT, INCREASED OR DECREASED THE OVERALL EMPLOYMENT RATE OF PEOPLE WITH DISABILITIES.

ONE THING THAT I WILL POINT YOU TO IS A REPORT THAT'S ON THE TABLE HERE CALLED THE '2006 PROGRESS REPORT OF THE ECONOMIC WELL-BEING OF WORKING PEOPLE WITH DISABILITIES" AND IF YOU USE THE CURRENT POPULATION SURVEY, WHICH IS THE STANDARD SURVEY USED TO TRACK THE ECONOMIC WELL BEING EMPLOYMENT IN DIFFERENT ADVERSE GROUPS AND WOMEN, WHAT YOU'LL SEE IN ONE OF THE TABLES IS THAT THE EMPLOYMENT RATE OF WORKING-AGE PEOPLE WITH DISABILITIES HIT A HIGH IN 1989 OF ABOUT 25% OR 28%. AND THEN FAILED SOMEWHAT OVER THE REMAINING YEARS. THAT LED SOME RESEARCHERS ARGUE THAT THE ADA HAD THE UNEXPECTED CONSEQUENCE OF ACTUALLY REDUCE THE EMPLOYMENT FOR PEOPLE WITH DISABILITIES.

IN SOME OTHER WORK THAT I HAVE DONE, I HAVE SHOWN THAT THAT ANALYSIS IS VERY SENSITIVE TO THE DEFINITION OF DISABILITY THAT'S USED. AND I'M GOING TO SHOW ANOTHER REASON TODAY WHY THAT ANALYSIS ALSO HAS SOME PROBLEMS.

AND LET ME JUST GIVE YOU A QUICK OVERVIEW OF THE, I THINK, WHAT'S INTERESTING ABOUT THIS PAPER THAT I'M GOING TO TALK ABOUT TODAY. AND THAT IS THAT IT RECOGNIZES THAT THE ADA DID NOT COME IN A VACUUM. THAT IS THAT THE ADA WAS NOT THE FIRST PIECE OF ANTIDISCRIMINATION LEGISLATION THAT EXISTED IN THE UNITED STATES.

IN FACT, THERE HAD BEEN A LONG HISTORY OF MOVEMENT TO PROTECT THE RIGHTS OF WORKERS WITH DISABILITIES, THE FEDERAL LEGISLATION GOES BACK TO THE REHABILITATION ACT OF 1973. BUT ALSO IN STATES THERE WAS A SERIES OF STATE LEGISLATION THAT PROVIDED ANTIDISCRIMINATION PROTECTION FOR PEOPLE WITH DISABILITIES. AND, IN FACT, EVEN SOME STATES PRIOR TO 1990 HAD THE SAME KIND OF PROTECTION THAT THE FEDERAL GOVERNMENT LATER PUT INTO THE ADA.

OKAY. SO WHAT DOES THAT MEAN?

THAT MEANS THAT IF YOU'RE GOING TO LOOK AT WHAT THE IMPACT OF THE FEDERAL ADA IS ON A POPULATION OF WORKERS, YOU HAVE TO LOOK AT WHERE THE WORKERS LIVED IN 1992 WHEN THE LEGISLATION WAS PUT INTO PLACE. A KEY INSIGHT THAT I'M GOING TO SHOW YOU IS IN STATES WHERE THE STATES HAD ALREADY IMPLEMENTED ADA-LIKE PROTECTION, IT TURNS OUT THERE WASN'T A VERY BIG AFFECT ON THE FEDERAL ADA. BUT IN STATES WHERE THE PROTECTION WAS LESS, IT WAS MUCH MORE OF AN AFFECT.

SO YOU REALLY HAVE TO BE CAREFUL IN LOOKING AT THE -- WHEN YOU'RE TRYING TO ISOLATE THE IMPACT OF THE ADA TO KNOW WHAT THE SITUATION WAS BEFORE IT WAS IMPLEMENTED.

OKAY. SO -- LET ME PUT MY READING GLASSES ON HERE.

THE DATA SET THAT I'M GOING TO USE IS THE HEALTH AND RETIREMENT SURVEY. THERE'S BEEN SOME RESEARCH USING THE HRS DATA LOOKING AT THIS QUESTION. DALLY AND BOUND IN 1995 LOOKED AT PEOPLE WHO EXPERIENCED THE ONSET OF A DISABILITY PRIOR TO 1992 AND USING THIS DATA DETERMINED THAT 25% OF WORKERS WERE OFFERED SOME KIND OF ACCOMMODATION. IN WORK THAT I HAVE DONE, WE HAVE FOLLOWED THOSE SAME WORKERS AND SHOWN THAT WORKERS WHO WERE IN FACT ACCOMMODATED ON THE JOB WERE MORE LIKELY TO REMAIN EMPLOYED AND LESS LIKELY TO APPLY FOR DISABILITY BENEFITS. AND THIS IS MULTIYEAR DATA, SO YOU CAN ACTUALLY TRACK THE ACTUAL EXPERIENCE OF PEOPLE FOLLOWING THE ONSET OF VISIBILITY. AND WHAT YOU SEE IS THAT IT SLOWS DOWN SUBSTANTIALLY THE POINT AT WHICH THEY -- THE YEARS -- THE NUMBER OF YEARS BEFORE THEY LEAVE THE LABOR FORCE AND INCREASES THE NUMBER OF YEARS BEFORE THEY APPLY FOR DISABILITY BENEFITS. IN THE ONLY PIECE OF WORK THAT I'VE SEEN USING THE HRS TO LOOK AT ACCOMMODATION AFTER THE ADA, CHARLES IN 2004, FOUND THAT ABOUT 33% OF WORKERS WERE OFFERED ACCOMMODATION AFTER DISABILITY ONSET. BUT HE FOUND THAT ABOUT 28% OF HIS POPULATION RECEIVED IT BEFOREHAND. SO NOT A DRAMATIC DIFFERENCE. BUT HE ONLY USED A SAMPLE OF WORKERS AFTER THE ADA BETWEEN 1992 AND 1995, AND THOSE WORKERS WOULD HAVE BEEN OLDER WORKERS. SO HE DIDN'T LOOK ACROSS THE ENTIRE POPULATION. AND MORE IMPORTANTLY, HE DIDN'T LOOK AT THE -- HE DIDN'T CONTROL FOR

WHAT THE STATE LEVEL FOR ANTIDISCRIMINATION LAWS WERE PRIOR TO THE ADA.

OKAY. SO WHAT'S THE CONTRIBUTIONS TO THIS PAPER?

WELL, IT IMPROVES ON PREVIOUS WORK BY USING THE MOST RECENT DATA FROM HRS GOING UP TO 2006. USES DATA ON STATE LEVEL EMPLOYMENT PROTECTION LAWS WHICH IS THE CRITICAL INNOVATION HERE. IT EXAMINES ACCOMMODATION OVER A LONGER POST-AEDA PERIOD AND IT DOES IN A MODEL THAT CONTROLS FOR INDIVIDUAL CHARACTERISTICS.

OKAY. SO HRS...THE HRS IS A SAMPLE -- IT'S ACTUALLY A COHORT SAMPLE OF THREE GROUPS OF PEOPLE, PEOPLE BORN BETWEEN 1931 AND 1941, FIRST INTERVIEWED IN 1992, SO THEY WOULD BE 51 TO 61 YEARS OF AGE IN 1992. THE WAR BABIES WHO WERE 56 IN 1998 AND EARLY BABY BOOMERS BORN IN 1948 TO 1953 WHO WERE 56 IN 2004 WHEN THE SURVEY STARTED. SO THESE WERE SURVEYS OF PEOPLE THAT BEGAN IN 1992, 1998, 2004, AND FOLLOWED PEOPLE IN REALTIME ON BUT WHO ASKED RETROSPECTIVE QUESTIONS ABOUT IMPORTANT EVENTS IN THEIR LIVES AND EACH OF THESE FOLKS WERE INTERVIEWED EVERY TWO YEARS.

OKAY. SO WHAT ARE THE KEY QUESTIONS?

WELL, TO DETERMINE A DISABILITY, WE HAVE THE QUESTION, DO YOU HAVE ANY IMPAIRMENT OR HEALTH PROBLEM THAT LIMITS THE AMOUNT OF PAID WORK YOU CAN DO?

IT'S A VERY SIMILAR QUESTION TO THOSE IN MANY OTHER DATA SETS. IT AS TO THAT QUESTION, IF YOU SAY YOU HAVE SUCH AN IMPAIRMENT OR LIMITATION, THE QUESTION IS ASKED, WERE YOU EMPLOYED AT THE TIME YOUR HEALTH LIMITED YOUR ABILITY TO WORK?

AND IF YOU WERE EMPLOYED, IT ASKED YOU WHEN DID THE IMPAIRMENT OR HEALTH PROBLEM BEGIN TO INTERFERE WITH YOUR WORK, MONTH AND YEAR. SO WE'RE ABLE TO GATHER A SAMPLE FROM THIS QUESTION OF PEOPLE WHO HAVE A DISABILITY AT THE TIME THAT THE SURVEYS WERE ASKED. AND THEN THEY THEN TELL YOU WHEN THAT -- WHETHER THEY WERE WORKING AT THE TIME OF THE DISABILITY, SO IT'S A RETROSPECTIVE QUESTION AND THE YEAR THAT THEY'RE -- THE YEAR AND MONTH THAT THE IMPAIRMENT FIRST BEGAN THEIR ABILITY TO WORK.

OKAY. SO THEN THE KEY QUESTION FOR THOSE PEOPLE WHO ANSWERED YES TO ALL OF THOSE THINGS, THEY'RE ASKED AT THE TIME YOUR HEALTH STARTED TO LIMIT YOUR ABILITY TO WORK, DID YOUR EMPLOYER DO ANYTHING SPECIAL TO HELP YOU OUT SO THAT YOU COULD STAY AT WORK?

AND THE RESPONSE TO THAT COULD BE EITHER YES, NO, THEY LEFT IMMEDIATELY, THEY'RE SELF-EMPLOYED, THEREFORE, IT'S NOT RELEVANT AND LATER YEARS THE RESPONSE WAS NONE NEEDED, BUT THAT'S AT THE SMALL CATEGORY.

OKAY. SO IF THE PERSON RESPONDED YES, THEN THE HRS ASKED A SET OF QUESTIONS ABOUT THE TYPE OF ACCOMMODATION AND THERE ARE NINE OF THEM, WHICH YOU CAN SEE UP HERE.

DID YOUR EMPLOYER GET SOMEONE TO HELP YOU?

SHORTEN YOUR WORK DAYS?

ALLOW YOU TO CHANGE THE TIME YOU LEFT AND CAME FROM WORK?

ALLOW YOU MORE BREAK AND REST PERIODS?

AND NOTICE ALL OF THESE ARE REALLY MAKING THE JOB MORE FLEXIBLE FOR THE WORKER. SO IN A SENSE THEY ARE NOT CHANGING THE ARCHITECTURE OF THE JOB IN A PHYSICAL SENSE, BUT THEY ARE IMPORTANTLY CHANGING THE FLEXIBILITY OF THE JOB.

WHAT I'M GOING TO SHOW YOU LATER IS THESE KINDS OF CHANGES ARE VERY DIFFICULT TO ESTIMATE THE COST OF, SO IN A LOT OF THESE STUDIES THAT HAVE WONDERED WHY PEOPLE DON'T -- WHY MORE EMPLOYERS DON'T ACCOMMODATE WORKERS BECAUSE THE COST OF AN ACCOMMODATION IS SO LITTLE, NONE OF THEM TAKE INTO CONSIDERATION HOW DIFFICULT IT IS FOR AN EMPLOYER TO MAKE THE JOB MORE FLEXIBLE FOR THE EMPLOYEE.

SO I'M GOING TO COME BACK TO THIS IN A MINUTE. BUT THE OTHER KINDS OF ACCOMMODATIONS ARE ARRANGE FOR SPECIAL TRANSPORTATION, CHANGE THE JOB, DO SOMETHING YOU CAN DO BETTER -- THAT YOU CAN DO, EXCUSE ME. HELP YOU LEARN NEW JOB SKILLS. GET SPECIAL EQUIPMENT FOR THE JOB. DO ANY OTHER THING TO HELP YOU OUT AND THEN WHAT THINGS HELP YOU IN QUESTION.

SO, CONSTRUCTION OF THE SAMPLE, WE IDENTIFY PEOPLE WITH A DISABILITY AT THE TIME OF THE INTERVIEW WHO REPORTED BEING EMPLOYED AT THE TIME OF ONSET. WE EXCLUDE PERSONS WHO ARE SELF-EMPLOYED AT DISABILITY ONSET, BUT ALSO EXCLUDE PEOPLE WHO ARE 59 YEARS OR OLDER. WE DO THAT BECAUSE WE DON'T WANT TO CONFUS ISSUES RELATED TO RETIREMENT FROM THE LABOR FORCE FROM EVENTS AT YOUNGER AGES.

WE USE FIRST REPORTED DISABILITY ONSET BECAUSE SOME PEOPLE REPORT DISABILITIES THAT COME AND GO AND SO THEY HAVE MULTIPLE DISABILITY SPELLS. BUT THAT'S A RELATIVELY SMALL NUMBER AND WE USE THE FIRST

DISABILITY SPELL FOR THOSE CASES.

SO THE FINAL SAMPLES IS A PRETTY GOOD ONE. WE HAVE 1,625 PEOPLE WHO WERE WORKING AT THE TIME OF THEIR ONSET AND THAT WAS PRIOR TO 1992 WITH THE FEDERAL ADA LEGISLATION GOING INTO EFFECT.

AND WE HAVE 1,049 WORKERS WHO EXPERIENCE THEIR ONSET OF DISABILITY AFTER THE ONSET OF THE ADA.

OKAY. SO THE FIGURE THAT I'M SHOWING YOU HERE, IS ALL WE DID IS TAKE ALL THE PEOPLE AND ARRANGE THEM BY THE YEAR THAT THEY EXPERIENCED THE ONSET OF A DISABILITY ON THEIR JOB AND THEN LOOKED AT -- THINKING OF THIS AS SORT OF CROSS SECTIONAL DATA, WHAT PERCENTAGE OF THEM WERE ACCOMMODATED IN EACH YEAR. AN THAT'S WHAT YOU SEE HERE IN THIS FIGURE. AND WHAT YOU SEE ROUGHLY IS THAT -- AND I SHOULD SAY THE BLUE IS THE ACTUAL VALUES AND THE BLACK LINE IS 3-MONTH MOVING AVERAGES OF THOSE VALUES. AND WHAT YOU CAN ROUGHLY SEE IS THAT BETWEEN 1980 AND 1990, THERE IS A LOWER PERCENTAGE OF PEOPLE BEING ACCOMMODATED THAN THEREAFTER. ALTHOUGH IT GOES UP AND DOWN WITH THE YEARS.

I'M NOW GOING TO SHOW YOU A VERY SIMPLE KEY STATISTIC. WHAT'S THE PERCENTAGE OF PEOPLE WHO ANSWER -- WHO AFTER THEY EXPERIENCED AN ONSET OF A DISAIL ON THE JOB ANSWERED THE QUESTION, DID YOUR EMPLOYER DO ANYTHING?

AND ANSWER THAT BY SAYING YES. AND WHAT WE FIND IS THAT FOR THOSE WORKERS BEFORE 1982 EXPERIENCED THE ONSET OF A DISABILITY, 25.6% WERE ACCOMMODATED IN SOME WAY.

AFTER 1992, 28.8% WERE ACCOMMODATED. SO THERE IS A DIFFERENCE OF 3.2 PERCENTAGE POINTS, STANDARD ERROR OF ABOUT 1.8. SO THIS IS A POSITIVE RESPONSE, BUT JUST BARELY SIGNIFICANT. SO IF YOU SIMPLY LOOKED AT THIS STATISTIC, IT DOESN'T LOOK LIKE THE ADA HAD MUCH OF AN IMPACT ON ACCOMMODATION.

ALL RIGHT. SO WHAT HE WE ARE GOING TO DO NOW IS BE A LITTLE MORE SOPHISTICATED IN THE WAY WE THINK ABOUT WHAT HAPPENED. AND THAT IS IF YOU'RE LOOKING AT BEFORE AND AFTER PERIOD, YOU REALLY KNOW TO KNOW WHAT THE BEFORE IS COMPARING WITH AFTER AND HERE IS WHERE THE KNOWLEDGE WITH THE STATES COMES IN VERY IMPORTANT. SO WE KNOW THE GEOGRAPHIC STATE THAT PEOPLE WERE WORKING IN AT THE TIME OF THEIR ONSET, SO WE KNOW WHETHER THEY WERE LIVING IN A NO-PROTECTION STATE. THAT IS A STATE WHERE ONSET OCCURRED WITH NO ANTIDISCRIMINATION LAWS AT ALL IN PLACE FOR PEOPLE WITH DISABILITIES. WHETHER THEY EXPERIENCED THEIR DISABILITY WHILE LIVING IN A STATE WHERE THEY HAD STATE

ANTIDISCRIMINATION LAWS BUT THE OLD FASHIONED SORT OF ONES THAT DIDN'T SPECIFY ACCOMMODATION. AND THEN THE REASONABLE ACCOMMODATION LAWS THAT ARE IN THE FEDERAL ADA WERE IN FACT IN STATE ADA'S PRIOR TO 1992. SO WE'RE GOING TO DIVIDE PEOPLE INTO FOUR GROUPS. THOSE PEOPLE WHO WERE IN THE NO-PROTECTION LAW STATES, THE ANTIDISCRIMINATION LAW STATES, THE REASONABLE ACCOMMODATION LAW STATES, AND THEN AFTER 1992 THEY EXPERIENCED THEIR ONSET WHEN THE ADA WAS IN EFFECT.

OKAY. SO WHAT YOU SEE IS THAT BY 1992 THERE WERE ONLY THREE STATES, THE STATES IN WHITE THERE, ARKANSAS, MISSISSIPPI, AND ALABAMA, WHO STILL HAD NO PROTECTION AT ALL FOR PEOPLE WITH DISABILITIES. AND ALL THE OTHER STATES, THERE WAS SOME SORT OF STATE PROTECTION LAWS.

THESE LOOK AT THE STATE DISABILITY DISCRIMINATION LAWS, NOT THE ADA-TYPE, BUT THE MORE OLD FASHION TYPE AND YOU SEE THAT A NUMBER OF STATES HAD THESE LAWS IN OR BEFORE 1975, THOSE STATES IN GREEN. MANY OF THEM CHANGED THOSE LAWS BETWEEN 1975 AND 1980. THEY ARE THE ONES IN BLUE. AND THEN THE ONES IN YELLOW CHANGED IN BETWEEN 1980 AND 1990. IF YOU THEN LOOK AT HOW MANY STATES HAD PRE-AEDA STATE DISABILITY DISCRIMINATION LAWS, YOU'LL SEE THAT MOST STATES DIDN'T, 32 STATES DIDN'T. THOSE ARE THE ONES IN WHITE NOW. BUT 18 STATES DID, THE ONES IN GREEN HAD THEM BETWEEN '77 AND '83. THE ONES IN YELLOW HAD THEM BETWEEN '83 AND '88. NOW, WE DIDN'T DO THE LEGAL WORK ON THIS. THIS WAS DONE BY CHRISTINE JOELS IN A PAPER THAT SHE DID WITH PRESS COTIN 2004 SHE USED THIS ANALYSIS TO LOOK AT THE EFFECT ON OVERALL EMPLOYMENT. SO WE TOOK HER INFORMATION ON STATE LAWS FOR OUR PAPER.

OKAY. SO IN OUR SAMPLE THEN, WHAT DOES IT LOOK LIKE?

WELL, 39% OF THE PEOPLE IN OUR SURVEY EXPERIENCED THEIR ONSET DURING -- IN 1992 OR AFTER WHEN THE ADA LAWS WERE IN PLACE. 10% DID SO WHEN ADA-LIKE LAWS WERE IN PLACE. 37% DID SO IN STATES WITH JUST OLD FASHION ANTIDISCRIMINATION LAWS AND 14% DID IT DURING THE PERIOD WHEN THERE WAS NO PROTECTION AT ALL.

SO NOW LET'S LOOK AT THE NUMBERS THAT WE SHOWED BEFORE AND SEE IF THIS MATTERS.

SO WHAT I HAVE IS A TABLE THAT ASKS THE ORIGINAL QUESTION, DID YOUR EMPLOYER DO ANYTHING?

AND WHAT I'M GOING TO COMPARE IS TWO KINDS OF PEOPLE. THOSE PEOPLE WHO EXPERIENCED ONSET IN A STATE WHEN THERE WAS NO ANTIDISCRIMINATION LAWS AT ALL AND THERE WERE 367 PERSONS WHO EXPERIENCED THOSE ONSETS ON THE JOB IN SUPPOSE STATES. AND I COMPARE

THEIR EXPERIENCES WITH THOSE 1,069 PEOPLE WHO EXPERIENCED THE ONSET AFTER THE ADA WAS IN PLACE. SO I'M COMPARING THE SET OF PEOPLE WHO HAD NO PROTECTION AT ALL FROM THE STATE GOVERNMENT WITH THOSE WHO HAD THE FULL IMPACT OF THE ADA. AND WHAT WE SEE IS, WE STILL GET THAT 28.8% FOR THE ADA. BUT IN THOSE STATE LAWS, IT WAS ONLY 23.9% WHO WERE GIVEN ANY KIND OF ACCOMMODATION.

SO IT'S A MEAN DIFFERENCE OF 4.9 PERCENTAGE POINTS, NOW, A HIGHLY SIGNIFICANT DIFFERENCE AND ABOUT A 20% INCREASE IN ACCOMMODATIONS. NOW, I THINK PEOPLE WHO ARE HOPING THAT THE ADA WAS THE SOLUTION TO ALL OUR PROBLEMS MAY BE DISAPPOINTED BY THIS IN THAT THE EFFECT IS RELATIVELY SMALL. AND IN FACT THE MAJORITY OF PEOPLE WHO EXPERIENCED THE ONSET OF DISABILITY STILL AREN'T GIVEN -- AREN'T GIVEN ACCOMMODATION.

I GUESS MY SENSE IS THAT IT IS VERY DIFFICULT FOR LAWS TO CHANGE BEHAVIOR. AS SOMEONE WHO IS A SOCIAL SCIENTIST AND HAS TRIED TO LOOK AT THE IMPACT OF LAWS, IT'S HARD TO FIND THESE EFFECTS. SO I'M PLEASED THAT IN FACT WE'RE ABLE TO FIND A REAL EFFECT AND IT IS A SIGNIFICANT EFFECT. AND IT DEMONSTRATES THAT AT LEAST THE ADA DID HAVE --

SUSANNE BRUYERE:

IS THIS ON?

WE'RE HAVING A HARD TIME HEARING YOU. THANK YOU.

AT LEAST IN A DISTANCE.

RICHARD BURKHAUSER:

SO THERE WAS A SIGNIFICANT IMPACT, AND IT DID INCREASE THE EMPLOYMENT -- EXCUSE ME. IT DID INCREASE ACCOMMODATIONS GOING TO PEOPLE WITH DISABILITIES AND WE KNOW FROM OTHER WORK THAT WHEN WORKERS ARE ACCOMMODATED, THEY STAY IN THE WORK FORCE LONGER AND THEY DON'T APPLY FOR DI QUITE AS QUICKLY.

BUT WHAT KIND OF ACCOMMODATIONS ACTUALLY OCCURRED?

WELL, THE ONES IN BOLD ARE THE SIGNIFICANT ONES. AND IN THIS CASE, IT'S THEY SHORTENED YOUR WORK DAY, THEY ALLOWED YOU TO CHANGE THE TIME YOU CAME AND LEFT FROM WORK, THEY ALLOWED YOU MORE BREAKS AND REST PERIODS. SO IT WAS REALLY THE IMPACT WAS MOSTLY IN THE AREA

OF CHANGES AND FLEXIBILITY TO THE JOB. THESE OTHER THINGS, THESE MORE BRICKS AND MORTAR KINDS OF THINGS WERE USUALLY INSIGNIFICANT AND ACTUALLY ONE HELP YOU LEARN NEW JOB SKILLS ACTUALLY DECLINED SIGNIFICANTLY. THIS IS A SMALL SAMPLE, SO I WOULDN'T PUT A WHOLE LOT OF INTEREST IN THAT.

THERE WAS A SIGNIFICANT INCREASE IN GETTING SPECIAL EQUIPMENT FOR THE JOB.

OKAY. SO THOSE ARE NO-STATE LAWS VERSUS ADA. WHAT ABOUT STATE ANTIDISCRIMINATION VERSUS ADA?

AGAIN, A SIGNIFICANT DIFFERENCE IN THE STATE ANTIDISCRIMINATION STATES. ABOUT 29.9% WERE ACCOMMODATED BEFORE. AFTER WARDS, 28.8, AGAIN SIGNIFICANT. SO IT WAS A SIGNIFICANT EFFECT. BUT ONCE AGAIN IF YOU LOOK AT THE ONLY ONES THAT ARE REALLY SIGNIFICANT IN CHANGE, THEY TALK ABOUT FLEXIBILITY IN THE JOB. SO THE ADA HAS HAD AN IMPACT ON EMPLOYER'S WILLINGNESS TO MAKE THE JOB MORE FLEXIBLE FOR PEOPLE WITH DISABILITIES. AND HERE, AGAIN, THE ONLY BRICKS AND MORTAR SORT OF THING IS GET YOUR SPECIAL EQUIPMENT ON THE JOB. NOW WE SEE THERE WAS A SIGNIFICANT INCREASE IN THAT. BUT IT GOES FROM 2.6% TO 4.4% SO A BIG INCREASE BUT FOR RELATIVELY SMALL NUMBER.

NOW LET'S LOOK AT THE STATE ADA-LIKE LAWS, THAT IS, STATES THAT ALREADY HAD IN PLACE SIMILAR KINDS OF LAWS THAT THE FEDERAL GOVERNMENT NOW IMPOSED.

WELL, NOT SURPRISINGLY, IF YOU WERE ALREADY IN A STATE THAT HAD THESE STATE LAWS, THERE'S ALMOST NO CHANGE AT ALL IN OUTCOME. IT WAS 28.1% BEFORE. NOW, IT'S 28.8%. SO THOSE PEOPLE WHO DON'T TAKE INTO CONSIDERATION THAT IN FACT THE ADA AND ITS MARGINAL IMPACT OF HAVING ACCOMMODATION LAWS WAS NOT SPRUNG ON THE UNITED STATES IN A WORLD WHERE THERE WERE NO PROTECTIONS AT ALL CONFUSED -- (COUGHING IN THE MIC) -- EXCUSE ME. REAL EFFECTS FOR WORKERS WHERE THE STATE LAW WERE NOT AS POWERFUL FROM A NO EFFECT WHERE THE STATE LAWS WERE ALREADY IN PLACE.

ALL RIGHT.

SO WHAT I'VE DONE HERE IS SIMPLY LOOK AT CROSS TABS NOT CONTROLLING FOR INDIVIDUAL CHARACTERISTICS. SO TO GET A LITTLE BIT MORE FANCY NOW AND SEE WHETHER THESE KIND OF QUASI EXPERIMENTAL EFFECTS WERE LOOKING AT A CONTROL GROUP, THINK OF CONTROL GROUPS AS STATES THAT HAD NO PROTECTION VERSUS STATES THAT HAD A LITTLE BIT OF PROTECTION AND SEE WHAT HAPPENS IN EACH OF THOSE STATES WHEN YOU GET MASSIVE PROTECTION.

THAT WOULD BE SORT OF -- IF WE COULD HAVE DONE THAT AS AN EXPERIMENT, THAT'S WHAT WE WOULD HAVE DONE. WE'RE DOING QUASI EXPERIMENTS, SO WE'RE NOW GOING TO CONTROL FOR THE INDIVIDUAL CHARACTERISTICS OF THE PEOPLE AT THE VARIOUS TIMES THAT THIS OCCURRED TO TRY TO SEE WHETHER THAT IMPACTS THE OUTCOME BECAUSE IT COULD BE THAT SYSTEMATICALLY IN THESE STATES THE WORKERS ARE DIFFERENT AND THAT'S WHAT'S EXPLAINING THIS DIFFERENCE AND NOT THE LAWS.

SO WE LOOK AT -- AS I SAID BEFORE -- DISABILITY ONSET OF ACCOMMODATION OF LAWS WHICH IS THE THING I'M GOING TO FOCUS ON. WE ALSO KNOW THE GENDER AND RACE OF THE PERSON WITH THE DISABILITY, WE KNOW THE AGE OF ONSET OF THE DISABILITY, WE KNOW THE EDUCATION OF THE WORKER, WE KNOW THE CAUSE OF THE DISABILITY, WHETHER IT'S AN ACCIDENT AT WORK PARTICULARLY. WE KNOW THE HEALTH CONDITIONS OF THE WORKER AND WE KNOW THE LABOR MARKET CONDITIONS IN THE STATE AT THE TIME OF ONSET.

SO WHEN WE CONTROL FOR ALL OF THOSE EFFECTS, THIS IS THE KEY TABLE THAT SHOWS YOU THE NET EFFECT OF THE FEDERAL ADA LAWS ON DIFFERENT KINDS OF PEOPLE.

SO WHAT YOU SEE IN HERE IS THAT IN THIS REGRESSION, IF YOU WERE IN A NO-PROTECTION STATE, YOUR PREDICTED PROBABILITY OF ACCOMMODATION IS 19.3%. THAT IS, IF YOU EXPERIENCE THE ONSET OF YOUR DISABILITY WHILE EMPLOYED IN A STATE WHERE THERE WERE NO STATE PROTECTION LAWS, ONLY 19% -- YOU ONLY HAD A 19% CHANCE OF BEING ACCOMMODATED.

IF YOU THEN HOLD ALL THESE VARIABLES CONSTANT AND LOOK AT THOSE WHO ARE IN A STATE ANTIDISCRIMINATION LAW, THIS SORT OF OLD FASHION ANTIDISCRIMINATION LAW, THAT PROBABILITY INCREASES BY 5.9 PERCENTAGE POINTS UP TO 25.2% AND THAT IS SIGNIFICANT. THERE IS A SIGNIFICANT DIFFERENCE BETWEEN BEING IN A NO-LAW STATE THAN BEING IN A STATE ANTIDISCRIMINATION STATE. SO THE STATE ANTIDISCRIMINATION LAWS HAD AN IMPACT. THEY WEREN'T AS GOOD AS THE FEDERAL LEGISLATION, BUT THEY WERE BETTER THAN NOTHING AND THAT HAPPENED WAY BEFORE 1992. IF YOU LOOK AT STATE ADA-LIKE LAWS AND COMPARE THEM WITH A NO LAW, SO IF YOU WENT FROM NO LAW TO A STATE ADA-LIKE LAW, THE INCREASE GOES FROM 19.3% TO 27.7%, AN INCREASE OF 8.4 PERCENTAGE POINTS. AND THAT IS HIGHLY SIGNIFICANT TO THE VALUE OF 2.02. SO CLEARLY THE STATE ADA LAWS HAD A MUCH BIGGER EFFECT ON THE NO-LAW PEOPLE THAN ON THE STATE ANTIDISCRIMINATION LAW PEOPLE.

AND, IN FACT, IT ACTUALLY MATTERED, THE STATE ADA-LIKE LAWS HAVE A SIGNIFICANT MORE EFFECT THAN THE STATE ANTIDISCRIMINATION LAWS. SO THIS WAS AN APPROVAL.

THE ADA IS JUST ONE FURTHER STEP IN TERMS OF PROVIDING THESE PROVISIONS TO EVERYONE IN THE COUNTRY. AND IT HAS A HIGHLY SIGNIFICANT EFFECT COMPARED TO A NO-LAW STATE. SO FOR THOSE WHO WERE IN A STATE WITH NO PROTECTION AT ALL, YOU GO FROM 19.3% TO 31% OR AN INCREASE OF 11.7%. A VERY POWERFUL IF THERE WAS NO PROTECTION IN YOUR STATE. BUT REMEMBER THIS WAS -- BY 1991 OR '2, THERE ARE ONLY THREE STATES LIKE THIS. SO THE BOTTOM LINE IS THAT EACH OF THESE LAWS HAD AN IMPACT, BUT THE MARGINAL EFFECT OF THE ADA WAS MUCH SMALLER COMPARED TO WHAT WAS GOING ON IN 1991 BECAUSE THESE OTHER LAWS WERE ALREADY IN PLACE. SO IF YOU COMPARE THE DIFFERENCE BETWEEN -- IF YOU LIVED IN A STATE WITH AN ADA-LIKE LAW AND YOU COMPARED IT WITH THE FEDERAL LAW, THERE'S NO SIGNIFICANT DIFFERENCE BETWEEN THESE TWO. SO IN THAT SENSE, THERE WAS NO EFFECT. WELL, SURE THERE WAS NO EFFECT BECAUSE THE STATE ALREADY HAD THESE LAWS IN PLACE.

SO ONE -- I'M GOING TO HIGHLIGHT ONE FINAL VARIABLE AND THEN I'M GOING TO QUIT AND THAT IS, WELL, WHAT ABOUT OTHER VARIABLES IN HERE THAT CAN MATTER?

WELL, I'M GOING TO HIGHLIGHT ONE, AND THAT IS WHETHER THE ONSET OF A DISABILITY OCCURRED BECAUSE OF AN ACCIDENT ON THE JOB. WHY DO I WANT TO DO THAT?

I WANT TO DO THAT BECAUSE EACH OF THE STATES HAVE IN PLACE A WHOLE SYSTEM OF WORKERS' COMPENSATION LAWS WHICH PROVIDE SOME PROTECTION TO WORKERS AND HAVE A SYSTEM WHICH ENCOURAGES EMPLOYERS TO ACCOMMODATE THEIR WORKERS BECAUSE IF THEY DON'T, THEN THOSE WORKERS ARE ELIGIBLE FOR WORKERS' COMPENSATION BENEFITS AND IF THEY GET THOSE WORKERS' COMPENSATION BENEFITS BECAUSE THE SYSTEMS ARE EXPERIENCED RATED, THE EMPLOYERS HAVE TO PAY FOR HIGHER WORKERS' COMPENSATION INSURANCE. SO WHAT YOU WOULD EXPECT IS THAT IN STATES WHERE -- EXCUSE ME. FOR WORKERS WHO HAVE AN ACCIDENT ON THE JOB, IT'S MUCH MORE LIKELY THAT THEY ARE GOING TO BE ACCOMMODATED THAN FOR WORKERS THE SAME AGE WHO EXPERIENCED A DISABILITY, BUT IT'S NOT RELATED TO AN ACCIDENT ON THE JOB AND THAT'S EXACTLY WHAT WE FIND; THAT THE PREDICTED PROBABILITY OF ACCOMMODATION FOR ALL EVENTS EXCEPT AN ACCIDENT ON THE JOB IS 25.7. BUT IF YOU EXPERIENCED YOUR DISABILITY BECAUSE OF AN ACCIDENT ON THE JOB, THAT INCREASES YOUR PROBABILITY BY 5.7%, SO YOU'RE UP TO 31.4% AND THAT'S HIGHLY SIGNIFICANT.

SO WHAT'S THE BOTTOM LINE?

THE BOTTOM LINE IS THAT LAWS DO MATTER; THAT PASSAGE OF THE WORKERS COMPENSATION LAWS INCREASED ACCOMMODATION FOR WORKERS. THAT'S NOT SURPRISING, BUT IT'S NICE TO SEE THAT YOU CAN SEE THIS EFFECT HERE. IT'S

NOT SURPRISING THAT ANTIDISCRIMINATION LAWS INCREASED THE PROTECTION OF PEOPLE WITH DISABILITIES WHO EXPERIENCED THE ONSET OF THE DISABILITY WHILE ON THE JOB OR THAT THEIR DISABILITY BEGINS TO AFFECT THEIR ABILITY TO WORK ON THE JOB.

BUT IT'S NOT A PANACEA. YES, THERE WERE EFFECTS, BUT THE EFFECTS WERE RELATIVELY SMALL IF YOU WERE HOPING FOR A TRIPLING OF ACCOMMODATIONS WHERE ALL WORKERS WOULD SUDDENLY BECOME ACCOMMODATED. BUT IT WAS SIGNIFICANT. IT DID MATTER. SO WHAT DID THIS SAY IN TERMS OF THE BROADER -- AND ONE FINAL POINT.

WE NOW KNOW A LITTLE BIT MORE ABOUT WHAT KIND OF ACCOMMODATIONS ACTUALLY IN THE REAL WORLD GRANTED TO WORKERS AND WHICH ONES DID THE ADA EFFECT.

MY RESEARCH SUGGESTS THE GREAT MAJORITY OF THE INCREASE IN ACCOMMODATION WAS NOT IN BRICKS AND MORTAR KINDS OF THINGS, BUT RATHER IT WAS TWEAKING THE JOB TO MAKE IT MORE FLEXIBLE, TO ALLOW WORKERS TO HAVE MORE BREAKS, TO ALLOW TO COME IN EARLIER OR LEAVE LATER OR CHANGE THEIR HOURS. THAT'S WHY THIS WHOLE EFFORT BY PEOPLE TO SAY, LOOK, IT'S CRAZY FOR EMPLOYERS NOT TO ACCOMMODATE EVERYBODY BECAUSE IT JUST COSTS PENNIES FOR ALL THESE PHYSICAL ACCOMMODATIONS THAT WE HAVE MISSES THE POINT.

WE DON'T KNOW, AND THIS IS A PROBLEM, WE DON'T KNOW THIS. WE DON'T KNOW HOW DIFFICULT IT IS FOR EMPLOYERS TO, IN FACT, BE FLEXIBLE WITH PEOPLE WITH DISABILITIES AND HOW MUCH IT IMPACTS THEIR WORKPLACE. IT COULD BE THAT FOR THESE WORKERS WHO ARE NOT PROVIDING THESE ACCOMMODATIONS, THESE KINDS OF FLEXIBLE ACTIVITIES ARE TOO COSTLY AND THEY'D RATHER NOT DO IT.

AND WHETHER THAT'S RIGHT OR WRONG, I DON'T KNOW. BUT IT'S ONE POSSIBILITY FOR WHY THERE'S NOT GREATER ACCOMMODATION OF WORKERS ON THE JOB.

NOW, FINALLY, HOW DOES THIS PLAY OUT IN TERMS OF THE BIGGER QUESTION OF WHAT HAPPENED WITH REGARD TO THE EMPLOYMENT OF PEOPLE WITH DISABILITIES OVERALL AFTER 1992?

WELL, THE GOOD NEWS, I THINK, IS IT DOES SHOW THAT THE ADA DID HAVE A SIGNIFICANT EFFECT ON ACCOMMODATION.

SO THAT'S GOOD NEWS, AND THAT SHOULD MEAN THAT MORE WORKERS WHO EXPERIENCE THE ONSET OF A JOB WHILE THEY WERE EMPLOYED WORKED LONGER, BUT IT DOESN'T ANSWER THE QUESTION WHICH IS THE DIFFICULT ONE

TO KNOW; THAT IS, DO EMPLOYERS NOW RECOGNIZING THAT THEY ARE GOING TO HAVE TO BE MORE FLEXIBLE, THEY ARE GOING TO HAVE TO CHANGE THEIR WORK ENVIRONMENT FOR FOLKS WITH DISABILITIES WHO ARE NOT CURRENTLY EMPLOYED WITH THEM, WILL THAT LEAD THEM TO BE LESS LIKELY TO HIRE THOSE WORKERS?

THAT'S THE MORE DIFFICULT QUESTION. IT'S THE ONE THAT WE'RE TRYING TO LOOK TO AND THERE HAS BEEN SOME EVIDENCE, AS I SAID, THAT THAT EFFECT HAS BEEN MORE POWERFUL THAN THE POSITIVE EFFECT THAT I HAVE SEEN. MY VIEW ON THIS IS I WOULD BE SHOCKED WHEN WE FINALLY LOOKED AT ALL OF THE EVIDENCE THAT THE ADA HAD HAS A NEGATIVE EFFECT ON EMPLOYMENT. I JUST CAN'T BELIEVE THAT THIS LAW WHICH MATTERED BUT MATTERED IN TERMS OF THE GREAT EXPANSIVE THINGS ONLY IN RELATIVELY SMALL EFFECTS INCREASES A 3 OR 4% OF ACCOMMODATION HAD THIS SERIOUS NEGATIVE EFFECT. MY GUESS IS THERE IS A DIFFERENT EXPLANATION TO DECLINE IN PEOPLE WITH DISABILITIES, WHICH I WOULD BE HAPPY TO TALK TO YOU LATER, BUT MY TIME IS OVER.

SUSANNE BRUYERE:

THANK YOU. RICHARD, DO YOU WANT TO TAKE ONE OR TWO QUESTIONS BEFORE WE MOVE TO OUR OTHER DISCUSSANTS? ANY IMMEDIATE QUESTIONS SO YOU WON'T LOSE YOUR THOUGHTS?

FEMALE AUDIENCE:

YES, I WOULD BE INTERESTED IN KNOWING IF THERE WAS AN INCREASE IN PERSONS WITH DISABILITIES WHO ACTUALLY ASKED FOR ACCOMMODATIONS OR WHETHER THEY STILL HAD A FEAR OF THIS IS GOING TO CAUSE A PROBLEM, I BETTER JUST KEEP QUIET?

RICHARD BURKHAUSER:

WE CAN KNOW THAT, BUT I HAVE TO SAY TODAY I DON'T KNOW THE ANSWER TO THAT. BUT BECAUSE WE HAVE THE QUESTION, DID YOU ASK, WE CAN KNOW IT. IT MUST BE TRUE THAT MORE PEOPLE ASKED, BUT WHETHER THE PERCENTAGE OF PEOPLE ASKED INCREASED OR DECREASED, I DON'T KNOW. BUT THERE WAS CERTAINLY MORE ASKING. BUT I DON'T HAVE A NUMBER. I SHOULD KNOW, BUT DON'T.

SUSANNE BRUYERE:

AND ANOTHER QUESTION, YES?

MALE AUDIENCE:

IN THE SAMPLE, ANY OF THESE PEOPLE RECEIVING DISABILITY BENEFITS?

RICHARD BURKHAUSER:

NOT AT THE TIME OF ONSET. NOW, WHAT WE ACTUALLY WERE ABLE TO DO IS -- AND IN SOME OF THE WORK THAT I HAVE DONE EARLIER, WE'RE ACTUALLY ABLE TO FOLLOW THESE FOLKS FROM THE POINT OF ONSET UNTIL THE END OF THE HRS, WHICH IF THEY EXPERIENCED THEIR ONSET 10, 15 YEARS EARLIER, WE HAVE LOTS OF DATA ON.

AND WHAT WE SEE, AND THIS IS SORT OF AN INTERESTING POINT, IS THAT THE MEDIAN NUMBER OF YEARS BEFORE A WORKER APPLIES FOR DI IS ABOUT 7 YEARS. SO WHILE IT'S TRUE THAT THE HIGHEST RISK OF ASKING IS IMMEDIATELY AFTER ONSETS. YOU KNOW, SO YOU'LL SEE A BIG SPIKE RIGHT AFTER ONSET. THEN THERE IS A DECLINE IN EACH YEAR -- AFTER THAT, THERE IS A DECLINE AND THEN IT SLOWLY RISES AGAIN. SO WHAT SEEMS TO BE HAPPENING AGAIN IS THERE ARE CERTAIN ONSETS OF DISABILITIES WHICH ARE SO DEVASTATING THAT THEY GO RIGHT INTO THE DI SYSTEM AFTER OR, YOU KNOW, THE USUAL WAIT. BUT FOR OTHER WORKERS THERE IS A REAL PERIOD WHERE OTHER POLICIES CAN HAVE A VERY IMPORTANT IMPACT. AND IT'S THESE FOLKS WHERE ACCOMMODATIONS CAN REALLY MATTER AND THE KINDS OF INCENTIVES THAT THEY FACE CAN REALLY MATTER.

SO IN ONE OF THE RESULTS THAT WE FIND, AGAIN, USING STATE DATA IS IF YOU'RE IN A STATE WHERE THE STATE DI SYSTEMS HAVE HIGH ACCEPTANCE RATES AND WE KNOW THAT EVEN THOUGH THE RULES ARE SUPPOSED TO BE EXACTLY THE SAME ACROSS STATES, IF YOU LOOK, DIFFERENT STATES HAVE DIFFERENT ACCEPTANCE RATES WHICH CAN'T BE EXPLAINED BY DIFFERENCES AND THE CHARACTERISTICS OF THE PEOPLE APPLYING. THEY HAVE TO BE RELATED TO OTHER MATTERS. IF YOU WERE IN A STATE THAT HAD A VERY HIGH ACCEPTANCE RATE, YOU'RE MORE LIKELY TO APPLY FOR IT RIGHT AFTER ACCOMMODATION THAN IF YOU'RE NOT.

SO WHAT YOU'RE SEEING HERE, I THINK, IS THAT FOLKS WITH DISABILITIES ARE NOT MUCH DIFFERENT THAN FOLKS WITHOUT DISABILITIES IN THE WAY THEY THINK ABOUT MAKING DECISIONS. THEY LOOK AT THE DIFFERENT ALTERNATIVES THEY HAVE AND THEY MAKE THE BEST DECISION FOR THEM.

NOW, THE PROBLEM THAT I HAVE IS SOMETIMES PUBLIC POLICY SETS THEM UP TO MAKE THE BEST DECISION FOR THEM, AT LEAST IN THE SHORT RUN, WHICH MAKES NO SENSE FOR SOCIETY AS A WHOLE.

SO WHY WE SHOULD BE ENCOURAGING PEOPLE WHO, IN FACT, CAN WORK AFTER THE ONSET OF DISABILITY TO APPLY FOR DI, I DON'T KNOW. AND I WOULD LIKE TO -- ANDY AND I HAVE BEEN TRYING TO MAKE CHANGES IN THAT SYSTEM OVER THE LAST SEVERAL YEARS.

SUSANNE BRUYERE:

OKAY. WE'LL TAKE THESE -- TAKE A FEW MORE QUESTIONS. ALL RIGHT. YES, MA'AM?

FEMALE AUDIENCE:

YES. DID YOU TAKE INTO CONSIDERATION BECAUSE I DIDN'T HEAR IF YOU DID OR NOT, THE TYPE OF DISABILITY, PHYSICAL, MENTAL, COGNITIVE, HEAR, VISUAL AND ESPECIALLY WHEN YOU LOOKED AT THE DATA OF THE TYPE OF ACCOMMODATIONS, THE FLEX HOURS, MAKING ACCOMMODATIONS WITH THE TIME THAT PEOPLE CAN COME IN AND MORE REST BREAKS. WHAT TYPES OF DISABILITY GROUPS WERE MORE LIKELY TO HAVE THOSE TYPE OF ACCOMMODATIONS?

RICHARD BURKHAUSER:

YES. WHAT WE HAVE IN THE HEALTH AND RETIREMENT SURVEY IS A SET OF CONDITION VARIABLES THAT ARE NOT COMPLETE. AND WHILE WE CONTROL FOR THOSE, WE HAVEN'T REALLY DONE A BREAKDOWN TO SEE WHETHER YOU CAN FIND DIFFERENCES IN ACCOMMODATION FOR DIFFERENT CONDITIONS. I THINK THAT -- WE DID HAVE A VARIABLE FOR SEVERITY AND I THINK THE MORE SEVERE OF THE CONDITION, THE LESS LIKELY YOU WOULD BE ACCOMMODATED BUT I DON'T HAVE AS FINE OF DATA TO ANSWER THESE QUESTIONS. BUT THESE ARE THE THINGS THAT I CERTAINLY LOOK AT. I SHOULD SAY THIS PAPER HAS NOT QUITE BEEN WRITTEN. WE ARE VERY CLOSE, BUT DIDN'T QUITE HIT SUSANNE'S DEADLINE FOR GETTING THIS PAPER. BUT MY HOPE IS THAT BY THE END OF THE MONTH WE WILL HAVE THE PAPER. YES?

FEMALE AUDIENCE:

MY MAIN OBSERVATION IS DURING THE POINT IN TIME THAT EMPLOYERS SEEM TO

BECOME FLEXIBLE WITH NONDISABLED EMPLOYEES ALSO, WE SAW ALTERNATIVE WORK SCHEDULES START TO EMERGE AND STARTING TO ADDRESS OTHER SOCIAL ISSUES LIKE COMMUTING, ET CETERA, DO YOU HAVE ANY THOUGHTS ON HOW THAT MIGHT BE COMPARED TO WORKERS WITHOUT DISABILITIES?

RICHARD BURKHAUSER:

I DON'T AND I THINK THAT'S AN INTERESTING OBSERVATION. THAT IT'S POSSIBLE THAT EMPLOYERS -- THAT WOULD BE AN ARGUMENT THAT THE ADA HAD LESS OF AN EFFECT YOU'RE SAYING BECAUSE IT WOULD HAVE HAPPENED ANY WAY. I THINK THE ISSUE IS WHETHER YOU THINK THE DISCREET EVENT OF 1992 OR NOT MATTERS, YOU WOULD BE SPECULATING. IT WOULD BE INTERESTING TO KNOW BY YEAR WHETHER THIS FLEXIBILITY OF EMPLOYERS PROVIDE THESE KINDS OF ALTERNATIVE HOURS WAS INCREASING AND WHETHER IT INCREASED IN A GRADUAL WAY OR WHETHER THERE WAS SOME SIGNIFICANT CHANGE. IF IT WAS INCREASING IN THE GRADUAL WAY, THEN I WOULD SAY THAT IF YOU CAN SEE DISCREET EFFECTS OF THE ADA, THEN THAT'S PERHAPS A NET EFFECT OF THE ADA, BUT IT'S POSSIBLE THAT THIS IS SOMETHING -- WE CAN'T CONTROL FOR THAT, SO WE DON'T KNOW.

SUSANNE BRUYERE:

OKAY. ONE MORE QUESTION AND THEN WE'RE GOING TO LET YOU GRAB SOME COFFEE WHILE WE MIC OR NEW DISCUSSANT. GO AHEAD.

>> FEMALE AUDIENCE: THAT WAS PRETTY MUCH MY QUESTION ACTUALLY, WAS BECAUSE THERE IS SUCH A HUGE MOVE TO FLEX TIME AND FLEXIBLE WORKPLACES, BUT IT ALMOST I THINK SUPPORTS THE ARGUMENT THAT THE ADA HAS HAD A TREMENDOUS EFFECT, THAT EMPLOYERS HAVE BEEN ABLE TO SEE THAT PARTICULAR ACCOMMODATIONS RESULT IN THE SAME PRODUCTIVITY, OR INCREASED. THEY DON'T HAVE TO LOSE THE WORKER AND I THINK IT'S HELPING EMPLOYERS TO RETHINK AT ALTERNATE WORK SCHEDULES AND BEING ABLE TO TAKE EXTRA BREAKS AND LO AND BEHOLD, THE BOTTOM LINE DIDN'T SUFFER. AND THAT'S MY QUESTION, DO YOU THINK PARTICULARLY WITH THE 20-SOMETHINGS AND THE MILLENNIUMS, WE SHOULD BE PUSHING THAT, WORK-LIFE BALANCE. DO YOU SEE THAT AS HAVING A POSITIVE EFFECT ON IMPLEMENTATION OF THE ADA OR MORE EMPLOYERS PROVIDING ACCOMMODATIONS WITHOUT CALLING THEM REASONABLE ACCOMMODATIONS AS A LEGAL -- A BIG LEGAL ISSUE. IT JUST BECOMES INCORPORATED INTO THEIR SORT OF EVERY DAY WORK-LIFE BALANCE POLICIES AND ARE YOU ALL LOOKING AT THAT, THINKING ABOUT THAT?

RICHARD BURKHAUSER:

LET ME JUST MAKE A SMALL POINT FIRST. ONE OF THE DIFFERENCES BETWEEN THIS DATA SET AND OTHER DATA SETS IS THAT A NUMBER OF STUDIES OF ACCOMMODATION ARE SURVEYS OF EMPLOYERS. THIS IS A SURVEY OF WORKERS, SO IT'S THE WORKER WHO'S SAYING WHETHER OR NOT THE EMPLOYER ACCOMMODATED THEM OR NOT. IT'S NOT THE EMPLOYER SAYING WHETHER THEY ACCOMMODATED THE WORKER, SO THAT'S AN IMPORTANT POINT. AND THE DIFFERENCE BETWEEN THIS KIND OF STUDY AND STUDIES THAT SURVEY EMPLOYERS.

NOW, THE QUESTION IS IN AN ENVIRONMENT WHERE MORE EMPLOYERS ARE WILLING TO MAKE THEIR WORKPLACE MORE FLEXIBLE, WILL THAT LEAD TO MORE EMPLOYMENT FOR PEOPLE WITH DISABILITIES?

MY ANSWER IS YES, I THINK SO. BECAUSE ONE OF THE CONSTRAINTS FOR FOLKS WITH DISABILITIES IS AN ENERGY CONSTRAINT. AND WHILE THEY ARE CERTAINLY ABLE TO DO WORK WHILE THEIR ENERGY LEVEL IS HIGH, ONE OF THE LIMITATIONS IS THAT THEY DON'T HAVE THAT AMOUNT -- THEY DON'T HAVE AS MUCH ENERGY ON AVERAGE AS THOSE WHO DON'T HAVE DISABILITIES.

SO THEY ARE PARTICULARLY INTERESTED, SOME PORTION OF THEM ARE PARTICULARLY INTERESTED IN MORE FLEXIBILITY SO THEY DON'T HAVE TO WORK FULL-TIME BASICALLY. SO A WORKPLACE THAT IS MORE ACCOMMODATING TO FLEXIBLE HOURS I THINK WILL LEAD TO MORE EMPLOYMENT BY OLDER PEOPLE, MORE EMPLOYMENT BY PEOPLE WITH DISABILITIES AND MORE EMPLOYMENT BY WOMEN WHO DON'T -- TRADITIONAL WOMEN WHO WANT TO STAY HOME AND TAKE CARE OF THE KIDS FOR PART OF THEIR TIME. IT INCREASES THE DIVERSITY OF THE KINDS OF WORKERS WHO WILL FIT INTO THE WORKPLACE.

BUT THAT'S A MORE GENERAL STATEMENT. I ALSO LOOKED AT OLDER FOLKS AND THE DRAMATIC INCREASE IN FOLKS LIKE ME, BABY BOOMERS WHO ARE SHOWING OUR AGE IS THAT AS THE WORK FORCE AGES, THE MARKETPLACE WILL ADJUST. THE ISSUE WITH THESE QUESTIONS IS IF YOU THINK THAT'S WHAT'S HAPPENING, THEN WHY DO WE HAVE TO HAVE ADA LAWS AT ALL? WHY NOT JUST LET THE MARKETPLACE TAKE CARE OF STUFF? THAT'S WHY I'M HESITANT TO SAY ONE WAY OR THE OTHER ABOUT WHAT'S DRIVING THIS. ALL I'LL TELL YOU IS THE GOOD NEWS IS THIS IS THE FIRST STUDY THAT I'VE SEEN THAT ACTUALLY DEMONSTRATES THAT THESE KINDS OF LABOR PROTECTIVE LAWS DO IN FACT INCREASE ACCOMMODATION. AND TO ME, THAT'S GOOD NEWS.

SUSANNE BRUYERE:

I'M GOING TO USE YOUR MIC SO THAT FOLKS AT A DISTANCE CAN HEAR ME.

THANK YOU. THANK YOU VERY, VERY MUCH, RICH AND I THINK YOU PROBABLY HAVE STIMULATED NOT ONLY MORE QUESTIONS THAT WE'LL HAVE TO PAUSE TO WAIT FOR A GOOD DISCUSSION FROM OUR OTHER TWO COLLEAGUES. I THINK YOU'LL HEAR FROM JOHN KEMP AND MIKE COLLINS SOME ADDITIONAL COMMENTS TO SOME OF THE QUESTIONS THAT YOU HAVE RAISED. I'M GOING TO TAKE A MOMENT TO HELP GET JOHN MICKED UP BUT WE DO HAVE COFFEE AND COLD DRINKS IN THE BACK. IF YOU WOULD LIKE TO JUST GET UP AND GET YOURSELF SOMETHING. WE'RE NOT TAKING A FORMAL BREAK, BUT I WANTED TO LET YOU KNOW IT'S BACK THERE. IT'S NOT ALL SET OUT BECAUSE IT WAS TOO NOISY AS I STARTED TO DO IT. SO THERE IS A BAG ON THE FLOOR WITH COLD DRINKS AND THERE IS ICE ON THE TABLE AND THERE IS COFFEE.

MICHAEL COLLINS:

SUSANNE, CAN WE HAVE FIVE MINUTES JUST TO MAKE IT OFFICIAL?

SUSANNE BRUYERE:

SURE. THAT'S A GOOD IDEA, MIKE. I'M GOING TO ASK THAT YOU PLEASE MAKE SURE THAT YOU SIGN IN BEFORE YOU LEAVE AND ALSO CALL YOUR ATTENTION TO THE FACT THAT THERE ARE PUBLICATIONS UP HERE AS WELL AND MAKE SURE YOU TAKE SOME BEFORE YOU LEAVE.

OKAY. I THINK WE ARE READY TO BEGIN. WELCOME BACK, THOSE OF YOU WHO ARE AT A DISTANCE AND I'M GOING TO TURN THIS OVER TO JOHN KEMP. HOW ARE YOU?

JOHN KEMP:

DOING WELL.

GOOD MORNING, EVERYONE. I'M JOHN KEMP AND I'M PRIVILEGED TO BE HERE. I'M REPRESENTING THE UNITED STATES BUSINESS LEADERSHIP NETWORK, WHICH IS A RELATIVELY YOUNG ORGANIZATION, ABOUT NINE YEARS OLD. GREW OUT OF THE DEPARTMENT OF LABOR. I'M THEIR FIRST CEO. I'M A PAID ON A PAID-STAFF BASIS THEY HAVE BEEN WORKING AS A GROUP OF EMPLOYERS AND ONE IS DISABILITY EMPLOYMENT AND THE SECOND IS CUSTOMER SERVICE AND A THIRD IS A NEW AND EMERGING AREA WHICH IS VENDORING AND DIVERSITY SUPPLIER INITIATIVES FOR COMPANIES THAT ARE OWNED BY PEOPLE WITH DISABILITIES. THE VLN HAS 43 CHAPTERS AND 5,000 COMPANIES ASSOCIATED WITH US AND WE HAVE SPENT ABOUT THE LAST SIX MONTHS OR SO GETTING OUR HOUSE IN ORDER, REVISING BY-LAWS AND DOING ALL THOSE WONDERFUL THINGS THAT

ORGANIZATIONS HAVE TO DO. AND A BIG DEAL IN OUR YEAR IS OUR ANNUAL CONFERENCE IN THE FALL. WE DO IT WITH AAPD AND A GUEST AS DISABILITY MENTORING DAY AND THIS YEAR IT WILL BE IN PORTLAND, OREGON IN EARLY OCTOBER AND WE ARE HAVING A SUPER TRACK WITH JAN. SO EMPLOYERS WHO ARE INTERESTED IN THE ACCOMMODATION QUESTION WILL SEE A WHOLE SERIES, A SUPER TRACK OF COURSES THAT ARE GOOD PARTNERS THAT JAN WILL BE PROVIDING.

SO WE'RE VERY PLEASED TO HAVE THAT RELATIONSHIP AND WE'RE PLEASED TO HAVE THAT RELATIONSHIP WITH JAN, JOB ACCOMMODATION NETWORK. THIS IS MORE RESEARCH AND IT ASKS MORE QUESTIONS THAN IT ANSWERS PROBABLY AND AS ALL GOOD RESEARCH, WE HAVE BEEN LOOKING AT IT NOW FOR A WEEK OR TWO AND WE APPRECIATE THE WORK, RICH, VERY MUCH, AND SUSANNE AND IT PROVOKES A LOT OF THE QUESTIONS THAT HAVE ALREADY BEEN RAISED I THINK IN THIS VERY SMART GROUP. WHEN I HEAR THE QUESTIONS YOU'RE ASKING, I THINK MIKE AND I ARE REPRESENTING WELL, THAT'S WHAT I WAS GOING TO SAY AND THIS'S WHAT I WAS GOING TO SAY. BUT I THINK WE WANT TO DIG IN A LITTLE BIT DEEPER AND SEE IF THE RESEARCH THAT HAS ALREADY BEEN DONE CAN ANSWER SOME OF THE QUESTIONS THAT WE THOUGHT WERE PROVOKING.

IN AN EARLY SLIDE, IT SAID 33% OF THE RESPONDENTS WERE OFFERED REASONABLE ACCOMMODATION, WHICH I THINK PROVOKE SOME QUESTIONS AMONG US ALL WHICH WAS EVEN THOUGH THEY WERE ASKED OF THE INDIVIDUALS WHO ARE WORKING, TH ISSUE TWAS REALLY DID ANYBODY WITH A DISABILITY INITIATIVE THE REQUEST FOR ACCOMMODATION; HOW MUCH TRAINING AND AWARENESS DID THEY HAVE ABOUT THEIR RIGHTS TO EXPECT ON ACCOMMODATION?

AND WHEN I LOOK AT THE RESPONDING GROUP OF 51 TO 60-YEAR-OLDS AND I'M RIGHT ON THAT HIGH END OF THAT NOW, OF THAT AGE SPAN, I WOULD SAY THAT MY PEERS AT THAT AGE PROBABLY AREN'T ACCUSTOMED TO DEMANDING AND ASKING FOR ANYTHING THAT PUTS THEM OUTSIDE OF THE NORM OF THEIR JOB, ESPECIALLY AT THAT AGE IN THEIR LIVES.

SO I WOULD -- MY GUESS IS THAT HOW AWARE OF THEIR RIGHTS AND HOW ASSERTIVE THEY ARE OF OUR RIGHTS HAS A BIG FACTOR IN THE KINDS OF RESPONSES THAT WERE GIVEN.

SUSANNE BRUYERE:

JOHN, I NEED TO REDIAL OUR EXTERNAL FOLKS. I DON'T WANT TO INTERRUPT YOU, IF YOU CAN HOLD JUST A SECOND, WE HAVE LOST OUR CONNECTION. MY APOLOGIES.

JOHN KEMP:

SO THE ISSUE IS -- THE FIRST PART OF MY COMMENTS ARE REALLY BUILT AROUND ARE THESE INDIVIDUALS WHO ARE 51 TO 60 YEARS OLD NEWLY DISABLED; DO THEY HAVE THE AWARENESS OF THEIR CIVIL RIGHTS; DO THEY ASK FOR THEM AND HOW DO THEY RECEIVE THESE?

THE SECOND COMMENT I WANT TO MAKE IS ONE THAT WAS RAISED BY AN AUDIENCE MEMBER, VERY WISELY WHICH SAYS THIS SEEMS TO DO INSIDE WITH THE EXPANSION OF OUR VIEW OF HR GENERALLY. THAT WE HAVE A CHANGING WORK FORCE AND FOR COMPANIES TO BE RESPONSIBLE AND LOOKING FOR THE TALENT THAT'S OUT THERE. COMPANIES HAVE A MAJOR CHALLENGE IN TRYING TO IDENTIFY CREATIVE WAYS IN WHICH WE CAN HARNESS THE POWER AND THE PRIVILEGE OF PEOPLE WORKING FOR THEM AND BE RESPONSIVE TO THEIR NEEDS. CERTAINLY SHARED JOBS AND PART-TIME WORK AND FLEX SCHEDULES SEEM TO DO PRETTY WELL, AND DID ONE DRIVE THE OTHER?

DID THE ADA OPEN THE DOOR OR THE WINDOW TO THIS KIND OF THINKING, WHICH I WOULD SAY IT DID? OR WAS IT A MARKETPLACE RESPONSE TO THE GREAT NUMBERS OF PEOPLE WHO WHERE COUPLES, BOTH OF THEM ARE WORKING NOW AND SOMEBODY NEEDS TO TAKE CARE OF THE KIDS PART-TIME AND SOMEBODY NEEDS TO DO THIS AND THAT?

THAT WOULD BE A QUESTION FOR THE FUTURE I WOULD IMAGINE THAT SHOULD BE ANSWERED. BUT WE CERTAINLY HAVE GOT MUCH WISER ABOUT HOW WE GO ABOUT LOOKING FOR TALENT. THE U.S. VLN IS HAVING COGNITIVEN'T FACT THAT BY 2010 THERE WILL BE A WORKERS SHORTFALL FOR AVAILABLE WORKERS FOR JOBS. WE TEND TO SAY, GOSH, HERE WE SIT, PEOPLE WITH DISABILITIES, ABLE TO WORK FOR COMPANIES, BUT WE DON'T SEE THIS BIG SPIKE IN EMPLOYMENT, IN FACT. WHAT WE KEEP SEEING IS A GRADUAL DECLINE IN THE EMPLOYMENT RATE. SO I CAN'T SAY THAT THE MARKETPLACE IS ACTUALLY RESPONDING TO THIS AND I DON'T KNOW IF THE ADA IS A BARRIER OR NOT. I HAVE A HARD TIME BELIEVING IT. WHAT WE WOULD LIKE TO SAY THAT THE U.S. VLN AND OTHERS ARE REALLY NOW AND HOPEFULLY ALL EMPLOYERS ARE NOW TAKING CONCEPTS OF REASONABLE ACCOMMODATION AND APPLYING THEM ACROSS THE WORKPLACE. THE SAME KINDS OF MINIMAL -- DE MINIMUS RESPONSIBILITY IN CHANGING THE DUTIES OF A JOB, OF REASINING TASKS, OF STARTING AND STOPPING AT DIFFERENT HOURS OF SHARED JOBS, ALL THOSE KINDS OF THINGS, WE SEE BEING APPLIED HOPEFULLY MORE AND MORE ACROSS ALL WORKERS. AND IN A NUMBER OF LEADING COMPANIES AND SOME OF THEM ARE IN OUR ORGANIZATION IN THE LEADER SHIP POSITIONS, THIS HAS BECOME A STANDARD PRACTICE IN THE HR AREA AND THAT THEY ARE LOOKING AT APPLYING ACCOMMODATIONS TO ALL OF THEIR WORKERS FOR WHATEVER REASON THEIR EMPLOYEES ARE COMING IN AND ASKING FOR THESE THINGS.

ACCOMMODATIONS ALSO APPLY TO APPLICANTS AND THIS DOESN'T EXPLORE THAT AND I UNDERSTAND THAT YOU HAVE TO FIND YOUR UNIVERSAL PEOPLE THAT YOU HAVE TO COUNT ON BEING THERE. AND LET US NOT FORGET THE WHOLE CONCEPT OF GETTING INTO THE WORKPLACE, ESPECIALLY FOR INJURED WORKERS IS REALLY ONE OF BEING AN APPLICANT AND TRYING THE FIND JOBS AND KNOWING THAT THEY SHOULD BE ABLE TO ASK FOR ACCOMMODATIONS IN THE APPLICATION PROCESS AS WELL.

I HOPE WE'RE MOVING FROM THE LEGAL CONSTRAINTS THAT WAS RAISED EARLIER TO JUST GOOD BEST PRACTICES OR BEST PRACTICES IN HR AND I HOPE WE'RE GOING TO GET TO THAT SOMEDAY. I THINK WE SEE TOO MUCH BEHAVIOR BEING MODELED BY SOME COMPANIES THAT ARE THINKING THAT THE ADA GAVE THEM A PERFECT OPPORTUNITY TO DRAW A LINE. AND I LOOK AT TARGET CASE AND THEIR WEBSITE AS SORT OF POSTURING COMPANIES AND I'M KIND OF AMAZING THAT TARGET WOULD TAKE ON THIS CASE ABOUT THEIR WEBSITE. BUT WE ALSO LOOK AT BARNETT AND WE LOOK AT WILLIAMS VERSUS TOYOTA. AND THESE OTHER CASES THAT REALLY TALK ABOUT ACCOMMODATIONS, THERE ARE MANY COMPANIES WHO ARE MORE THAN READY TO FIGHT THIS ISSUE AND THEY ARE GLAD TO DO IT BECAUSE OF TH ISSUE OF POTENTIAL COSTS. AND SO WHEN WE START TO THINKING ABOUT HOW WE'RE APPLYING COSTS AND MAKING ACCOMMODATIONS ACROSS THE ENTIRE WORKPLACE FOR ALL WORKERS AND HOPEFULLY GETTING BETTER TALENT AND MORE PRODUCTIVE TALENT, THESE THINGS SHOULD WEIGH OUT IN FAVOR OF A MORE INCLUSIVE, BROADER WAY OF LOOKING AT EMPLOYING PEOPLE WITH DISABILITIES. TO THE POINT, RICH, ABOUT COST, IT REALLY DOES NEED TO BE LOOKED AT AND I KNOW YOU COULDN'T DO IT AND I KNOW VLN AND OTHER ORGANIZATIONS WOULD BE HAPPY TO WORK WITH YOU ON THIS. THERE ARE MANY FACTORS TO THIS ISSUE. BUT I THINK THERE IS A COST BENEFIT THAT COMES BACK GREATER TO COMPANIES WHO REALLY PRACTICE IT AND WE NEED TO FIND END SEES OF THESE KINDS OF THINGS, WHETHER IT'S SHARED JOBS OR PART-TIME WORK OR WHAT ARE THE BENEFITS. THERE ARE, TO ME, A LOT OF IMPORTANT ISSUES HIDDEN IN THIS ISSUE OF COST BECAUSE THAT'S THE ONE THAT COMPANIES NOW ARE SAYING IT COST TOO MUCH MONEY TO ACCOMMODATE PEOPLE WITH DISABILITIES. AND ESPECIALLY MAKING UNREASONABLE ACCOMMODATION AND THEY ARE DRAWING THE LINE PRETTY TIGHTLY. THE FACT IS THEY ARE ACCOMMODATING EVERYBODY EVERY DAY IN THE WORKPLACE IN SOME WAY WHEN THEY SAY I'LL BE IN A HALF HOUR LATE BECAUSE MY CHILD IS SICK AND I'M DROPPING THEM OFF AT THE DAY CARE. IT'S AN ACCOMMODATION. SO WE NEED TO HIT TH ISSUE OF COST, GET SOME MEASUREMENTS OUT THERE AND REALLY MAKE A CASE THAT EMPLOYERS ARE MAKING THESE DECISIONS ANYWAY. WHEN WE SAY IT'S A PERSON WITH A DISABILITY, WE PUT UP THE FIREWALLS OF LEGAL ISSUES AND THEY ACT IN A DEFENSIVE MANNER.

IN POLICY IMPLICATIONS FROM YOUR RESEARCH, I DRAW MANY AND YOU OFTENED QUITE A FEW AND I THINK THEY WERE VERY HELPFUL TO US. I WOULD

LOVE TO HEAR ANDY IMPARATO'S THOUGHTS WHO IS IN THE AUDIENCE HERE AND TO HEAR HIS THOUGHTS ABOUT, YOU KNOW, THE SPIKE IN CLAIMS AFTER SOMEONE IS INJURED AND HOW CAN PUBLIC POLICY SORT OF INCENTIVIZE COMPANIES TO WORK MORE CLOSELY WITH AN INJURED WORKER TO KEEP THAT PERSON ON THE JOB IN SOME FASHION, REWARDING THEM IN SOME WAY WITH REDUCED FICA TAXES AS A COLLEAGUE OF MINE WOULD SAY, BUT ARE THERE INCENTIVES TO CREATE THIS PUSH BY COMPANIES AS WE AS A SOCIETY RUN OUT OF WORKERS TO DO THE JOBS AND WE WANT TO KEEP THESE JOBS IN THE U.S.? I WOULD LIKE TO THINK ABOUT THE ADA RESTORATION ACT IN MITIGATING MEASURES AND HOPEFULLY ANDY WOULD BE ABLE TO TALK ABOUT THAT AND I KNOW THAT THE U.S. VLN WOULD BE MORE THAN PLEASED TO WORK WITH CORNELL ON LOOKING AT SOME OF THESE QUESTIONS IN FUTURE STUDIES. BUT AS YOU EXPECTED AND PROBABLY EXPECTED, THESE ASK MORE QUESTIONS THAN THEY PROBABLY ANSWER AND HOPEFULLY WE'RE GOING TO KEEP REFINING THE QUESTIONS TO GET SOME MEANINGFUL ANSWERS AS WELL. THANK YOU.

SUSANNE BRUYERE:

THANK YOU, JOHN.

ANY IMMEDIATE QUESTIONS OR COMMENTS OF JOHN?

YES, MARCY AND I'LL REPEAT YOUR QUESTION.

FEMALE AUDIENCE:

GOOD. AFTER BEING INVOLVED IN EMPLOYMENT, I GET NERVOUS WHEN PEOPLE SAY "BEST PRACTICES." I DON'T THINK WE REALLY HAVE BEST PRACTICES. I WOULD LIKE TO CALL IT PROMISING PRACTICES SO THAT PEOPLE DON'T GO TO ONE THING PROMISING TO DO IT. BECAUSE WITH BEST PRACTICES, WE USE THAT TERM SO FREELY NOW THAT PEOPLE SAY, OH, I'VE GOT THE BEST PRACTICES. I WOULD LIKE TO SEE US USE SOMETHING ELSE.

JOHN KEMP:

YEAH, I THINK YOUR COMMENT IS GOOD. OH, YES, THE QUESTION WAS ABOUT -- MARCY GETS NERVOUS WHEN SHE HEARS THE PHRASE "BEST PRACTICES" BECAUSE WHAT IS BEST MAY NOT BE THE BEST AND IT'S A JUDGMENTAL STATEMENT ABOUT SAYING THAT YOU HAVE -- AND WE'RE HOUSING BEST PRACTICES.

MY COMMENT IS WE COULD CALL IT PRETTY GOOD PRACTICES, YOU KNOW, OR SOMETHING LIKE THAT --

(LAUGHTER)

JOHN KEMP:

WHAT WE ARE TRYING TO DEVELOP AT THE U.S. VLN IS A REPOSITORY FOR THESE QUOTE, I SHOULD DO YOUR QUOTE, BEST PRACTICES, A PLACE TO HOUSE THEM AND THEN A FEAR IS IF A COMPANY SAYS I'M SENDING YOU MY BEST PRACTICES AND THEN AN EMPLOYEE OR APPLICANT IN THAT COMPANY SOMEHOW GETS SUBJECTED TO DISCRIMINATION AND THE BEST PRACTICES THAT CAUSED THE DISCRIMINATION ARE SITTING ON OUR WEBSITE, THEY MAY BE DISCOVERABLE, THE COMPANY MAY BE RELUCTANT TO SHARE IN THE FUTURE. SO WE HAVE GOT TO FIGURE OUT A WAY IN WHICH COMPANIES CAN SHARE PRETTY GOOD PRACTICES IN HOW THEY OFFER TO -- OFFER THE SOLUTIONS THAT THEY ARE DOING. THERE ARE MANY COMPANIES DOING GREAT THINGS AND POCKETS OF EXCELLENCE AND WHAT WE'RE TRYING TO DO IS JUST GET THE WORD OUT ABOUT WHAT WORKS.

FEMALE AUDIENCE:

AND ALSO WHAT WORKS FOR ONE COMPANY MAY NOT WORK FOR ANOTHER COMPANY, LOCATIONS, CUSTOMERS, RELATIONSHIPS, THINGS LIKE THAT.

JOHN KEMP:

THAT'S RIGHT. THAT'S RIGHT. AND ONE LAST COMMENT THAT I PROBABLY SHOULD HAVE MADE IN MY GENERAL REMARKS, IT WILL TAKE ONE MORE SECOND HERE, IS THAT THERE IS A RELATIVELY BASED ON THE COST OF ACCOMMODATIONS BASED ON A PERSON'S LEVEL OF POSITION IN THE COMPANY. IF THE SENIOR VICE PRESIDENT, THE CEO OR THE CHAIRMAN OF THE BOARD OF A FOR-PROFIT HAS A SIGNIFICANT DISABILITY, I THINK THE COMPANY WOULD BE MORE THAN WILLING TO MAKE LOTS OF ACCOMMODATIONS RELATIVE TO A PERSON AT AN ENTRY-LEVEL POSITION WITH THE SAME KIND OF DISABILITY, BUT MAY NEED SOME THINGS. THERE IS A RELATIONSHIP BETWEEN THE COST OF THE ACCOMMODATION AND THE ROLE THE PERSON PLAYS AND THE COMPENSATION THAT THE PERSON RECEIVES IN A COMPANY AND THAT IS ALL TO ME IN THE FUTURE SOMETHING WE SHOULD BE LOOKING AT MORE AND MORE.

FEMALE AUDIENCE:

THANK YOU.

SUSANNE BRUYERE:

WOULD YOU LIKE HELP MICKING UP, MIKE?

MICHAEL COLLINS:

GOOD MORNING. ALMOST AFTERNOON, BUT I'M MIKE COLLINS. I'M THE EXECUTIVE DIRECTOR FOR THE NATIONAL COUNCIL ON DISABILITY. AND MOST OF YOU KNOW WHO WE ARE. BUT WE'RE A SMALL, INDEPENDENT FEDERAL AGENCY TASKED WITH A LOT OF THINGS TO DO WITH DISABILITY. AND WE'RE YOUR FRIENDS IN WASHINGTON. AND WE ALSO DO A LOT OF RESEARCH AND WE ALSO DO RESEARCH ON THE ADA AND ON EMPLOYMENT AND WE WATCH CLOSELY OUR COLLEAGUES WHO ARE DOING SIMILAR TO RESEARCH TO SEE IF WE ARE AHEAD OR BEHIND IN THE TRENDS AND I WOULD ENCOURAGE YOU TO LOOK AT ANY RESEARCH WE DO, TRYING TO FIND A CAUSE FOR ANY EFFECT OR IMPACT IS PRETTY PROBLEMATIC.

AS JOHN POINTED OUT, AND ACTUALLY AS RICH POINTED OUT TOO, THERE ARE AMAZING TRENDS TAKING PLACE IN THE HUMAN RESOURCES FIELD. I THINK THAT THESE STARTED PRIOR TO ADA, BUT I WOULD LIKE TO JUST REFLECT ON MY OWN PERSONAL EXPERIENCE AND THE IMPACT I'VE HAD. SO I'M TAKING OFF MY NCD HAT FOR ANYTHING THAT'S SEEN AS A PERSONAL COMMENT. THIS IS PERSONAL, BECAUSE I GOT INJURED PRIOR TO THE ADA. NOT MUCH PRIOR, BUT FAR ENOUGH THAT IT WASN'T EVEN PASSED YET. I THINK THAT WHEN MY EMPLOYER WHO HAD THE RIGHT PERSPECTIVE ON TRYING TO GET EMPLOYEES BACK TO WORK WHO WERE INJURED, EVEN OFF THE JOB LIKE I WAS, CAME TO THE HOSPITAL TO TRY TO TALK TO ME ABOUT BEING RE-EMPLOYED BY THE SAME EMPLOYER, BEING ABLE TO TAKE ADVANTAGE OF ALL THE BENEFITS OF THAT. MY DOCTOR, WHO WAS MY REHAB DOCTOR WHO HAS A GREAT ROLE TO PLAY IN THIS IN GETTING US ALL HEALED AND BACK TO WORK AS QUICKLY AS POSSIBLE MADE THE STATEMENT TO THEM THAT I WAS NOT QUADRIPLAGIC AND I WAS PARALYZED AND WOULD NOT BE ABLE TO WORK AGAIN. AND SO I NEVER GOT TO TALK TO THEM. NOW, THAT EMPLOYER'S ATTITUDE PROBABLY WASN'T INVOLVING PRETTY MUCH HUMAN RESOURCES BECAUSE IT WAS A RAILROAD AND THEY DIDN'T KNOW THAT TERM, BUT THEY HAD UNIONS AND WE HAVE A STRONG RECORD OF PUTTING PEOPLE BACK TO WORK AND I THINK IT FALLS INTO THE WORKERS' COMP FIELD RIGHT NOW. AND OBVIOUSLY IF SOMEBODY'S HURT ON THE JOB THEY ARE MORE LIKELY TO FOLLOW UP WITH WORKERS' COMP THAN THEY ARE THAN JUST TRY TO GET WORKERS' COMP AND WANT TO MAXIMIZE

THEIR BENEFITS AND LIKE I SAID, THAT'S OUTSIDE OF THE ADA, BUT IT HAS SOME IMPACT BECAUSE LIKE I SAID THESE ARE PEOPLE WHO WOULD BE SEEN AS DISABLED BY THE EMPLOYER, BEEN COUNTED AS PEOPLE IN SURVEYS, BUT THEIR RECOURSE MIGHT HAVE HAD NOTHING TO DO WITH THE ADA OR EVEN STATE LAWS.

WE VIEW AS MANY DIFFERENT TYPES OF SURVEYS -- I MEAN, YOU LOOK AT THE CENSUS BUREAU'S WORK AND TRYING TO FIND OUT WHO IS DISABLED, WHO'S NOT. WE LOOK AT THE HARRIS SURVEY THAT WAS DONE IN RELATIONSHIP WITH THE NATIONAL ORGANIZATION ON DISABILITY IN 2004. AND IN ALMOST EVERY SITUATION, THE DEFINITION OF DISABILITY DOES NOT MATCH UP WITH WHAT THE ADA'S DEFINITION OF DISABILITY IS, WHICH WAS PATTERNED OFF OF SECTION 504, THE REHAB ACT. AND EVERY TIME YOU CHANGE THAT DEFINITION, IT CAUSES PROBLEMS IN TRYING TO DETERMINE EXACTLY WHAT POPULATION YOU SHOULD BE SURVEYING AND IF YOU'RE HAVING AN EQUAL COMPARISON, WHETHER YOU'RE COMPARING APPLES TO ORANGES.

I THINK THAT WE SEE THAT IN ALL KINDS OF OTHER AREAS, TOO. BUT IN TRYING TO PIN DOWN WHETHER THE ADA IS REALLY DOING ANYTHING, IT HAS TO COME BACK TO DEFINITION. AND UNFORTUNATELY, THE COURTS HAVE USED THE DEFINITION OF DISABILITY UNDER THE ADA TO THE DISADVANTAGE OF PEOPLE WITH DISABILITIES AND THAT'S WHY OVER 90% OF THE EMPLOYMENT LAWSUITS ARE RELATED -- THAT ARE DISABILITY RELATED END UP IN THE FAVOR OF THE EMPLOYER BECAUSE THE COURTS HAVE SIMPLY STATED THAT A PERSON IS NOT DISABLED ENOUGH TO BE A PERSON WITH A DISABILITY OR THE PERSON DOESN'T HAVE STANDING IN THE COURT BECAUSE OF THE TYPE OF DISABILITY THEY HAVE OR MITIGATING FACTORS.

SO FORTUNATELY, THERE'S LEGISLATION THAT MAY EVENTUALLY DO SOMETHING TO CORRECT THAT, BUT IT HASN'T HAD AN IMMEDIATE IMPACT YET.

I THINK OUR OWN FEDERAL PROGRAMS THAT ENCOURAGE PEOPLE TO WORK AND SUPPORT PEOPLE WITH DISABILITIES CAN ALSO BE PROBLEMATIC.

I KNOW WHEN I WAS FIRST DISABLED AND THEY CAME TO ME WITH THE OPTIONS OF GOING ON SSI OR SSDI, WHICH I DIDN'T KNOW ANYTHING ABOUT BECAUSE THERE WAS NO WAY TO LEARN ABOUT THOSE THINGS. THERE WASN'T AT THAT TIME, THE FIRST THING I LOOKED AT WAS SIGNING THAT PIECE OF PAPER AND GETTING A DOCTOR TO SIGN IT THAT I WAS UNABLE TO WORK. AND I HAD A WORK ETHIC THAT WAS IN MY BLOOD AND I COULDN'T SEE MYSELF SITTING AROUND EVEN THOUGH I WAS ENTITLED TO IT AND WHEN I LOOKED AT THE AMOUNT OF BENEFITS, THERE WAS NO WAY I WAS GOING TO BE SUPPORTED. SO I THINK A LOT OF PEOPLE TWO THROUGH THAT KIND OF SOUL SEARCHING AND THEY FEAR IT WOULD IMPACT THEIR WORK OR WOULDN'T BE CONSIDERED AS SOMEBODY WHO CAN WORK IN THE FUTURE. AND WHEN WE DO THESE SURVEYS, THESE EVALUATIONS, ANY CIVIL RIGHTS LAW, WE HAVE TO SET ASIDE THOSE PEOPLE WHO HAVE MADE THAT CHOICE TO BE OUT OF THE LABOR OF

MARKET PERMANENTLY, EVEN THOUGH THEY ARE WORKING AGE PEOPLE WITH DISABILITIES, THEY HAVE DECIDED THAT THEY CANNOT AFFORD TO TAKE THE CHANCE TO STEP OFF THE MEDICAID OR OTHER PROGRAMS THAT SUPPORT THEM AND THEIR FAMILIES AND ENTER THE WORLD OF WORK NOT KNOWING IF A FUTURE EMPLOYER WILL PROVIDE THE FULL RANGE OF SERVICES THEIR DISABILITY REQUIRES OR IF THEY WILL BE I BELIEVE TO SURVEY THROUGH THE INTERIM PERIOD UNTIL THE WAITING PERIOD COMES WITH ANYTHING. AND I WILL SAY THAT SOCIAL SECURITY HAS SOME OF THE LONGER WAITING PERIODS, SO THEY HAVE ALREADY EXPERIENCED THAT ONCE IN THEIR LIFE AND THEY MAY NOT WANT TO ENDURE THAT AGAIN IN THE PRIVATE EMPLOYMENT MARKETPLACE. AND DOES OUR OWN GOVERNMENT SET A GOOD EXAMPLE FOR THESE EMPLOYERS?

I'M NOT GOING TO OPEN THAT CAN OF WORMS WITH MARCY AND JOHN IN THE ROOM --

(LAUGHTER) -- AND I THINK YOU'LL BE SEEING SOME WORK IN THAT AREA IN THE VERY NEAR FUTURE. BUT I'LL JUST LEAVE IT AT THAT FOR NOW.

DEFINITIONS...WHAT'S REASONABLE WHEN IT COMES TO REASONABLE ACCOMMODATIONS?

JOHN MENTIONED THE BEST PRACTICES AND REASONABLE ACCOMMODATIONS AND THERE HAS BEEN NO FIRM DEFINITION GIVEN TO THAT, JUST AS UNDUE HARDSHIP IS ANOTHER NEBULOUS TERM THAT NOBODY WANTS TO DEFINE. I MEAN, I DON'T THINK ANY COURT HAS TAKEN A FIRM STANCE. THE GUIDELINES THAT ARE OUT STATE THAT IT DEPENDS ON THE INCOME OF THE COMPANY, THE SIZE OF THE COMPANY. ALL WE CAN DO IS TO CONTINUE TO HOPE THAT A LAW THAT GAVE EXEMPTION TO SMALL BUSINESS, THAT PROVIDED TAX INCENTIVES TO EMPLOYERS, THAT PROVIDED RESOURCES THROUGH THE -- ORIGINALLY THE DISABILITY BUSINESS TECHNICAL ASSISTANCE CENTERS, WHICH ARE NOW THE ADA AND INFORMATION TECHNOLOGY CENTERS, WOULD HAVE A POSITIVE IMPACT THAT NOT MANY EMPLOYERS HAVE TAKEN ADVANTAGE OF THAT. I MEAN, WE'RE LUCKY THAT THERE ARE PEOPLE WITHIN ORGANIZATIONS LIKE THE BUSINESS LEADERSHIP NETWORK WHO WILL HELP SPREAD THE WORD, BUT THERE ARE ALSO OTHER ORGANIZATIONS AND SOME OF THEM ARE BASED ON ATTORNEYS -- NOTHING AGAINST ATTORNEYS, JOHN OR ANDY.

(LAUGHTER)

MICHAEL COLLINS:

BUT THEY DO WORK HARD FROM PROTECTING THEIR EMPLOYEE NETWORK AGAINST DISABILITIES AND ACCOMMODATION AND THEY SPEND A LOT OF

MONEY HOLDING TRAININGS TEACHING PEOPLE HOW NOT TO HIRE PEOPLE WITH DISABILITIES. BUT WE HAVE TO LOOK AT OUR OWN FACTOR WITHIN OUR COMMUNITY. HOW MANY PEOPLE HAVE BEEN DISCOURAGED FROM ASKING FOR THOSE ACCOMMODATIONS BECAUSE THEY FEAR RETRIBUTION? THEY FEAR DISCRIMINATION IN THE WORKPLACE?

OR HOW MANY PEOPLE WHO HAVE DISABILITIES HAVE NOT SELF- DISCLOSED THOSE DISABILITIES FOR THAT SAME FEAR?

AND, YOU KNOW, IF WE'RE GOING TO DO THIS STUDY, I THINK WE NEED SOMETHING THAT'S EMPIRICALLY STANDING ALONE AS A STUDY AND IT'S GOING TO HAVE TO BE SOMETHING THAT NO OTHER SURVEY HAS REALLY BEEN ABLE TO FOCUS ON. AND THAT WILL COST MONEY.

IT WILL TAKE A LONGER TIME TO DO IT. AND IT HAS TO BE WIDENED -- ON A WIDE ENOUGH STANDPOINT THAT EVERYBODY WILL ACCEPT THE RESULTS WHEN IT COMES OUT.

IN THAT REGARD, I WOULD BE REMISIF I DIDN'T TELL YOU THAT NCD HAS RELEASED A REPORT ON EMPLOYMENT LAST OCTOBER, DURING DISABILITY EMPLOYMENT MONTH ON EMPLOYMENT OF PEOPLE WITH DISABILITIES. AND DURING THE ANNIVERSARY OF THE ADA, WE RELEASED TWO REPORTS. AND PROBABLY THE MOST STRIKING ONE THAT HAS REAL IMPLICATIONS WITH TYPE OF RESEARCH THAT HAS BEEN BROUGHT OUT HERE TODAY IS THE IMPACT OF THE ADA. AND THAT IN ITSELF WILL GIVE YOU SEVERAL HOURS OF FINE READING. ALL OF THOSE REPORTS ARE AVAILABLE FOR FREE. EVERYBODY IN THE COUNTRY IT'S FREE FOR ON OUR WEBSITE, IT'S WWW.NCED.GOV. AND EVERY REPORT WE HAVE EVER DONE BACK WHEN ANDY WAS A CHILD BACK IN '84 ALL THE WAY THROUGH THESE LAST REPORTS THAT JUST WENT UP, WE CAN'T STOP OURSELVES. THEY CONTINUE TO COME. WE HAVE GOT OTHER REPORTS IN THE WORK AND ANOTHER ONE THAT WILL RELATE TO THESE DISABILITY STATISTICS THAT ARE SO HARD TO PIN DOWN IS THE DISABILITY STATISTICS REPORT WE'LL BE RELEASING IN ARLINGTON IN APRIL.

SO I WOULD WARN YOU ABOUT THAT COMING OUT AND FOR RESEARCHERS I THINK YOU'RE DEFINITELY GOING TO WANT TO LOOK AT THAT. SUSANNE, I REALLY APPRECIATE YOU INVITING ME HERE. I DON'T KNOW IF THIS IS THE REACTION YOU WANTED FROM JOHN AND I. BUT I THINK ANY VEHICLE THAT WILL BRING THIS DISCUSSION OUT INTO THE PUBLIC EYE AND ALLOWS US TO TALK A LITTLE BIT ABOUT WHAT WE DO AND WHY IT'S IMPORTANT IS GOOD.

SUSANNE BRUYERE:

THANK YOU.

MICHAEL COLLINS:

ANY QUESTIONS?

I'LL JUST ASK THAT WHILE I STILL HAVE THE MICROPHONE.

SUSANNE BRUYERE:

ANDY?

ANDY, WILL YOU ALSO INTRODUCE YOURSELF?

I TALKED ABOUT AAPD'S PARTNERSHIP.

ANDY IMPARATO:

THANK YOU. I WANT TO THANK ALL THE PRESENTERS. I'M ANDY IMPARATO WITH THE AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES AND WE'RE DELIGHTED TO PARTNER WITH CORNELL ON THESE POLICY FORUMS.

THE QUESTION I HAD RELATES TO SOME PRELIMINARY RESEARCH THAT I'VE SEEN FROM BRIAN MCMAN BASED ON WORK THAT THEY HAVE DONE -- BRIAN'S WITH VIRGINIA COMMONWEALTH, THEY HAVE LOOKED AT FILING OF CHARGES UNDER THE ADA WITH THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. AND IF YOU LOOK AT KIND OF THE SUPREME COURT ACTIVITY IN THIS AREA, WE HAD A TRIO OF DECISIONS IN 1999, SUTTON VERSUS UNITED AIRLINES WAS THE CASE THAT COULD HAVE HAD A CHILLING AFFECT ON PEOPLE FILING CHARGES BECAUSE OF NARROWING THE CHARGES AROUND MITIGATING MEASURES. BUT THEN ANOTHER CASE IN 2002 CALLED TOYOTA VERSUS WILLIAMS WHICH SOME WOULD ARGUE HAS ACTUALLY HAD EVEN A MORE IMPACT IN TERMS OF NARROWING THE SCOPE OF WHO IS IN THE PROTECTIVE CLASS AND THIS IS ALL PRELIMINARY DATA. BUT IT LOOKS LIKE THERE'S BEEN A DROP-OFF IN FILINGS WITH THE EEOC PARTICULARLY SINCE THE TOYOTA VERSUS WILLIAMS CASE AND I'M JUST WONDERING FOR RICH, I SAW ONE OF YOUR SLIDES KIND OF LOOKED AT THIS ISSUE LONGITUDINALLY AND I DON'T KNOW HOW CLOSE IT GOT TO THE PRESENT, BUT IT SEEMED LIKE ON THAT SLIDE THAT THERE WAS A DROP-OFF IN ACCOMMODATIONS TOWARDS THE END. AND, AGAIN, I DON'T KNOW IN THE NUMBERS LINE UP BUT I'M WONDERING IF YOU HAVE SEEN ANY DROP-OFF SINCE 2002 AND THE NUMBER OF PEOPLE ASKING FOR ACCOMMODATIONS IN THE WORKPLACE?

RICHARD BURKHAUSER:

YEAH, OUR DATA GOES TO 2004 AND YOU'RE RIGHT, THAT IF YOU LOOK AT 2002, YOU SEE A DECLINE. WE HAVEN'T LOOKED AT THAT SPECIFICALLY. ONE OF THE PROBLEMS WITH LOOKING AT 2002, 2004 IS WE ALSO ARE IN A RECESSION. SO ONE OF THE PROBLEMS THAT I HAVE IN THINKING ABOUT WHAT EMPLOYERS DO IS I THINK EMPLOYERS ARE JUST AS GOOD OF PEOPLE AS EMPLOYEES, BUT, YOU KNOW, THEY HAVE BUSINESSES AND WHILE THEIR HEARTS ARE IN THE RIGHT PLACE, DURING RECESSIONS, THEY ACT DIFFERENTLY IN TERMS OF THEIR EMPLOYMENT BEHAVIOR THAN DURING PEAK TIMES. IF YOU LOOK AT EMPLOYMENT RATES, THEY GO DOWN DURING RECESSIONS. NOT BECAUSE EMPLOYERS HAVE BECOME NASTIER OR MEANER. BECAUSE ECONOMIC NECESSITY MAKES THEM ACT IN A SPECIFIC WAY.

OUR SYSTEM.

WHAT WE'RE TRYING TO DO IN THINKING THROUGH POLICIES TO KEEP PEOPLE WITH DISABILITIES IN THE WORKPLACE IS TO THINK THROUGH GIVING OUR COMPETITIVE SYSTEM WHAT ARE THE KINDS OF LAWS THAT ARE ABSOLUTELY NECESSARY TO CHANGE BEHAVIOR AND WHICH ONES AREN'T?

JOHN, I WAS IMPRESSED BY YOUR COMMENTS ABOUT HOW YOUR BEHAVIOR CHANGED WHEN YOU EXPERIENCED THE EVENT THAT LED TO YOUR IMPAIRMENTS. AND I HAVE A STORY, TOO. I DON'T HAVE A DISABILITY, BUT MY FATHER WAS 58 YEARS OLD AND WAS WORKING AT A STEEL COMPANY THAT WAS GOING OUT OF BUSINESS. AND HE WAS ONE OF THE LAST PEOPLE WHO ACTUALLY WAS THERE BECAUSE HE WAS KIND OF A CLERK WHO HAD TO FIGURE OUT WHERE ALL THE EQUIPMENT WAS GOING ON.

WELL, I WAS -- I HAD JUST GOTTEN MY DEGREE FROM CHICAGO AND WAS WORKING AT HHS AND I JUST HAPPENED TO BE WORKING ON DISABILITY POLICY, AND MY FATHER SAYS TO ME, YOU KNOW, I'M NOT REALLY SURE WHAT I'M GOING TO DO. YOU KNOW, I KNOW THAT COMPANIES ARE GOING OUT OF BUSINESS. I'M GOING TO BE OUT OF A JOB IN SIX MONTHS. I'M 58 YEARS OLD, WHAT SHOULD I DO?

AND I SAID, WELL, DAD YOU, YOU KNOW, YOU HAVE SOME DISABILITIES. YOU KNOW, YOU LOST A KIDNEY AND YOU HAVE OTHER PROBLEMS.

LET ME TELL YOU WHAT YOU SHOULD DO. YOU SHOULD APPLY FOR DISABILITY BENEFITS. AND HE SAID, WELL, YOU KNOW, I DON'T KNOW ABOUT THAT, YOU KNOW. BUT HE SAID SEND ME THE PAPERWORK AND LET ME SEE AND I'LL DECIDE.

SO I SENT HIM THE PAPERWORK AND IT'S ALL THE STUFF ABOUT WHAT YOU

CAN'T DO AND ALL THIS OTHER STUFF. AND HE SENDS IT BACK AND HE SENDS IT BACK LIKE A RESUME ABOUT ALL THE STUFF HE CAN DO. AND I SAID, WAIT A MINUTE, DAD, YOU'VE MISSED THE POINT HERE. YOU'RE SUPPOSED TO BE GETTING DI BENEFITS. YOU REALLY AREN'T LOOKING FOR A JOB HERE. YOU HAVE GOT TO EMPHASIZE WHAT YOU CAN DO TO GET THESE BENEFITS. NOW, I THOUGHT I WAS PRETTY SMART THEN BACK IN 1986 BECAUSE MY DAD DID GET THOSE BENEFITS. BUT I'M NOT SO SURE WHETHER AFTER THAT WAS THE RIGHT DECISION. HE GOT SOME MONEY, ALL RIGHT. BUT FOR THE FIRST TIME IN HIS LIFE, HE WASN'T WORKING AND HE DIED A FEW YEARS LATER.

WHAT I'M SUGGESTING TO YOU IS THAT POLICIES MATTER AND THAT WHEN THEY OCCUR MATTERS, YOU WERE TALKING ABOUT HOW DIFFICULT IT IS TO GET PEOPLE OFF THE DISABILITY ROLLS, THERE'S NO QUESTION ABOUT THAT. BUT THERE IS MUCH GREATER HOPE THAT WE CAN CATCH FOLKS AT THE POINT WHERE THEY HAVE TO MAKE CRITICAL DECISIONS THAT CAN HAVE VERY LONG-LASTING IMPLICATIONS FOR THEIR LIVES AND WHICH THEY DON'T FULLY APPRECIATE WHEN THEY MAKE THOSE DECISIONS.

SO WE HAVE TO THINK THROUGH HOW TO HAVE A DISABILITY SYSTEM THAT ENCOURAGES PEOPLE TO STAY IN THE WORK FORCE AS LONG AS THEY'RE ABLE TO DO IT AND TO MAKE IT IN THE INTEREST OF THEM TO DO IT AND IN THE INTEREST OF THEIR EMPLOYERS TO DO IT AND IN THE INTEREST OF GOVERNMENT TO MAKE IT HAPPEN. THAT'S NOT WHAT WE HAVE RIGHT NOW. WE HAVE A SYSTEM THAT BASICALLY USES A LAST RESORT PROGRAM, THE DI PROGRAM, FOR THOSE WHO ARE COMPLETELY UNABLE TO WORK IN SUBSTANTIAL GAINFUL WORK ACTIVITY IN ANY WAY AND WE OFFER THAT -- FOR MANY PEOPLE, THAT'S THE FIRST THING THEY SEE WHEN THEY EXPERIENCE THE ONSET OF A DISABILITY.

THE TRICK IS TO FIGURE OUT POLICIES THAT GET TO THESE FOLKS WHEN THERE CAN REALLY BE A CHANGE AND THAT'S WHAT WE'RE ABOUT.

NOW, THE ADA, I GUESS I WOULD SAY MUCH, MUCH, TOO MUCH IN MY VIEW HAS BEEN MADE ABOUT THE ADA ABOUT WHETHER IT EXPLAINS OR DOESN'T EXPLAINS THE DECLINE OF EMPLOYMENT FOR PEOPLE WITH DISABILITIES IN THE 1990'S. MY VIEW IS THAT THERE'S NO WAY THAT THE ADA CAN BE EXPLAINING CONTINUING DECLINE FOR EMPLOYMENT FOR PEOPLE WITH DISABILITIES AND THAT DECLINE BY THE WAY OCCURS OVER ALL DATA SETS THAT YOU WANT TO LOOK AT. MOST OF THE DATA THAT DEFINES THAT IS THE CPS DATA ONLY BECAUSE IT GOES BACK TO THE 1980'S, BUT IN THIS COMMUNITY SURVEYS THAT ARE STARTING TO GET BETTER, THEY ARE NOT FINDING ANYTHING DIFFERENT IN THE PERIOD THAT THEY CAN LOOK AT.

THERE IS A PROBLEM HERE WITH EMPLOYMENT FOR PEOPLE WITH DISABILITIES THAT WE HAVE GOT TO THINK ABOUT AND LOOK AT HONESTLY ABOUT WHAT'S GOING ON AND IN MY VIEW IN PART WHAT'S GOING ON IS UNATTENDED

CONSEQUENCES NOT -- UNINTENDED CONSEQUENCES NOT OF THE ADA, BUT OF DISABILITY PROGRAMS THAT OFFERS BENEFITS TO THOSE PEOPLE WHO DECLARE THEMSELVES UNABLE TO WORK. IF YOU PROVIDE BENEFITS TO PEOPLE WHO SAY THEY ARE UNABLE TO WORK, YOU'RE GOING TO HAVE LOTS OF MORE PEOPLE WHO SAY THEY ARE UNABLE TO WORK HOLDING THEIR CONDITIONS CONSTANT. I DON'T BELIEVE THERE IS A TREMENDOUS CHANGE IN THE ABILITY OF PEOPLE WITH DISABILITIES TO WORK OVER TIME. BUT THERE HAS BEEN A CHANGE IN THE INCENTIVES THAT WE GIVE PEOPLE WITH DISABILITIES TO WORK OR NOT TO WORK.

YOU KNOW, PEOPLE WITH DISABILITIES ARE JUST AS SMART AS EVERYBODY ELSE. THEY HAVE GOT SOME LIMITATIONS. BUT THEY ARE GOING TO DO WHAT'S BEST FOR THEM UNFORTUNATELY. AND IF WE HAVE POLICIES THAT ENCOURAGES THEM NOT TO WORK, THEY WON'T WORK. IF WE HAVE POLICIES THAT ENCOURAGE THEM TO WORK, THEY'LL WORK.

MICHAEL COLLINS:

I WANT TO JUST ANSWER ONE OF ANDY'S QUESTIONS HERE. I BROUGHT A LITTLE PIECE OUT OF -- THIS IS MIKE COLLINS AGAIN FOR THOSE ON THE PHONE OR THOSE OF YOU AROUND THE CORNER WHO CAN'T SEE ME.

(LAUGHTER)

MICHAEL COLLINS:

I BROUGHT A LITTLE PIECE OUT OF OUR IMPACT STUDY, THE IMPACT OF ADA. AND AS YOU WERE SAYING, WHY ARE THE EEOC COMPLAINTS DROPPING OFF AND FROM 1998 WHEN THEY RESOLVED 23,000 CHARGES, IT'S DROPPED OFF LAST YEAR, THEY RECEIVED 15,000 CHARGES, A LITTLE MORE THAN THAT. BUT THEY ARE DOWN NOW TO 15,000 AND THE QUESTION WAS ASKED IN OUR REPORT IS IT BECAUSE OF THE LESS DISCRIMINATION BY EMPLOYERS. IS IT THE DISCOURAGEMENT OF FILINGS BECAUSE EMPLOYERS NORMALLY WIN TITLE 1 CASES?

IS IT THE NARROWING OF THE ADA BY THE COURT'S DEFINITION OR OTHER MEANS?

OR IS IT THE ACCOMMODATION THOSE THREE FACTORS?

IT'S STILL AN OPEN-ENDED QUESTION, BUT THOSE ARE THREE VERY SIGNIFICANT FACTOR AND OBVIOUSLY THERE'S STILL PLENTY OF PEOPLE WITH DISABILITIES SEEKING WORK. I GET APPLICATIONS OR PLAINTIFF'S LETTER, MULTIPLE LETTERS

A WEEK AND I'M JUST LISTED ON THE WEBSITE AS THE EMPLOYMENT CONTACT AND THESE ARE PEOPLE FROM AROUND THE COUNTRY WHO ARE HIGHLY QUALIFIED IN THEIR MINDS AT LEAST, I'VE LOOKED AT SOME OF THEIR RESUMES. I'VE SEEN THEIR DEGREES. I'VE LOOKED AT SIGNIFICANT PAST WORK EXPERIENCE IN GOVERNMENT AND NOT AND YET THEY ARE NOT FINDING EMPLOYMENT AND GETTING FRUSTRATED WITH THE PROCESS.

SO IF THIS DOES NOTHING ELSE TODAY, I HOPE IT JUST REDOUBLES OUR RESOLVE TO GO OUT THERE AND TRY TO SOLVE SOME OF THESE LITTLE PROBLEMS. WE CAN'T IGNORE THE BIG ONES. WE CAN'T IGNORE THE COURTS MAKING DECISIONS THAT ARE NOT WISE AS FAR AS PEOPLE WITH DISABILITIES ARE CONCERNED. WE HAVE TO TRY TO IMPROVE OUR EMPLOYMENT-RELATED PROGRAMS, SEEK OUT GREATER INCENTIVES TO WORK AND WE HAVE SO MANY INCENTIVE PROGRAMS FOR WORK THAT HAVE A COUNTER IMPACT IN THAT THEY DISCOURAGE PEOPLE FROM APPLYING OR IF THEY DO SIGN UP FOR IT, THEY'LL LOSE THOSE BENEFITS AND HAVE TO GO BACK TO WORK. AND MY PERSONAL ROLE, MY PERSONAL LIFE, I'VE HAD EXPERIENCE WITH PEOPLE FROM OTHER COUNTRIES. AND I MENTIONED BANTOVAN, CANADA IS ONE AREA. PEOPLE WITH SIGNIFICANT DISABILITIES ARE ABLE TO RETURN TO WORK. THEY ARE ABLE TO MAINTAIN THEIR HEALTH BENEFITS, TO GET THEIR REASONABLE ACCOMMODATIONS MET, GET THEIR MEDICAL NEEDS MET, THEIR ONGOING MEDICAL GOODS AND THEY ALSO GET A PENSION. THE SAME ONE THEY DID IF THEY RETIRED WITHOUT A DISABILITY. BUT THEY CAN WORK AND CONTRIBUTE AND PAY TAXES AND THERE ARE FAMILIES THAT BENEFIT FROM THAT.

IT COMES WITH A COST, BUT WE'LL NEVER GO THERE IN THIS COUNTRY BUT THERE ARE PROGRAMS THAT ARE OUT THERE THAT CAN BE MODIFIED AND PEOPLE GOING BACK TO WORK SHOULD NOT BE AT GREAT RISK OF LOSING EVERYTHING THEY HAVE ALREADY WORKED SO HARD TO GET.

JOHN KEMP:

I'M LISTENING TO RICH AND ANDY AND MIKE AND I'M THINKING THAT, YOU KNOW, ONE OF THE DILEMMAS THAT WE'RE SUFFERING WITH IN OUR CURRENT GOVERNMENT, IS THAT DISABILITY IS FRAGMENTED ACROSS ALMOST ALL THE AGENCIES. THAT THERE'S NO COORDINATION OF THE IMPACT OF DISABILITY AND THE OPPORTUNITIES PRESENTED BY DISABILITY. WHEN WE THINK ABOUT DOMESTIC POLICY COUNCIL AND DAN GADDE WHO IS A WONDERFUL HUMAN BEING WHO IS SERVING IN THE POSITION, IT'S A HALF-TIME, OR IT'S A PART-TIME POSITION. IT'S NOT A FULL, PERMANENT POSITION UNDER THE DOMESTIC COUNCIL. BUT ANY SIGNIFICANT GROUP WHO HAS A SIGNIFICANT VOICE HAS EARNED SORT OF AN OFFICE OF DESIGNATION OUT OF THE WHITE HOUSE AND THERE ARE SPECIAL ADVISORS TO THE PRESENT AND IN OUR WORLD, WE'RE STILL CLIMBING UP THAT PATH TO TRYING TO GET DISABILITY TO BE RECOGNIZED

AS SIGNIFICANT AS IT IS. IT IS A HEALTH AND DISABILITY -- YOU CAN COMBINE HEALTH AND DISABILITY TOGETHER, IT'S A TREMENDOUS CONSUMER OF THE TAX-PAYING DOLLAR. SPENDING A LOT OF MONEY -- AND BELIEVE ME, CMS IS SPENDING A GREAT DEAL OF TIME WORRYING ABOUT HOW TO LIMIT THE KIND OF BENEFITS THAT COME UNDER MEDICAID, MEDICARE, SOCIAL SECURITY. THEY ARE FREAKED OUT ABOUT THE BIG BUBBLE OF OUR BOOMERS COMING THROUGH AND DEMANDING ON IT. YOU JUST LOOK AT THE PRESSURES UPON THE FEDERAL BUDGET AND YET WE'RE FRAGMENTED ACROSS THE SPECTRUM OF AGENCIES. WE'RE DEALT WITH AS A ONE OFFER. YOU KNOW, WE GET BOXED IN AND BEAT UP, AND, YOU KNOW, THE CHALLENGE THAT IS AMONG US ALL HERE IS TO KEEP ON GROWING OUR POLITICAL VOICE AND OUR POLITICAL POWER TO REALLY SAY THAT THIS IS A HUG ISSUE FOR GOVERNMENT AS WELL AS SOCIETY AND TOGETHER WE CAN FIGURE OUT HOW TO DO THIS. WE DON'T NEED TO SEND EVERYBODY TO THE EMERGENCY ROOM JUST BECAUSE THEY GET A COLD. WE CAN DO A LOT OF DIFFERENT THINGS IN SERVING PEOPLE AND IN THE EMPLOYMENT ARENA, WE'RE IN ALMOST DESPERATE TIMES TO KEEP JOBS IN THE UNITED STATES AND THAT'S ALL PART OF A BIG CONTINUUM. SO AS WE MOVE THROUGH THIS DISCUSSION, WE HAVE MOVED FROM THE NARROW SCOPE OF A 51 TO 60-YEAR-OLD POPULATION, ONSET OF DISABILITY DURING WORK, ALL THE WAY TO SOCIAL SECURITY, POLICY INCENTIVES, THE IMPACT OF THE ADA. WELL, THIS IS REALLY WHERE WE'RE WE ARE. THESE ARE INTERCONNECTED ISSUES AND CAN WE SAY CAN WE HAVE A DEPARTMENT OF ODEP WHO WENT FROM 50 MILLION TO 20 MILLION EXPENDITURES AND WE SHOULD BE HAPPY ABOUT IT. WE HERE NOT HAPPY ABOUT IT. SO GOVERNMENT IS NOT STEPPING UP HERE TO ADDRESS THE SUBSTANTIAL ISSUES THAT FACE PEOPLE WITH DISABILITIES. SO WE HAVE AN OPPORTUNITY TO SPEAK UP AND WE OUGHT TO BE SPEAKING UP MAYBE -- AND I KNOW I'M TALKING TO THE CONVERTED HERE IN THIS ROOM. BUT ONE OF THE MESSAGES IS DISABILITY IS A HUG ISSUE FOR -- HUG ISSUE FOR SOCIETY AND WE NEED OUR GOVERNMENT TO RESPOND ACCORDINGLY.

MICHAEL COLLINS:

YOU KNOW, I THINK YOU DID SPEAK UP.

(LAUGHTER)

RICHARD BURKHAUSER:

I JUST WANTED TO MAKE A TECHNICAL POINT ABOUT WHAT MIKE SAID. IT IS TRUE THAT THE PEOPLE IN OUR SURVEY ARE INTERVIEWED WHEN THEY'RE 51 OR 61 OR 51 TO 55, BUT THE ONSET OF DISABILITY COULD OCCUR MUCH YOUNGER. SO WE HAVE PEOPLE WHO EXPERIENCED THE ONSET OF DISABILITY AS YOUNG AS 30 IN THERE. BUT IT IS SOMEWHAT OLDER POPULATION, BUT IT'S NOT

JUST 51 TO 61.

BUT I TAKE YOUR POINT. I MEAN, TO ME THE EXCITING THING ABOUT SOMEONE WHO'S BEEN LOOKING AS A POLICY PERSON AT PUBLIC POLICIES RELATED TO PEOPLE WITH DISABILITIES IS THAT -- AND I WROTE A BOOK ABOUT THIS IN 1983 ABOUT DISABILITY POLICY AND WHERE IT WAS GOING. AND IN '83 COMPLETELY MISSED THE REVOLUTIONARY VISION OF THE -- OF THE DISABILITY ADVOCATES TOWARDS INTEGRATION IN THE WORK FORCE. I SORT OF THOUGHT, YEAH, IF YOU TWEAKED WITH THINGS HERE OR THERE, YOU COULD INCREASE THE EMPLOYMENT OF PEOPLE WITH DISABILITIES. BUT BASICALLY THEY WERE FOLKS WHO WERE NOT ABLE TO WORK.

AND BECAUSE THEY WERE FOLKS WHO WERE NOT ABLE TO WORK, THE MAIN THRUST OF THE DISABILITY POLICY SHOULD BE TRANSFERS, HOW TO TAKE CARE OF THESE FOLKS WHO CAN'T WORK. IF THEY HAVE LOW INCOMES, DO IT WITH SSI. IF THEY HAVE MIDDLE OR HIGH INCOMES, DO IT WITH DI. AND MY VISION OF THE PROBLEM IN 1982 CONTINUES TO BE THE VISION OF PEOPLE WHO ARE RUNNING THE SYSTEM. BUT I GOT RELIGION. YOU KNOW, I LOOKED AT THE PEOPLE AROUND ME AND WAS INVOLVED IN DIFFERENT ORGANIZATIONS AND RECOGNIZED THAT THIS KIND OF CRAZY IDEA, THAT YOU COULD ACTUALLY INTEGRATE PEOPLE WITH DISABILITIES INTO THE WORK FORCE ACTUALLY COULD HAPPEN. THAT IS, THAT IF YOU HAD THE INCENTIVES RIGHT, PEOPLE WITH ALL KINDS OF IMPAIRMENTS THAT A PERSON WITHOUT SUCH A DISABILITY WOULD SAY THEY CAN'T WORK, CAN WORK. THAT, IN FACT, WORKING IS A FUNCTION OF PHYSICAL AND MENTAL THINGS. BUT IT'S ALSO THIS THIRD COMMODITY, THIS TRUE GRID OR ENERGY OR WHATEVER IT IS AND THAT THAT CAN'T BE QUANTIFIED. BECAUSE IT CAN'T BE QUANTIFIED, WE LOOK AT THESE OTHER THINGS THAT WE CAN QUANTIFY TO DETERMINE WHETHER A PERSON GETS BENEFITS OR NOT. UNFORTUNATELY, WHEN WE SET OUR SYSTEM BASED ON THESE KIND OF THINGS THAT YOU CAN MEASURE, THEN WE MAKE A LOT OF MISTAKES AND WE OFTEN END UP GETTING PEOPLE ON THE ROLLS WHO HAVE VERY LOW TRUE GRIDS AND NOT SUCH GREAT DISABILITIES AND PEOPLE WHO ARE NOT ON THE ROLLS WHO HAVE MUCH GREATER PHYSICAL AND MENTAL PROBLEMS BUT DON'T HAVE THE ENERGY TO ALLOW THE PERSON TO WORK IN THE WORK FORCE. SO WHAT I WOULD SAY JUST TO BE CONTROVERSIAL ABOUT IT, MANY OF YOUR ADVOCATES DON'T HAVE THAT RELIGION. THEY ACTUALLY DON'T BELIEVE IT. THEY DON'T BELIEVE THAT PEOPLE WITH DISABILITIES CAN REALLY BE INTEGRATED IN THE WORK FORCE. THAT'S WHY THEY ARE SO FRIGHTENED THAT PROGRAMS LIKE SSI FOR INSTANCE, WHICH ARE CLEAR TRANSFER PROGRAMS, WILL GO AWAY BECAUSE THEY SEE THIS AS A LIFELINE FOR ALL PEOPLE.

THE TRADE-OFF IS HOW MUCH DO YOU WANT TO HAVE THOSE KINDS OF PROGRAMS AND WHEN DO YOU WANT TO HAVE THEM?

SIMPLE EXAMPLE, SINGLE MOM WITH KIDS, IN 1996, WE HAD TREMENDOUS

WELFARE REFORM. WE SET UP A WHOLE SET OF PROGRAMS TO GET SINGLE MOMS INTO THE WORKPLACE BECAUSE SOCIETY FOR WHATEVER REASONS DECIDED WE'RE NOW GOING TO GET SINGLE MOMS IN THE WORKPLACE, WE'RE NOT GOING TO GIVE THEM TRANSFERS ANYMORE.

I BELIEVE THERE IS A SET OF PROGRAMS OUT THERE THAT IF WE MADE THE DECISION WE WERE GOING TO GET PEOPLE WITH 'TIS ABILITIES INTO THE WORK -- DISABILITIES INTO THE WORK FORCE COULD BE DONE TODAY, IT WOULD HAVE DRAMATIC IMPACTS ON EMPLOYMENT FOR PEOPLE WITH DISABILITIES. BUT PEOPLE WITH DISABILITIES WOULD HAVE TO -- OR THE ADVOCATES WOULD HAVE TO TAKE THE RISK. THEY WOULD HAVE TO GIVE UP THESE KIND OF TRANSFER PROGRAMS IF YOU ARE WILLING TO SAY YOU CAN'T WORK FOR ALTERNATIVES. AN EXAMPLE, INSTEAD OF HAVING SSI, WHY NOT HAVE AN EARNED INCOME TAX CREDIT THAT SUBSIDIZES THE WAGES OF LOW-SKILLED WORKERS WITH DISABILITIES BUT CAN RISE THEM ABOVE POVERTY, JUST AS THE EICST HAS DONE FOR MOMS WITH KIDS. THAT'S WHY WE HAVE TO RECOGNIZE THAT THERE IS A PROBLEM THAT SOME PROGRAMS ARE TOO GENEROUS IN THE SENSE OF WHO THEY ALLOW ON TO THEIR PROGRAMS.

SUSANNE BRUYERE:

JEFF, AFTER WE HAVE A PARTICIPANT HERE, I WOULD LIKE TO TAKE SOME QUESTIONS OF THOSE IN THE REMOTE LOCATIONS AS WELL. SO IF YOU CAN CUE THOSE UP, THAT WOULD BE GREAT.

JOHN LANCASTER?

MALE AUDIENCE:

THANK YOU, SUSANNE. FOR THOSE OF YOU WHO DON'T KNOW, I AM JOHN LANCASTER AND I'M THE EXECUTIVE DIRECTOR OF THE NATIONAL COUNCIL ON INDEPENDENT LIVING. AND AS SOME OF YOU KNOW, WE HAVE BEEN WORKING WITH THE WORLD INSTITUTE ON DISABILITY AND HAVE COME UP WITH A PROPOSAL THAT I THINK GETS AT A LOT OF TH ISSUES THAT RICH BURK HAASER HAS JUST BEEN BRINGING UP AND IT'S NOT INCONSISTENT WITH THE RECOMMENDATIONS MADE BY THE TICKET TO WORK AND WORK FORCE INCENTIVES ADVISORY PANEL THAT ANDY SERVED ON AND BASICALLY WE'RE ADVOCATING CREATING A WHOLE NEW SOCIAL INSURANCE PROGRAM. NOT GETTING RID OF SSI OR SSDI, BUT CREATING AN EMPLOYMENT SUPPORT INSURANCE PROGRAM FUNDED THE SAME WAY THAT SSDI IS FUNDED. BUT GIVING PEOPLE AN OPTION OF SAYING, YEAH, I'M DISABLED, BUT I CAN WORK AND WHAT I NEED IS CERTAIN SUPPORTS TO GO IN THAT DIRECTION. AND IT WOULD ALLOW PEOPLE THAT ARE ON SSI OR SSDI TO JUMP TO THE EMPLOYMENT

SUPPORT INSURANCE ROLLS IF THIS WAS CREATED. OR IF THEY'RE NEW TO THEIR DISABILITY, JUST ELECT THIS FROM THE GET-GO TO BE ON EMPLOYMENT INSURANCE. SO THAT WOULD BE THE FIRST THING THAT WOULD NEED TO BE DONE. SECOND, WE WOULD HAVE TO SOLVE TH ISSUE OF HEALTH CARE. THAT WOULD HAVE TO BE ONE OF THE SUPPORTS, NEEDS TO BE ONE OF THE SUPPORTS. WE NEED TO TAKE AWAY THAT ISSUE.

AND THIRD IS LIKE RICH WAS JUST SAYING, YOU'VE GOT TO TRULY INCENTIVIZE THIS, NOT ONLY FOR THE WORKER WITH THE DISABILITIES, BUT FOR THE EMPLOYER. GIVE THE EMPLOYER SOME REAL TAX CREDITS, EVEN IF THEIR BOTTOM LINE IS NOT PROFIT THAT YEAR. IF THEY EMPLOYED SOMEONE WITH A DISABILITY, GIVE THEM A SERIOUS OFFSET, 30, 40, 50% OF THE WAGES THAT THEY HAD TO PAY FOR THAT PERSON IN TERMS OF THE REAL TAX CREDIT THAT THEY ACTUALLY GET BACK.

SO I THINK IF WE'RE GOING TO SOLVE THIS ISSUE, WE GOT TO TAKE AN APPROACH LIKE RICH IS SAYING, YOU'RE GOING TO HAVE TO REALLY INCENTIVIZE THIS AND YOU'RE GOING TO HAVE TO DO THAT NOT ONLY FOR INDIVIDUALS WITH DISABILITIES, YOU'RE GOING TO HAVE TO DO IT FOR THE EMPLOYERS AS WELL. I'D BE INTERESTED IN YOUR REACTION TO AN APPROACH LIKE THAT. OF COURSE; THERE IS THE WHOL ISSUE OF THE POLITICAL LIABILITY OF IT THAT YOU WOULD HAVE TO GET THROUGH --

SUSANNE BRUYERE:

BEFORE YOU RESPOND, I SEE THAT THERE IS ANOTHER HAND AND BEFORE YOU RESPOND TO THAT, I WANT TO MAKE SURE THAT WE GET OUT ON THE TABLE SOME OF THE QUESTIONS THAT WE HAVE FROM OUR REMOTE PARTICIPANTS. JEFF, HOW MANY QUESTIONS DO YOU HAVE?

MALE AUDIENCE:

WE HAVE ABOUT THREE.

SUSANNE BRUYERE:

CAN YOU READ THEM QUICKLY AND SEE WE'LL SEE IF WE CAN HAVE THEM ANSWER -- WE'RE HAVING A HARD TIME HEARING YOU, JEFF.

MALE AUDIENCE:

OKAY. WE HAD THREE QUESTIONS DURING THE FIRST SPEAKER. THE FIRST QUESTION WAS DID HRS EMPLOYER ACCOMMODATIONS ONLY LOOK AT ACCOMMODATION FOR DISABILITY ONSET WHILE CURRENTLY EMPLOYED? OR DOES IT ALSO LOOK AT ACCOMMODATION FOR PEOPLE WITH EXISTING?

SUSANNE BRUYERE:

AND YOU HAVE OTHER QUESTIONS?

WHY DON'T YOU READ THEM ALL.

MALE AUDIENCE:

DID YOU FIND THAT THE LACK OF KNOWLEDGE ABOUT ACCOMMODATION IS THE PROCESS OF PROVIDING IT AND IT MAY HAVE AFFECTED COST.

SUSANNE BRUYERE:

AND THERE IS A THIRD?

MALE AUDIENCE:

DO YOU HAVE ANY DATA ON DIFFERENCE BETWEEN OBVIOUS AND HIDDEN DISABILITY REGARDING ACCOMMODATION?

SUSANNE BRUYERE:

OKAY. I WILL LET RICH ANSWER THAT AND THEN WE'LL COME BACK.

MALE AUDIENCE:

AND IF THEY CAN BE SURE TO SPEAK IN THE MIC. WE'RE HAVING A HARD TIME HEARING.

SUSANNE BRUYERE:

OKAY. IT SOUNDS LIKE IT'S CUTTING IN AND OUT. WE'LL SEE WHAT WE CAN DO.

MALE AUDIENCE:

OKAY. THANK YOU.

RICHARD BURKHAUSER:

YEAH. WITH REGARD TO THE FIRST QUESTION, WE KNOW -- THE WAY WE CREATE SAMPLE WAS PEOPLE WHO WERE 51 TO 61 AND RESPONDED THAT THEY HAD A DISABILITY -- NOT A DISABILITY, A WORK LIMITATION THAT AFFECTED THEIR ABILITY TO WORK, WERE THEN ASKED WHEN THAT FIRST OCCURRED. SO IF IT FIRST OCCURRED WHEN THEY WEREN'T EMPLOYED, THEY ARE NOT INCLUDED IN THE SAMPLE. SO THE DISABILITY EVENT HAD TO OCCUR WHILE THEY WERE WORKING. WITH REGARD TO THE SECOND QUESTION ABOUT KNOWLEDGE, WE JUST DON'T KNOW KNOWLEDGE. SO THERE WERE QUESTIONS ASKED ABOUT DID YOU KNOW AT THE TIME THAT YOU COULD HAVE ASKED YOUR EMPLOYER FOR AN ACCOMMODATION. SO WE JUST DON'T KNOW THE ANSWER TO THAT. AND THEN THE THIRD QUESTION WAS DIFFERENCES IN THE KINDS OF IMPAIRMENTS.

WE HAVEN'T EXPLORED DIFFERENCES IN OUTCOMES BASED ON THOSE CONDITIONS. WE HAVE JUST HELD THEM CONSTANT IN THE REGRESSIONS AND I JUST DON'T REMEMBER WHAT THE RESULTS ARE.

SUSANNE BRUYERE:

THANK YOU. ALAN I'M GOING TO COME TO YOU. AND WHILE I'M DOING THAT, I WANT TO ACKNOWLEDGE DAVE STAPLETON WHO IS A CO-PI ON THIS PROJECT WHO IS SITTING NEXT TO ALAN.

MALE AUDIENCE:

THANK YOU. ALAN JENSON, GEORGE WASHINGTON UNIVERSITY. ONE OF THE PIECES OF INFORMATION IN RESPONSE TO YOUR -- AS BEFORE, HOW MANY PEOPLE WERE ON DISABILITY BENEFITS DURING THAT AND YOU INDICATED I THINK WHICH IS AN IMPORTANT PIECE OF INFORMATION THAT MOST OF THE PEOPLE THERE WERE WORKING TRYING LIKE CRAZY TO NOT GO ON DISABILITY BENEFITS BEFORE THEY APPLIED. AND ONE OF THE BARRIERS TO CHANGES IS

THAT MOST OF THE DATA SAYS THAT THERE'S TWICE AS MANY PEOPLE OUT THERE WHO WOULD QUALIFY JUST FOR THE BENEFITS THAN ARE CURRENTLY RECEIVING IT.

SO I THINK THE IDEA THAT THIS IS SOMETHING THAT PEOPLE IMMEDIATELY JUMP INTO IS A MYTH THAT PERHAPS THAT DATA CAN ALSO HELP SHOW FROM THAT SURVEY. I THINK THAT'S VERY IMPORTANT.

YOU REFERENCE THE SSI PROGRAM. ABOUT 60% OF THE PEOPLE ON SSI ARE THOSE WITH MENTAL DISABILITIES, THOSE WITH MENTAL RETARDATION AND MENTAL ILLNESS. AND BEYOND SSI YOU OFTEN TIMES STARTED BEFORE HIGH SCHOOL WHEN THIS FIRST SHOWED UP. I THINK WE HAVE TO BE VERY CAREFUL AS WE TALK ABOUT EARLY INTERVENTION. ARE WE TALKING ABOUT EARLY INTERVENTION WHEN SOMEONE IN HIGH SCHOOL HAS SIGNS OF SCHIZOPHRENIA? MAKE SURE WE SEPARATE OUT WHICH TYPE OF DISABILITY YOU'RE TALKING ABOUT.

THE FINAL ISSUE, AND I'M GOING TO LOOK INTO THIS FURTHER, IS LOOKING AT SSI, THE PERCENTAGE OF PEOPLE IN SOME STATES ON SSI WORKING ANY ONE MONTH IS 25%. TO GO TO SOME OTHER STATE, IT'S LIKE 5 TO 6%. THERE'S SOMETHING GOING ON OUT THERE AS FAR AS DIFFERENCES AMONG THE STATES WHICH IS VERY -- SHOWS A LOT OF DIFFERENCES BOTH ON SERVICES BUT MAYBE ALSO THE CULTURE OF THOSE STATES AND ALSO THE ECONOMY OR MAYBE A COMBINATION FOR PART-TIME EMPLOYMENT BECAUSE MOST OF THE PEOPLE ON DISABILITY BENEFITS WHO ARE WORKING ARE WORKING PART-TIME. SO WE HAVE TALKED ABOUT THAT ISSUE AS FAR AS THAT'S THE PRIMARY ACCOMMODATION. AND SO WE HAVE A LOT OF PEOPLE ON BENEFITS WHO ARE WORKING, MUST BE ACCOMMODATED BECAUSE MOSTLY ALL OF THEM ARE WORKING PART-TIME. SO THOSE ARE JUST SOME POINTS I WANTED TO BRING UP.

MICHAEL COLLINS:

SUSANNE, IF WE HAVE SOME TIME, I HAVE A COMMENT TO THAT.

SUSANNE BRUYERE:

WE DO. WE HAVE A COUPLE MORE MINUTES. WE'LL LET OUR PANELISTS AND DR. BURK HAASER MAKE SOME CLOSING COMMENTS.

MICHAEL COLLINS:

THIS IS MIKE COLLINS AGAIN. YOU DIDN'T HAVE TO HOOK IT UP ALL FANCY. BUT

I WOULD LIKE TO RESPOND QUICKLY TO THAT. THE REASON THAT SO MANY OF THOSE PEOPLE ARE WORKING HART.

TIME, THE PEOPLE THAT I KNOW THAT ARE WORKING PART-TIME THAT ARE ON SSI BENEFITS IS BECAUSE THEY DON'T WANT TO LOSE THOSE BENEFITS ANSWER THE MEDICAID THAT GOES ALONG WITH IT. SO THEY ARE SIMPLY RESTRICTING THE AMOUNT OF TIME THEY CAN WORK AN I DON'T KNOW IF THAT LEADS TO A FALSE ASSUMPTION. I THINK, RICH, YOU MADE A STATEMENT EARLY ON AND I WANTED TO JUST RESPOND TO IT THEN BUT I DIDN'T. THAT PEOPLE WITH DISABILITIES HAVE LOWER ENERGY AND ARE LESS LIKELY TO WANT TO WORK FULL-TIME. I KNOW PEOPLE THAT I WORK WITH AND THAT I KNOW PERSONALLY AND MYSELF, I HOLD MY RECORD AND MOST OF THEIR RECORDS UP AGAINST ANYBODY ELSE IN THE WORKPLACE AS FAR AS BEING WILLING TO WORK MORE THAN 40 HOURS A WEEK AND NOT TAKING TIME OFF IN ORDER TO DO A GOOD JOB AND EARN AN INCOME. SO I DON'T THINK THAT'S A -- I DON'T THINK THAT TYPE OF A GENERAL COMMENT HAS BEEN SUPPORTED BY ANY TYPE OF RESEARCH UNLESS IT'S A CAUSE THAT -- A NEBULOUS CAUSE AND EFFECT THING THAT'S CAUSED BY PEOPLE WORKING PART-TIME IN ORDER NOT TO LOSE THEIR BENEFITS THEY NEED TO SURVIVE. SO WE HAVE GOT TO BE CAREFUL ON THAT.

MALE AUDIENCE:

THE SSI DOES NOT HAVE THAT LIMITATION. THE SSDI DOES.

MICHAEL COLLINS:

ALAN SAID THAT SSI DOES NOT HAVE A LIMITATION ON THE WORK INCOME. BUT SSDI DOES AND ALSO MEDICAID DOES, AND SSDI, IF YOU'RE ON SSDI, YOU'RE GETTING MEDICAID. IF YOU GO OFF SSDI, YOU LOSE MEDICAID AND THAT IS THE DIRECT EFFECT THAT JOHN BROUGHT UP HERE, JOHN LANCASTER BROUGHT UP HERE EARLIER ABOUT THE FACT THAT WE NEED TO HAVE THOSE HEALTH CARE BENEFITS TAKEN CARE OF IN A MANNER THAT DOES NOT KEEP PEOPLE FROM WORKING. BUT DO NOT MAKE THE OVERALL ASSUMPTION THAT PEOPLE WITH DISABILITIES HAVE LOWER ENERGY OR LESS WANTING TO WORK A FULL WEEK. I JUST THREW THAT OUT THERE.

SUSANNE BRUYERE:

OKAY.

WITH THAT, I'M GOING TO ASK, RICH, IF YOU CAN GIVE SOME CLOSING COMMENTS AND IF YOU WOULD, GIVE US THE FEEDBACK ON YOUR EVALUATION

FORMS BEFORE YOU LEAVE IF YOU HAVE A MOMENT TO COMPLETE THAT, THAT WOULD BE GREAT.

RICHARD BURKHAUSER:

JUST A QUICK RESPONSE TO MIKE...ONE OF THE REALITIES, AS YOU KNOW, TRYING TO TALK ABOUT PEOPLE WITH DISABILITIES IS THERE IS TREMENDOUS HEAT ROW GENEITY WITHIN THE POPULATION OF DISABILITIES JUST AS THERE IS WITHIN THE GENERAL POPULATION. SO, SURE, THAT'S RIGHT.

ACTUALLY, WALTER ROY IS THE GUY WHO WROTE A PIECE IN THE JOURNAL THAT YOU'RE TALKING ABOUT, HE WAS A BLIND GRADUATE OF THE UNIVERSITY OF CHICAGO'S ECONOMICS DEPARTMENT, TAUGHT ECONOMICS FOR MANY YEARS AT THE ROCHESTER UNIVERSITY.

MY FINAL COMMENTS GOING BACK TO THE PURPOSE OF THIS STUDY...THE AMERICANS WITH DISABILITIES ACT WAS, I THINK, AN IMPORTANT MILESTONE IN THE SENSE THAT IT'S THE FIRST FEDERAL LEGISLATION TO TRY TO PROVIDE ACCOMMODATION RIGHTS TO FOLKS WITH DISABILITIES. AND FOR THAT REASON, IT'S IMPORTANT.

BUT IN TERMS OF ITS EFFECT ON THE WORKPLACE ON ACCOMMODATION, OUR FINDINGS ARE THAT IT DID IN FACT HAVE A SIGNIFICANT EFFECT PARTICULARLY FOR THOSE PEOPLE PRIOR TO THE FEDERAL LEGISLATION, WERE NOT PROTECTED BY ANY KIND OF ANTIDISCRIMINATION LAWS. BUT TO ARGUE THAT IT'S RESPONSIBLE FOR THE DECLINE IN THE EMPLOYMENT OF PEOPLE WITH DISABILITIES THAT HAS BEEN CONTINUING EVER SINCE IS REALLY HIGHLY UNLIKELY. IT DID HAVE A -- IT CLEARLY HAD A POSITIVE EFFECT ON THOSE PEOPLE WHO WERE EMPLOYED AT THE TIME THAT THEIR DISABILITY BEGAN TO AFFECT THEIR ABILITY TO WORK AND THAT'S GOOD NEWS.

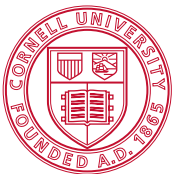
MORE BROADER POINT IS THAT THE KINDS OF ACCOMMODATIONS THAT WE'RE REALLY TALKING ABOUT ARE REALLY ACCOMMODATIONS ABOUT FLEXIBILITY ON THE JOB AND PERHAPS THIS IS JUST A MORE GENERAL STATEMENT OF EMPLOYERS WILLINGNESS TO BE MORE ACCOMMODATING TO ALL FLEXIBILITY ISSUES, HARD TO SAY. BUT I WOULD SAY THAT WHILE THERE ARE LIMITATIONS TO THE DATA SET, THIS IS THE FIRST DATA SET THAT HAS BEEN ABLE TO DEMONSTRATE THERE'S BEEN ANY EFFECT AT ALL, SO I'VE BEEN PROUD ABOUT THAT.

BUT WE REALLY DO HAVE BIGGER FISH TO FRY AND WE REALLY DO NEED TO THINK ABOUT OUR DISABILITY SYSTEM AS A WHOLE AND HOW IT IMPACTS INCENTIVES TO PEOPLE WITH DISABILITIES TO WORK AND NOT WORK AND THAT'S GOING TO REQUIRE SOME CAREFUL THINKING AND THINKING ABOUT NEW KINDS OF THINGS, PROPOSALS LIKE THE TICKET TO WORK PEOPLE TALKED ABOUT. BUT

I THINK THE KEY IS TO LOOK AT OUR EUROPEAN BROTHERS AND SEE THAT IN ALL COUNTRIES EXCEPT OURS, DISABILITY IS NOT USED AS AN INITIAL RESPONSE TO DISABILITIES. THERE ARE WORK PROGRAMS THAT OCCUR FIRST. WE HAVE IT FOR WORKERS WHO EXPERIENCE DISABILITY BECAUSE OF AN ACCIDENT. WE HAVE IT THROUGH WORKERS' COMPENSATION, BUT THAT'S NOT TRUE AND GENERAL FOR OTHER KINDS OF DISABILITIES.

SUSANNE BRUYERE:

THANK YOU. WE ARE AT TIME, SO I WANT TO THANK PROFESSOR BURKHAUSER FOR HIS PRESENTATION AND JOHN KEMP AND MICHAEL COLLINS. IT WAS A VERY STIMULATING CONVERSATION AND I'M SURE WE'LL KEEP PICKING UP AT THIS PARTICULAR TOPIC. THANKS TO YOU WHO CAME OUT TODAY IN PERSON TO PARTICIPATE AND HEAR THIS PRESENTATION AND GIVE US SOME CHALLENGING QUESTIONS. AND TO THOSE AT A DISTANCE WHO JOINED US BY WEBINAR. WE LOOK FORWARD TO SEEING YOU AGAIN ON MARCH 21st. THANKS.



Cornell University

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