

AMERICANS WITH DISABILITIES
ACT

Mr. HARKIN. Mr. President, tomorrow we celebrate the 23rd anniversary of the signing of the Americans With Disabilities Act, the ADA. This landmark civil rights legislation will always be the highlight of my almost 40 years here in the Congress.

The Americans With Disabilities Act is one of the landmark civil rights laws of the 20th century; as someone once said, a long overdue emancipation proclamation for people with disabilities. The ADA has played a huge role in making our country more accessible, in raising expectations of people with disabilities about what they can achieve at work and in life, and inspiring the world to view disability issues through the lenses of equality and opportunity.

In these times, it is valuable to remember passage of the original Americans With Disabilities Act was a robustly bipartisan effort. As the chief sponsor of the ADA here in the Senate, and as the chair of the Disability Policy Subcommittee at that time, I worked very closely with both Republicans and Democrats. At that time Senator Robert Dole was the minority leader of the Senate, and we received invaluable support from President George Herbert Walker Bush. Key members of his administration, such as White House Counsel Boyden Gray, worked so hard on this, as did Attorney General Dick Thornburgh, who was magnificent in his support for the Americans With Disabilities Act. Transportation Secretary Sam Skinner and other Members of Congress also played critical roles in passing the ADA.

First and foremost among those, I would have to say, was Senator Ted Kennedy, who was chair of the full committee at the time and who allowed me to take the bill through as the chair of the Disability Policy Subcommittee. Senator ORRIN HATCH played a key role at times, making sure we got the conservatives on the same page. Representatives Tony Coelho, STENY HOYER, Major Owens, Steve Bartlett, and I might also mention someone who is not mentioned a lot, because he was not here in the Senate at the time we passed it, but who put in a lot of his life's work and who was chairman of that subcommittee before I took it over, Senator Lowell Weicker from Connecticut. As a matter of fact, he was the first sponsor of a comprehensive disability policy bill here in the Senate. So he became a great supporter, a great personal friend of mine through all these years, and Lowell Weicker deserves a lot of credit for actually getting us focused on the issue of a comprehensive civil rights bill addressing the issue of disability.

Before the ADA, life was very different for folks with disabilities in Iowa and across the country. Being an American with a disability meant you couldn't ride on a bus because there

was no lift, not being able to attend a concert or a ballgame or a movie with your family or your friends or loved ones because there was no accessible seating, not even being able to cross the street in a wheelchair because there were no curb cuts. In short, being disabled in America before the ADA meant not being able to work or participate in community life. Discrimination was both commonplace and accepted.

Since then, we have seen amazing progress. The ADA literally transformed the American landscape by requiring architectural and communications barriers be removed and replaced with accessible features such as ramps, lifts, curb cuts, widened doorways, and—for anyone who is watching this on C-SPAN and put on the mute button—you get closed captioning for the deaf and hard of hearing.

More importantly, the ADA gave millions of Americans the opportunity to participate in their communities. We have made substantial progress in advancing the four goals of the ADA: equality of opportunity, full participation, independent living, and economic self-sufficiency—the four pillars of the ADA.

But I stand here today to remind my colleagues that we have not yet kept the promise we made 23 years ago with strong bipartisan support. We still have too many Americans with disabilities living in poverty, oftentimes in isolation and without control over the supports and services in their lives.

For example, last week in my role as the chair of the Senate Committee on Health, Education, Labor, and Pensions, we concluded an investigation and issued a final report on the state of the implementation of the part of the ADA that provides for people to be able to live and receive services in integrated settings, and prohibits people from being unnecessarily separated and isolated from their family and friends and put in institutions or other segregated settings. What we found is disturbing. Twenty-three years after the 1999 Olmstead case decision by the Supreme Court, we found that more than 200,000 working-age Americans with disabilities—many in their late teens and early twenties—remain trapped in nursing homes and institutions, separated from their families and communities against their wishes—despite the 1999 Supreme Court decision in *Olmstead v. LC* that people with disabilities have the right to be integrated in the community.

Our committee investigators found that only 12 States devote more than half of their Medicaid long-term care dollars to home and community-based services. The number of working-age adults in nursing homes has actually increased by more than 30,000 over the last 5 years. It is shameful.

Unfortunately, many States continue to approach community living for people with disabilities as a social welfare issue and not as a civil rights issue.

This is a failure of vision on the part of many State leaders.

So how can we correct this injustice? Well, we need to clarify that under the ADA, every individual who is eligible for long-term services and supports has a federally protected right to a real choice—their choice—in where they receive these services and supports, whether in an institution or in a community.

What that also means is, at long last, Congress needs to end the institutional bias in the Medicaid system. Right now, under Medicaid, States are required to pay for long-term services and supports if you are in a nursing home. But if you want to receive those supports and services in an integrated community-based setting, Medicaid has the option of covering you. That is the institutional bias that exists in Medicaid: They have to pay for you if you are in a nursing home, and they don't have to pay for supports and services if you are in a community or integrated setting. As long as it remains that way, the deck will continue to be stacked in favor of costly institutional settings. We know from our investigations that home-based, community-based integrated settings with support services for people with disabilities is more cost effective than putting people in an institution or a nursing home—not to mention the quality of life, and the fact that so many people with disabilities want to be in an integrated community setting and do not want to be housed in a nursing home.

In my remaining 17 months that I have as a Senator here in the Senate, I plan to hold hearings and introduce legislation that will accelerate the rate at which States move their long-term services and supports in the direction of home and community-based settings.

Another area where our work is incomplete is making sure people with disabilities take their rightful place in the American workforce. Twenty-three years after the passage of the ADA, it is shameful that two out of every three adults with a disability are not even in the workforce, not working. That is shameful. We may say, Well, the unemployment rate in America is now 8 or 9 percent. Think about if you are a disabled adult; it is 60 percent or more who are unemployed.

Next week in the HELP Committee, we will mark up the Workforce Investment Act, a critical law that has not been reauthorized since 1998. The workforce has changed a lot since 1998, and a lot of the ADA generation have come of age during that period of time. So in the bipartisan draft Senators Alexander, Murray, Isakson, and I filed with the committee yesterday, we include provisions that will improve how the vocational rehabilitation system partners with schools to deliver services that will result in more young people doing internships, part-time jobs, in competitive settings. The aim is to maximize the likelihood that young

people with disabilities will leave school college and career ready—people such as Lily Siegel, who was my intern this summer from the American Association of People with Disabilities. They provide summer internships. Lily, and so many like her, have high expectations for themselves. They want to be challenged. They want to work in competitive, integrated employment. They don't want to be shunted into subminimum wage jobs with no future, no chance for advancement, no chance for challenging themselves to do better and to do more and to take more responsibility. We owe it to them to do everything in our power to help them transition to the kinds of jobs and higher education experiences that will help them build a career and maximize their economic self-sufficiency.

I can tell you from my work in this area that this generation of young people who have come of age under the umbrella of the ADA, who were born in 1990 through 1995, has been integrated into their schools. They weren't segregated as my brother was and sent halfway across the State to a State institution. They have higher expectations. They have had accessibility. They see what society has done to make sure that they can travel, they can go out with their friends and their family, they can go to school in integrated settings, they can get jobs and, under the ADA, employers have to provide reasonable accommodations for that job. They don't deserve now to be frustrated by not having the opportunity to get that competitive integrated employment.

That is what we are doing in the Workforce Investment Act, to provide for young people in high school who have disabilities, to let them know they expect more of themselves, and we do too. No longer will it be acceptable for them to leave school and go into some minimum wage covered employment where they are warehoused for the rest of their lives. They want to get out there and show what they can do. That is why we are changing the Workforce Investment Act, changing vocational rehab to focus on getting these young people internships, job shadowing, mentoring, so they know what their abilities are and what they can expect to do once they leave school.

When we passed the ADA, so many people came here from other countries—legislators, parliamentarians—how can we now do this? How can we get our laws changed?

About 11 years ago, the United Nations set up a committee to look at this. Out of this came the U.N. Convention on the Rights of People With Disabilities, the CRPD. That treaty was sent to our President, and under our system the President sends it out to all his Departments in the executive branch to report back, what things do they need to do to change to conform to the treaty? In other words, if the treaty is the supreme law of the land,

what laws do we have to change in order to comply with that treaty?

Guess what. After about a whole year of circulating through all of our Departments of Justice, Labor, HHS, Agriculture, and everything else, it came back: We don't have to change one law because we are the best in the world when it comes to the civil rights protection of people with disabilities.

So last year, under the guidance of then-Senator John Kerry, who is now our Secretary of State, it went to the Foreign Relations Committee. They had hearings. Senator MCCAIN and I were the two leadoff witnesses. We brought that treaty to the floor of the Senate in December, fully expecting it would pass. Under the Constitution of the United States, it requires a two-thirds vote to approve the treaty and we thought we had the votes. We brought it on the floor. We fell 6 votes short of the 67 votes we need. We had a number of Republicans and Democrats on the bill.

Why did it fail? Right before we brought it up, former Senator Rick Santorum and others began to talk about how this was going to prevent people from homeschooling their kids. I thought I knew the treaty. I had read it. I had looked at it. I thought, Did I miss something? Is there something in there I didn't find?

I went back to my staff and said, Comb through this. I got ahold of people at the U.N. and said, What is in there that would prevent people from homeschooling their kids? Nothing. Absolutely nothing. That charge was made out of whole cloth somehow, but at that time in my office calls ran 50-1 against adopting the treaty on that issue. So people were misinformed because of a few people like Mr. Santorum and others who decided to whip this up—for whatever reason, I don't know.

There were also a lot of comments made on the Senate floor by my Republican colleagues at that time that we shouldn't be adopting a treaty in a lameduck session, even though we pointed out that many treaties in the past had been adopted in lameduck sessions. I review that history to tell my colleagues that under now the leadership of Senator BOB MENENDEZ, who is the chair of the Senate Foreign Relations Committee—and I might add that the person who succeeded Senator Kerry in his position in the Senate, the present occupant of the chair, is also on the Senate Foreign Relations Committee—there are going to be some more hearings. Under the leadership of Senator MENENDEZ, we intend to bring that back to the floor this fall. We need to get the 67 votes.

People ask: Why is that so important? It is important for the United States to take leadership on this issue around the globe. Over 100 nations have already signed the treaty. They are looking to us for leadership.

I have talked to some of my colleagues and they say: Why do we need

to join that? We are OK. We are doing just fine. We are doing just fine with disability law in our country. We do not need to join this convention, sign this treaty.

It seems to me that is an inherently selfish way of looking at who we are and what we are about as a nation. We have provided, I think to the world, guidance and direction on disability issues. If we are a part of the Convention, we get a seat at the table. When countries come and say we want to conform our laws, we want to make sure we meet the guidelines of the Convention on the Rights of Persons with Disabilities, this commission that is set up will be there to both guide and direct countries but also to see whether they are fulfilling their obligations. If we are not a signatory to the treaty, we are not at the table.

There is another reason we should sign this Convention. I just spoke to a group of people yesterday, people with disabilities, and I said: There are a lot of people in this country who use a wheelchair. Guess what. They would like to travel overseas. They would like to go with their friends and their family. But in many of these countries they do not have curb cuts. They do not have lifts. They do not have accessibility for people with disabilities. Shouldn't people with disabilities in this country have the same right to travel and enjoy foreign travel as anybody else? If we are a signatory to the treaty, then we can work with those countries to help change their laws, change their structures.

I cannot tell you how many veterans I have talked to, people who have come back from Iraq and Afghanistan disabled, and do you know what they say. They want us to join the treaty too because they want to travel overseas, and they feel constricted because they will not have accessibility in other countries.

For the life of me I cannot understand why people are not supporting this treaty. I do not get it. I just don't get it. It is supported by the U.S. Chamber of Commerce. It is supported by every veterans group in this country. It is supported by, I think, every faith-based group in this country. It is supported by everyone in the disability community. It is supported by every former living President, from the two Bushes to Clinton, to Carter. It has broad-based support. You would think with that kind of support it would be a no-brainer to pass it in the Senate.

We are going to bring it up again this fall. I am hopeful we can do it. No one worked harder on a lot of these issues than Senator Bob Dole. We just had his 90th birthday party Tuesday in Statuary Hall. It was quite an event. So we fell just six votes short. I look forward to working with Senators MENENDEZ, MCCAIN, AYOTTE, BARRASSO, DURBIN, UDALL, and COONS to bring the treaty back to the floor and get the additional votes needed for it to pass.

I tell you, people with disabilities, their family members, supporters, the

business community, the veterans community, faith-based and civil rights groups are mobilizing for this. They do not want to take another chance that this will not pass.

I urge my colleagues to take the time to look at the facts related to the disability treaty. It requires no changes in U.S. law. It has no budget impact. As I said, when we become a party to the Convention, we have a seat at the table with the rest of the world. We will be well positioned to accelerate progress for the 1 billion people with disabilities around the world. It is our chance to be that shining city on the hill for the rest of the world.

I might also add this is supported by the high-tech business community in America because their global leadership position on accessible products and services can be used by the rest of the world.

For all those reasons, we need to pass it. Let me just close with this one last thought. Again, I am struck by the fact that these days we are surrounded, as I said earlier, with a new generation of young adults with disabilities who grew up since passage of the ADA, including a number of wounded warriors back from Iraq and Afghanistan. I call these younger people the ADA generation. They see disability as a natural part of human diversity. They reject the prejudices and stereotypes of earlier generations. I can tell you this, they have high expectations for themselves. They want to be challenged and they want to challenge us to make sure our society is open and they have the opportunity to go as far as their talents can take them.

We cannot let these people down. If we passed the ADA, now we have to take steps to make sure it is not just a promise, but it is a promise we are keeping and that we will keep.

We in the Senate have a responsibility to keep fighting to ensure that they have an equal opportunity to be independent, fully integrated, fully self-sufficient. That, at the heart, is what the Americans with Disabilities Act is all about. Twenty-three years later, we can look at it and say, without doubt, it truly is America at its very best.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

COMPREHENSIVE TAX REFORM

Mr. HATCH. Mr. President, over the last few years, I have come to the floor many times to advocate for comprehensive tax reform. I share the belief of many in Congress that tax reform is a necessary step to ensuring economic growth and prosperity in the future. This is why, as the ranking member of the Senate Finance Committee, I have made tax reform my top priority.

We are now at a crossroads when it comes to tax reform. Before us there are two alternative paths. The first

path is the one we took back in 1986. It is the path that former House Democratic Leader Dick Gephardt and former Treasury Secretary James Baker advised members of the House Ways and Means Committee and the Senate Finance Committee to take.

As you will recall, they were two critical players in the last successful tax reform effort. In 2011, at one of our hearings, they advised us to not mix deficit reduction and tax reform. This was a joint Senate Finance and Ways and Means Committee hearing. To paraphrase these two former leaders: Each is a hard enough task by itself, but doing them together is nearly impossible. That is one path we can take. The path that separates our tax reform efforts from our deficit reduction efforts.

In 2011, they both advised us not to mix deficit reduction and tax reform. They just basically said that each is a hard enough task by itself, but doing them together is nearly impossible. That is one path we can take, the path that separates our tax reform efforts from our deficit reduction efforts.

The other path we can take is to condition tax reform on the raising of additional revenues. Sadly, that seems to be the preferred path of many of my friends on the other side of the aisle. I will never fully understand why, except their propensity to spend. According to many Democrats in the Senate, there can be no deal on tax reform unless they get a second significant tax increase this year. We heard just today from the Senate Democratic leadership that they want the Senate Finance Committee to use the Senate budget, which included nearly \$1 trillion in tax hikes, as the model for tax reform. Essentially, what they are saying is that unless they get a big tax hike, we have to keep the tax system as it is, with all of its complexity, inequities, and distortions. Right now this position is held by many on the other side of the aisle, and it is the biggest barrier to fundamental tax reform.

Today, I would like to take a few minutes to examine this position and to discuss the merits of conditioning tax reform on yet another significant tax increase. Last October, one of my friends on the other side put it this way:

Tax reform 25 years ago was revenue neutral. It did not strive to cut the debt. Today we cannot afford for it not to. Our national debt today is approximately 73 percent of GDP. That is nearly double what it was in 1986.

At first glance, this argument may appear to be reasonable. However, it falls apart under further examination. If my friends on the other side of the aisle were serious about deficit reduction, they would not focus their efforts on tax hikes. If they wanted to get a handle on our Nation's debt problems, they would work with Republicans to address the main drivers of our debt and deficits, our unsustainable entitlement programs.

No one who has spent more than 5 minutes examining our Nation's finances seriously disputes that the main drivers of our current debt and deficits, and the source of the coming fiscal calamity, are Federal entitlement programs, especially our health care entitlements, Medicare and Medicaid.

I have a chart from the Bipartisan Policy Center that tracks the trend lines on Federal spending. As the chart shows, in the coming years, health care entitlement spending will overwhelm our Federal fiscal picture and consume an outsized share of our economy. That is represented by the top blue line on the chart.

All other categories of major Federal spending either increase at significantly lesser rates or decline and stabilize. As we can see, Social Security kind of levels off, discretionary spending—both defense and nondefense—we have seen that go down. This is other mandatory programs. As we can see, when it comes to deficit reduction, getting our debt under control, entitlement reform, that upper line, that is going off the charts. That is where the bodies are buried. Yet if you listen to my friends on the other side of the aisle, the problem is not our entitlement programs. The problem, they say, is that the American people simply are not being taxed enough.

Of course, the actual numbers tell a different story. Over the last 40 years, Federal revenues as a percentage of the gross domestic product have averaged roughly 17.9 percent. While in recent years that number has decreased due to the struggling economy, tax revenues are at a pace to rise over the historic average and settle around 19 percent of GDP.

Let me repeat that. Absent any changes in tax law, revenues are set to rise above historic levels relative to GDP, the gross domestic product. So despite my friends' claims to the contrary, the root of our current fiscal crisis is not the lack of revenues, it is unsustainable spending. More specifically, it is entitlement spending. That is just health care. That doesn't include some of the others. That is why all serious bipartisan deficit reduction discussions over the last few years have included structural reforms to our entitlement programs.

Without significant changes, programs such as Medicaid and Medicare and Social Security will remain unsustainable. In order to strengthen and preserve these programs for future generations, we need to reform them. If we do not reform them, we face a fiscal disaster, and it would be a terrible disaster for all of our young people living today who are going to have to foot this bill.

All of the major discussions seeking to reach a so-called "grand bargain" on deficit reduction have come down to a mix of different policies, but while they have all had different approaches, all of them have included structural entitlement reforms.