



## EDWARD M. KENNEDY ORAL HISTORY PROJECT

### Interviewer's Briefing Materials

**Nick Littlefield Interviews, 05/03-04/2008, 06/30/2008, 07/01/2008, 02/14-15/2009**

Robert A. Martin, Research Director

#### Miller Center Documents<sup>1</sup>

- Nick Littlefield Timeline.
- EMK Legislative Highlights (1989-1997).
- EMK Health Care Highlights (1989-1997).
- The Americans with Disabilities Act Overview Memo,
- 1991 Civil Rights Act Overview Memo.
- EMK-Kassebaum Overview Memo.

#### Secondary Source Materials

- Nick Littlefield bio, [www.foleyhoag.com](http://www.foleyhoag.com).
- Adam Clymer interview with Nick Littlefield, John F. Kennedy Presidential Library, 04/05/1993, 07/29/1993, 05/14/1994, 06/21/1994, 01/04/1995, 08/14/1995, 08/06/1996, 08/09/1996, 12/10/1998, 01/30/1999, 01/31/1999, 05/07/1999, 05/09/1999, 05/26/1999, 05/28/1999, 05/31/1999, 06/06/1999.
- "Edward M. Kennedy, The Health Crisis: A Report to the American People," prepared by the Labor Committee, June 1990.
- *1990 Congressional Quarterly Almanac* (Washington, D.C.: Congressional Quarterly Inc., 1990) pp. 582-589.
- *1994 Congressional Quarterly Almanac* (Washington, D.C.: Congressional Quarterly Inc., 1994) pp. 319-355.
- *1996 Congressional Quarterly Almanac* (Washington, D.C.: Congressional Quarterly Inc., 1996) pp. 6-28 to 6-39.

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<sup>1</sup> These are original documents created by Miller Center researchers for the Edward M. Kennedy Oral History Project. Please acknowledge credit for any use of these materials.

- *1990 Congressional Quarterly Almanac* (Washington, D.C.: Congressional Quarterly Inc., 1990) pp. 447-461.
- *1994 Congressional Quarterly Almanac* (Washington, D.C.: Congressional Quarterly Inc., 1994) pp. 383-396.
- *1994 Congressional Quarterly Almanac* (Washington, D.C.: Congressional Quarterly Inc., 1994) 397-399.

### **Oral History Interviews**

- Edward M. Kennedy interview, Kennedy Oral History Project, Miller Center, University of Virginia, 06/03-04/2005.
- Edward M. Kennedy interview, Kennedy Oral History Project, Miller Center, University of Virginia, 08/02/2005.
- Ranny Cooper interview, Kennedy Oral History Project, Miller Center, University of Virginia, 14/04/2007.
- John Hilley interview, Kennedy Oral History Project, Miller Center, University of Virginia, 09/21/2007.
- Ira Magaziner interview, Kennedy Oral History Project, Miller Center, University of Virginia, 11/19/2007.
- Michael Myers interview, Kennedy Oral History Project, Miller Center, University of Virginia, 08/28/2006.
- David Nexon interview, Kennedy Oral History Project, Miller Center, University of Virginia, 06/27/2007.
- Tom Susman interview, Kennedy Oral History Project, Miller Center, University of Virginia, 05/23/2007.
- Ron Weich interview, Kennedy Oral History Project, Miller Center, University of Virginia, 05/30/2007.

### **Other**

- Labor Committee highlights: 101<sup>st</sup> and 102<sup>nd</sup> Congresses.

## NICK LITTLEFIELD TIMELINE

Prepared by Mark D. Nevin

Miller Center, University of Virginia, 04/29/2008

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- 1964**      **Nick Littlefield** graduates from Harvard University. President John F. Kennedy visits Harvard while **Littlefield** is there. **Littlefield** calls the President's visit "the sort of political awakening in my life." (Nick Littlefield Bio, Foley Hoag, LLP; Adam Clymer Interview with Littlefield, Washington, D.C, 12/10/1998, p. 1)
- 1968**      **Littlefield** graduates from the University of Pennsylvania Law School. (Littlefield Bio)
- 1972-1976**      **Littlefield** serves as Assistant U.S. Attorney for the Southern District of New York. (Littlefield Bio)
- 1978-1980**      **Littlefield** serves as Chief Counsel to the Massachusetts Special Anti-corruption Commission. (Littlefield Bio)
- 1981-1989**      **Littlefield** is an attorney for the law firm of Foley Hoag. (Littlefield Bio)
- 1987**      EMK becomes chairman of the Labor and Human Resources Committee, as well as the Judiciary's Immigration and Refugee Affairs Subcommittee. Ranny Cooper begins serving as EMK's chief of staff.
- 1988**      **Littlefield** works for the Michael Dukakis presidential campaign. (Clymer Interview with Littlefield, 12/10/1998, p. 1)
- June*      Reagan and Democratic congressional leaders create the Bipartisan Commission on Comprehensive Health Care Reform. EMK is named as one of the 15 members of the commission, which is chaired by Senator John Rockefeller (D-WV). It is later renamed the Pepper Commission for Senator Claude Pepper (D-FL), who dies in 1989. The commission issues its report in March, 1990. (*The New York Times*, 03/03/1990)
- Fall*      **Littlefield** agrees to replace Tom Rollins as Labor Committee staff director and chief counsel, effective February, 1989. Family friend Greg Craig, a departing EMK aide, had originally approached **Littlefield** about taking over his job as national security aide. **Littlefield** is reluctant to take the job because EMK's influence in foreign policy is "limited." Some time later **Littlefield** meets with EMK at the Harvard Club to discuss the Labor Committee job being vacated by Rollins. After EMK's re-election, **Littlefield** travels to D.C. to meet with him again and accepts the job. Littlefield is not close with EMK at first, but he and EMK grow closer after **Littlefield** becomes one of his regular tennis partners. (Adam Clymer, *Edward M. Kennedy: A Biography*, New York: William Morrow and Co., 1999, p. 456; Clymer interview with Littlefield, 01/30/1999, pp. 14-15; 12/10/1998, pp. 1-2)

**1989** Important issues EMK works on this year include national service legislation, the minimum wage, national health insurance legislation, the Employee Pension Protection Act, and the Americans with Disabilities Act (ADA).

*January* EMK introduces a minimum wage bill (S 4) that would increase the minimum wage from \$3.35 to \$4.65 an hour over three years. (1989 CQ Almanac, p. 336)

*February* **Littlefield begins working for EMK as the Labor Committee staff director and chief counsel.**

Labor Secretary Elizabeth Dole unveils an administration proposal to raise the minimum wage to \$4.25 over three years coupled with a lower training wage for new workers. EMK says the lower wage should be restricted to a person's first job and should be 80 to 85 percent of the minimum wage. (1989 CQ Almanac, p. 336)

**Littlefield** tackles his first job: the creation of a national service bill. National service had attracted attention during the 1988 presidential campaign, with Bush calling for an army of volunteers, "a thousand points of light." **Littlefield** drafts the bill, organizes Senate support, and generates publicity for it. **Littlefield** attends his first "policy dinner" at EMK's house to discuss the legislation. Several experts on national service, including Melanne Verveer, who worked at the People for an American Way at the time and was later Hillary Clinton's chief of staff, and Sam Halpern, attend. This legislation is the precursor to President Bill Clinton's Americorps program. (Clymer Interview, 12/10/1998, p. 3; 1989 CQ Almanac, p. 195)

*March* The Labor Committee rejects the administration's minimum wage bill 6-10 and approves the EMK alternative 11-5, with Republicans David Durenberger (MN) and James Jeffords (VT) voting for it. (1989 CQ Almanac, p. 338)

After Lowell Weicker (R-CT) is defeated for re-election, EMK replaces him as Senator Tom Harkin's (D-IA) cosponsor of ADA, which would protect disabled Americans from discrimination in employment, public transportation, and public accommodations. (Clymer, pp. 449-450)

*April* The Senate passes 62-37 the House's minimum wage bill (HR 2) after substituting a compromise version of EMK's bill for it. The bill would raise the minimum wage to \$4.55 over three years and establish a sub minimum, two month training wage for people who have never worked more than 60 days. After the vote, EMK says he is hopeful Bush will reconsider his position and vote for the bill. The President had threatened to veto any minimum wage bill with an increase over \$4.25. EMK considers attaching the minimum wage bill to legislation important to the President to get him to sign it. But he decides against it. House and Senate conferees agree on a bill to boost the minimum wage to \$4.55 and then the House

adopts the conference report, 247 to 172. The next month the Senate adopts the report 63 to 37. (1989 *CQ Almanac*, pp. 339-340)

*May*           EMK holds hearings on the ADA, which he calls no more than “simple justice” for the 43 million disabled Americans. He contends that the bill’s language, which calls for the accommodation of the disabled unless it imposed “undue hardship,” is “flexible” and would not place an undue burden on small businesses. (Clymer, pp. 450-452)

*June*           On the 13<sup>th</sup>, Bush vetoes the minimum wage bill. The next day the House fails to override the veto 178-247. (1989 *CQ Almanac*, p. 333)

On the 27<sup>th</sup>, negotiations between Senate leaders and the White House on ADA begin. Bush had endorsed disability legislation during his 1988 presidential campaign, but the administration has several problems with the language of the ADA. Administration officials prefer to deal with EMK, as Harkin is currently up for re-election and they want to deny him credit for the bill. Bush chief of staff John Sununu tells EMK that all rifts can be settled easily if EMK removes his chief civil rights counsel, Carolyn Osolinik, from the negotiating team. EMK calls Osolinik and congratulates her on a job well done. EMK and Sununu agree to oppose any changes to the bill once they reach an agreement. (Clymer, p. 452)

*July*           The Labor Committee (9-7) approves EMK’s Basic Health Benefits for All Americans Act, which would require virtually all employers to provide health insurance to their workers and their dependents. The bill would also create a new joint-federal program along the lines of Medicaid to provide the unemployed with health care coverage by 2000. The measure would cost the government an estimated \$3.3 billion and businesses an estimated \$18 billion a year. Although the bill never reaches the floor, EMK says he is “more hopeful and optimistic than I’ve been in years” that universal health coverage will become a reality. (1989 *CQ Almanac*, p. 171) This is the second national health insurance bill ever to pass out of any congressional committee. The first was in 1987/early 1988 when EMK had first taken over as Labor Committee Chairman.

EMK, Majority Leader Mitchell, and numerous others Democrats announce that they have merged a half dozen or so national service proposals into one bill (S 1430). But the bill goes nowhere. Bush, who had announced his “thousand points of light” initiative in May, criticizes EMK’s proposal which would pay “volunteers.” EMK responds saying: “We have always had aspects of volunteerism in this country which are completely voluntary and some of which are paid for.” EMK mentions the Peace Corps, which was created during his brother John Kennedy’s administration, as an example. Bush sends no national service legislation to the Hill in 1989. (1989 *CQ Almanac*, pp. 195-196)

Senate and White House negotiators meet ten times to discuss the ADA. On the 28<sup>th</sup>, Senator Dave Durenberger (R-MN), Harkin, Hatch, Dole, and EMK meet in

Dole's Capitol Hill office with Attorney General Richard Thornburgh, Harkin aide Bobby Silverstein, Samuel Skinner, Roger Porter, Sununu, and Osolinik. Sununu reportedly loses his temper with Silverstein, after which EMK turns red in the face and tells Sununu that yelling at staff is unacceptable. A compromise is engineered in which EMK accepts a provision eliminating damages in lawsuits in exchange for administration acceptance of a broad definition of public accommodation. All disagreements that occurred during the negotiations are kept secret until after the bill's passage. (Clymer, pp. 452-453)

*September* On the 7<sup>th</sup>, the Senate (76 to 8) approves its version of the ADA. EMK votes in favor of the bill, which contains a provision to provide federal assistance to private entities to help them meet the law's accessibility requirements. The Bush administration throws its support behind the bill after congressional sponsors agreed to limit remedies for discrimination to those available under the 1964 Civil Rights Act. The full House does not vote on the bill in 1989. (*1989 CQ Almanac*, pp. 244, 35-S)

*November* The House (382 to 37) and Senate (89 to 8) pass a revised minimum wage bill and Bush signs it. The final version of the legislation raises the minimum wage from \$3.35 to \$4.25 hour over two years and creates a lower, three month training wage for teenage employees. EMK votes for the bill. (*1989 CQ Almanac*, p. 333)

*December* EMK takes a four-day tour around the country to hold hearings on and generate publicity for national health insurance and other health issues. He visits Boston, New York, Los Angeles, St. Louis, and Sparta, Georgia. The hearings focus on AIDS, the growing number of uninsured patients, the lack of rural health care, overcrowding, and other issues. EMK meets with doctors, patients, and hospital administrators. EMK opens one session by stating that health care "should be a basic right for all, not an expensive privilege for the few." Kennedy's entire staff works on the tour. Littlefield travels with EMK. In Boston and New York they look at the AIDS epidemic and the struggle of big city hospitals to combat it. Kennedy publishes a short book on health care, *The Health Care Crisis: A Report to the American People*, after the tour ends. The seventy-eight page book is based on the speeches EMK gave during the tour. (Clymer, pp. 459-461, 463; Clymer Interview with Littlefield, 12/10/1998, pp. 4-5; 05/07/1999)

Congress repeals the Medicare Catastrophic Coverage Act, which had just been passed in 1988, after widespread opposition develops among retirees who are already paying premiums for private Medigap policies. However, it retains EMK's and Mikulski's spousal impoverishment amendment guaranteeing that when one spouse goes to a nursing home the other does not need to become impoverished before Medicaid coverage will begin.

**1990** Important issues EMK works on in 1990 include the ADA, civil rights legislation, the Ryan White Comprehensive Aids Act of 1990, Nutrition Labeling and Education Act of 1990, Head Start Improvement Act of 1990, the National

Community Service Act of 1990, NEA funding, the National Health Service Corps Revitalization, and NIH funding for women's research.

*March* A sharply divided Pepper Commission issues its report on universal health care access and long-term care. Though employer mandates remain controversial, the commission supports a plan that would require employers to either provide health insurance for their employees or contribute to a government insurance fund. EMK is one of the members to support NHI, though the commission could not agree on how NHI should be funded. (*The New York Times*, 03/03/1990)

*April* EMK gives a speech at Georgetown University called "Democratic Values and the Challenges of the 1990s," in which he lists Head Start as the first priority for spending the so-called peace dividend from the end of the Cold War. Bush's 1991 budget calls for a \$500 million increase for Head Start. (1990 *CQ Almanac*, p. 553)

The Labor Committee (10 to 5) approves a bill sponsored by Howard Metzenbaum (D-OH) to require manufacturers to display detailed nutritional information on most packaged food items. The committee differs over a provision in the bill that would preempt various state nutrition labeling laws. Both Houses of Congress eventually pass the legislation and Bush signs it. (1990 *CQ Almanac*, p. 575)

*April-May* The Labor Committee passes an EMK-sponsored bill, the Ryan White Comprehensive AIDS Resources Emergency Act, to combat AIDS. EMK aides Michael Iskowitz and Terry Beirn, an early AIDS activist who was HIV positive, originally propose a \$25 or \$30 million demonstration project, but **Littlefield** disagrees and says they should "go for broke" and ask for what they thought they needed. The bill would authorize \$300 million in assistance for the thirteen hardest hit cities and another \$300 million for all the fifty states to develop AIDS care programs. EMK implements a major public relations strategy to get the bill through the Senate. Taking the advice of aides Michael Iskowitz and Terry Beirn, EMK compares the AIDS epidemic to a natural disaster: "In terms of pain, suffering, and cost, AIDS is a disaster as severe as any earthquake, hurricane, or drought." EMK works with Hatch to win Senate approval. EMK dedicates the bill to Ryan White, a teenager who contracted AIDS through a blood transfusion in 1984 and dies a few days after the Labor Committee reports the bill. White's mother holds press conferences, gives interviews, and writes to every Senator to urge them to vote for the bill. EMK also enlists Elizabeth Taylor as an outside advocate. Her appearance before the Labor Committee draws huge media coverage.

In May, the Senate passes the AIDS bill 95-4. On the Senate floor, Hatch takes on Helms who heads the opposition to the bill. Behind the scenes, EMK blocks several Helms' amendments. The Senate does adopt a few amendments, but EMK offers the final version of some them. One amendment requires states to set up

programs to notify sexual partners of those with HIV, but EMK's version allows the states to decide whether to implement the program. Another amendment seeks to block money from being spent on needles for intravenous drug users and bleach, which is used to clean dirty needles, but EMK blocks the provision against funding for bleach. EMK also blocks a Helms amendment that would have made it a federal crime for anyone who knew they had AIDS to sell blood or other tissues or fluids. EMK's amendment requires states to make it a crime in order to get funding. (*1990 CQ Almanac*, pp. 582-583; Clymer, pp. 462-466, 471-472; Clymer Interview 12/10/1998, pp. 11-15)

Congress passes the Carl Perkins Vocational and Applied Technology Education Act authorizing \$1.6 billion for vocational education and somewhat relaxing federal strings on the money. (*1990 CQ Almanac*, p. 619)

*June* The Labor Committee (16 to 0) approves its version of a House bill (HR 4151) boosting Head Start funding \$5 billion over three years from \$2.39 billion in fiscal 1991 to \$7.7 billion in fiscal 1994. Like the House measure, the Senate bill would fund more students and set aside some funding to improve existing programs. Despite reservations, Bush signs the Head Start legislation in November after Congress clears it. The final bill authorizes enough funding to serve all eligible preschoolers by 1994. (*1990 CQ Almanac*, pp. 552, 555-556)

*June-July* In June, the House (408-14) passes its version of the AIDS bill. The House bill authorizes more money than the Senate bill, targets more of the money to hard hit cities, and provides the funding for specific programs rather than in large block grants. In July, House-Senate conferees reach a compromise bill that combines both funding approaches and includes extra money for select metropolitan areas. The final bill authorizes a total of \$875 million a year to fight AIDS. Despite misgivings, Bush subsequently signs the bill into law. **Littlefield** calls EMK's role "one of the great unknown stories" of his Senate career. (Clymer, p. 475; *1990 CQ Almanac*, pp. 588-589, Clymer Interview 12/10/1998, p. 15)

On July 13<sup>th</sup>, after the House had passed the ADA in May, the Senate (91 to 6) approves the conference report of the ADA. EMK chairs the conference. The most controversial issue in conference is a House amendment allowing HIV-positive individuals to be transferred out of food-handling jobs. The amendment is eventually dropped by both the Senate and the House. (*1990 CQ Almanac*, pp. 447, 460)

Bush signs the ADA on the 26<sup>th</sup>. All of the managers of the bill are invited to the signing ceremony, but Dole is the only lawmaker mentioned by Bush during the ceremony. EMK watches the ceremony from the bleachers with his son Teddy. (Clymer, p. 472)

*September* The Labor Committee (16 to 0) approves a bill sponsored by Christopher Dodd (D-CT) that would overhaul federal regulation of medical devices. Congress

subsequently passes the legislation, known as the Safe Medical Devices Act of 1990. The bill requires the FDA to streamline its approval process for new devices, improve its oversight of existing equipment, and make it easier to recall defective products. (*1990 CQ Almanac*, pp. 579-581)

*October* Congress passes a five year, \$22.5 billion child care spending package as part of a budget reconciliation bill. It is the first major child care bill enacted since World War Two. (*1990 CQ Almanac*, p. 547)

The Senate passes legislation designed to spur students to study and work in math and science. The three year bill, the Excellence in Math and Science Act, authorizes \$149.1 million, but only \$26.2 million in new money, for scholarships and other items. President Bush signs the legislation. (*1990 CQ Almanac*, p. 612)

Congress passes an omnibus crime bill, the Crime Control Act 1990, which includes \$15 million to promote drug free schools. (*1990 CQ Almanac*, p. 499)

*Fall* EMK puts together a bipartisan coalition to defeat a Jesse Helms (R-NC) amendment that would prohibit the National Endowment for the Arts (NEA) from funding obscene materials. EMK's proposal would not restrict NEA funding choices. It would require artists to return NEA money if the money was used to produce work determined to be obscene by a criminal court. EMK works with Senators Orrin Hatch (R-UT), Nancy Kassebaum (R-KS), and Claiborne Pell (D-RI) on the compromise amendment, which is adopted 73-24. After the vote, EMK says: "Government officials are not the appropriate adjudicators of the arts . . . . We must resist calls to censorship." **Littlefield** called this episode: "Kennedy at his best." "Kennedy saved the NEA." (Clymer, pp. 476-477; Clymer Interview with Littlefield, 12/10/1998, pp. 9-11)

**1991** Important issues EMK works on this year include higher education legislation, the 1991 Civil Rights Act and the Clarence Thomas hearings.

*January* On the 12<sup>th</sup>, the Senate votes 52 to 47 to authorize Bush to wage war to force Iraq to withdraw from Kuwait and comply with U.N. resolutions. EMK votes against the resolution. (*1991 CQ Almanac*, p. 2-S)

*Spring* William Kennedy Smith is charged with sexual battery in Palm Beach. EMK had been with Smith earlier on the night in question and is later called to testify at the Smith trial in December. **Littlefield** continues working on EMK's legislative agenda and is not involved with the trial. (Clymer, pp. 488-491; Clymer interview with Littlefield, 01/30/1999, p. 13)

*July* Bush nominates Clarence Thomas to the Supreme Court to replace the retiring Justice Thurgood Marshall. (*1991 CQ Almanac*, pp. 274)

- September* On the 5<sup>th</sup>, Ricki Seidman, who works for **Littlefield** on the Labor Committee as the head of its investigative unit, interviews Anita F. Hill, a law professor at the University of Oklahoma, about her experience working with Thomas at EEOC in the 1980s. Seidman questions Hill about reports that Thomas had sexually harassed her. **Littlefield** was not “particularly involved” with the Thomas investigation. (Clymer interview with Littlefield, 01/30/1999, p. 17; *1991 CQ Almanac*, p. 282)
- October* The Labor Committee unanimously approves a higher education bill (S 1150) to increase loan amounts, loosen eligibility standards for loans and guarantee full federal funding for higher education for eligible students beginning in 1997. The Labor Committee acts days after the House Education and Labor Committee passes an even more generous bill (HR 3553) which, among other things, would make higher education grants an immediate entitlement. EMK champions the bill. He says that student aid programs “may be just one step ahead of disaster.” He contends that the new bill would “mean new opportunities for millions of children from working families.” During committee debate, Senators Paul Simon (D-IL) and Durenberger criticize the idea of making higher education an entitlement and propose to stop subsidizing banks and create a direct federal loan program to make college more affordable. EMK says he would consider trying their proposal as a demonstration project. Neither the House nor the Senate higher education bill reaches the floor in 1991. (*1991 CQ Almanac*, pp. 365, 371-72)
- On the 5<sup>th</sup>, the media reports Hill’s allegation of sexual harassment against Thomas. In the face of public outcry, the Senate postpones the Thomas vote for a week and calls for a new round of hearings. (*1991 CQ Almanac*, p. 274)
- On the 11<sup>th</sup>, the Senate Judiciary Committee opens a second round of hearings. During the three days of hearings, Hill testifies to Thomas’ alleged harassment and Thomas categorically denies any of it happened. (*1991 CQ Almanac*, pp. 283-85)
- On the 15<sup>th</sup>, the Senate confirms Thomas to the Supreme Court by a vote of 52 to 48. It is the closest vote in favor a nominee in over a century. EMK votes against the nomination. (*1991 CQ Almanac*, p. 274)
- EMK gives a speech at the Kennedy School at Harvard University in which he acknowledges that he has made mistakes in the conduct of his private life.
- 1992** Important issues EMK works on this year include higher education legislation, family medical leave, national health care and fetal tissue research.
- January* The Labor Committee approves a NHI bill (S 1227) cosponsored by EMK and Mitchell by a party line vote (10-7). The Health America bill features the “play or pay” approach to health insurance, requiring employers to either provide insurance to workers and their dependents or else pay a tax to fund a new

government plan. The original bill was introduced by Mitchell in 1991 and referred to the Finance Committee. EMK helps redraft Mitchell's 1991 bill for consideration by the Labor Committee. Among other things, the revised health care bill changes its cost containment provisions. It includes more than a dozen separate provisions for slowing rising health care costs. Some Democrats on Labor, who favor a national single-payer system, criticize the bill for not going far enough. EMK defends the bill saying: "There will be universality in the program. Everyone will be covered." Although EMK tells committee members that Mitchell has promised him that the bill will reach the Senate floor, the bill is never voted on by the full Senate. Several other health insurance bills are debated but none of them wins congressional approval. A "play or pay" approach had also been supported in 1990 by the Pepper Commission, on which EMK served. EMK joins with Mitchell propose their bill after the bipartisan working group they have been working with on universal health care is unable to produce a proposal of its own. The joint Finance-Labor Committee working group included EMK, Hatch, Daniel Moynihan (D-NY), John Rockefeller (D-WV), Dole, Durenberger, and Donald Riegle (D-MI) and had met regularly in Riegle's office every week or two for the last couple of years. Some of the members had also served with EMK on the Pepper Commission, including Rockefeller and Durenberger. (Clymer, pp. 508-509; 1992 *CQ Almanac*, pp. 401-412; Clymer interview with Littlefield, 01/30/1999, p. 2)

*February* The Senate approves its higher education bill (S 1150). In March, the House passes its version of the higher education bill (HR 3553). The two bills are very similar and House-Senate conferees agree on a compromise bill in June, which is subsequently approved by both chambers. (1992 *CQ Almanac*, p. 438)

*July* EMK marries Vicki Reggie in McLean, Virginia.

In his acceptance speech at the Democratic National Convention, presidential nominee William J. Clinton promises to "take on the big insurance companies to lower costs and provide health care to all Americans." EMK supports Clinton and defends his health care positions throughout the general campaign. Privately, EMK is reportedly not enthusiastic about Clinton, whom he sees as the Democratic Leadership Council's candidate, a moderate, not a real liberal. EMK's office conducts research on education and health issues for Clinton. Littlefield talks regularly with Clinton campaign staffers Gene Sperling and Chris Edley about education policy. (Clymer, p. 514; Clymer interview with Littlefield, 01/17/1999, p. 1; 01/30/99, p. 5)

On the 23<sup>rd</sup>, Bush signs a comprehensive higher education bill (S 1150) that (among other things) raises loan limits, expands eligibility, caps interest rates and creates an unsubsidized student loan program. The bill is similar to the version of S 1150 passed by the Senate Labor and Human Resources Committee in 1991, but it does not contain a provision transforming higher education into an entitlement. The bill does establish a new direct loan demonstration program. Bush threatens

to veto the bill because of the direct loan demonstration program, but he eventually agrees to sign it after EMK and House Education and Labor Committee chairman William Ford (D-MI) agree to drop a provision specifying that 500 schools be included in the demonstration project and substitute it with an aggregate loan amount of \$500 million. (1992 *CQ Almanac*, pp. 438, 454)

*October* Congress, on voice votes, passes an EMK-sponsored bill (HR 6181) requiring manufacturers of most prescription drugs to pay, for the first time, some of the costs of federal reviews. Staffers for EMK, Waxman, Members of the Appropriations Subcommittee on Agriculture, which has jurisdiction over the FDA, and representatives from the FDA and the drug industry work out the agreement over the summer. The new law has a five year life and is expected to raise more than \$300 million over that time to pay for more scientists for reviews. According to EMK: “Without the additional funds user fees will provide, the FDA faces the prospect of being unable to keep up with scientific advances, and needed new drugs will be delayed in reaching the public.” Bush subsequently signs the legislation. (Clymer, pp. 516-517; 1992 *CQ Almanac*, p. 418)

*November* Clinton is elected President, as the Democrats win the House, Senate, and White House. During the transition, EMK and **Littlefield** meet regularly with Clinton advisors Vernon Jordan and Robert Reich. **Littlefield** is involved with health care issues. (Clymer, p. 520; Clymer Interview with Littlefield, 01/17/1999, p. 1; 01/30/1999, p.5)

*December* Cooper steps down as EMK’s chief of staff and is replaced by Paul Conovan.

**1993** Important issues EMK works on this year include national health care, NIH reauthorization, family and medical leave, abortion access, Stephen Breyer nomination to the Supreme Court, and national service legislation.

*January* Clinton visits the Kennedy grave site. **Littlefield** later says it was “a big deal for Teddy.” (Clymer Interview with Littlefield, 01/17/1999, p. 1; 01/30/1999, p. 6)

On the 22<sup>nd</sup>, Clinton issues an executive order allowing fetal tissue research on aborted fetuses. (1993 *CQ Almanac*, p. 358)

On the 26<sup>th</sup>, the Senate Labor and Human Resources Committee passes an NIH reauthorization bill (S 1) by a unanimous vote. The bill, sponsored by EMK, would require the NIH to include more women and minorities in clinical research and employ more women scientists. It would also provide statutory authority for the NIH Office of Research on Women’s Health and would authorize \$400 million for research on breast cancer and other gynecological cancers. The bill is similar to one Bush vetoed in 1992, except for containing a new provision that would improve coordination of AIDS research. (1993 *CQ Almanac*, p. 358)

- Jan.-Feb.* Clinton appoints Hillary Rodham Clinton to head Health Care Reform Task Force to overhaul the nation's health care system. Despite misgivings, EMK publicly supports Clinton's decision to scrap the national health insurance plan the administration's transition team had been working on and put his wife and policy specialist Ira Magaziner in charge of the issue. EMK had reportedly hoped that Clinton would adopt his "play or pay" approach. EMK and his staff are granted access to the Clinton health insurance task force. EMK presses the White House and Democrats on the need to move quickly on national health insurance and introduce a bill as soon as possible. Various congressional committees take up the issue of health care reform and for the rest of the year struggle to draft versions of a health care bill. (Clymer, pp. 523-525; *1994 CQ Almanac*, pp. 320-321)
- February* The Senate (71 to 27) and the House pass the Family and Medical Leave Act requiring employers with 50 or more employees to provide workers with up to 12 weeks of unpaid leave for the birth or adoption of a child or the illness of a close family member. The Labor Committee (13 to 4) had approved the legislation in January. The bill is nearly identical to the one Bush vetoed the previous year. Clinton signs the bill. (*1993 CQ Almanac*, pp. 389-391)
- The Senate passes the NIH bill, with a provision codifying rules that prevent immigrants with AIDS from coming to the U.S. (*1993 CQ Almanac*, p. 358)
- March* On the 2<sup>nd</sup>, the House Energy and Commerce Committee approves its version of an NIH reauthorization bill (HR 4), which is very similar to S 1 except that it codifies Clinton's order lifting the ban on fetal tissue research. The House subsequently approves it. (*1993 CQ Almanac*, pp. 359-60)
- On the 10<sup>th</sup>, Dr. David Gunn, who performed abortions in Florida, is shot to death. An abortion protestor is later arrested and tried for the shooting. (*1993 CQ Almanac*, p. 358)
- Clinton nominates EMK's sister Jean Kennedy Smith to be ambassador to Ireland. EMK had personally lobbied Clinton to appoint her. According to Littlefield, the ambassadorship was the most important thing Kennedy wanted from Clinton. (Clymer, p. 520-521; Clymer Interview with Littlefield, 01/17/1999, p. 2)
- April* Magaziner tells a health care reform conference organized by EMK that the administration task force has reached an agreement on the basic principles of a national health insurance plan and is working on filling in the details. He restates that the plan will allow for universal coverage and projects that the legislation will be submitted by the end of May. (*The Washington Post*, 04/06/1993)
- May* A House and Senate conference the NHI bill, which includes EMK, reaches agreement and files a conference report. Both the House and the Senate approve the conference report later in the month. The final bill codifies Clinton's order lifting the ban on fetal tissue research, bans immigration by HIV-infected

foreigners, and contains various provisions promoting women's health research. Clinton subsequently signs the bill into law. (1993 CQ Almanac, p. 363)

*June*

The Labor Committee votes (13-4) for a bill (S 636) to ensure the right of access to abortion clinics by making it a federal crime to use force or the threat of force to intimidate abortion clinic workers or women seeking abortions. EMK, the sponsor of the legislation, revises the measure to gain the backing of the administration and some Republicans on the committee. He broadens the bill to cover counseling centers that offer alternatives to abortions and allows an exception for the actions of parents or guardians of minor children. (1993 CQ Almanac, p. 355)

Despite EMK's best efforts to get Clinton to nominate Stephen Breyer to the Supreme Court, Clinton chooses Ruth Bader Ginsburg for the position. EMK had pushed Breyer with Clinton, and Breyer appeared to be the leading contender earlier in the year. But a poor interview with Clinton and revelations that he failed to pay Social Security taxes for his house cleaner reportedly doomed Breyer's nomination. EMK supports Ginsburg, praising her work in developing women's rights. The Senate later confirms her. (Clymer, pp. 526-527; Clymer interview with Littlefield, 05/14/1994)

*August*

EMK goes sailing with Jacqueline Kennedy Onassis, President Clinton, and the First Lady off Martha's Vineyard. EMK had been carefully briefed on health care by Littlefield and health aide David Nixon, but the issue does not arise. (Clymer, pp. 529-530; Clymer interview with Littlefield, 05/28/1999)

The Senate (58-41) approves National Service legislation after EMK reaches a compromise with Republican leaders over funding for the program. The legislation provides education awards of up to \$4,725 a year for two years for individuals who perform community service before, during, or after high school. Participants are also eligible for a stipend of up to \$7,400 per year. The final bill restricts spending to \$1.5 billion over three years and effectively limits the number of participants to 100,000. EMK says: "National Service is what the effort to reinvent America is all about. The passage of this legislation marks the end of the 'me' era in American life." House and Senate conferees later approve the Senate funding limits and Clinton subsequently signs the bill into law. (1993 CQ Almanac, pp. 400-04)

*September*

Clinton gives a national televised address on his national health care plan. He makes a commitment to "giving every American health security, health care that can never be taken away, health care that is always there." EMK congratulates Clinton on his speech and tells reporters that 1994 could bring "the most far-reaching improvement in social policy in this country since the New Deal." (Clymer, p. 530)

November

On the 16<sup>th</sup>, the Senate passes EMK's abortion clinic access bill by a vote of 69 to 30. EMK leads the floor debate on the bill. He says: "The Constitution guarantees the right of a woman to end a pregnancy, but the violence and blockades are designed to make it impossible for women to exercise the right.... This legislation will protect women, doctors, and other health care providers from the tactics of violence and intimidation that are often used by anti-abortion activists." Dole allows the measure to come to a vote after EMK agrees to reduce the penalties for non-violent offenders. Several other amendments are also passed. One amendment, offered by Hatch, protects religious freedom and penalizes those who damage churches. Another EMK amendment stipulates that nothing in the bill is intended to interfere with a person's First Amendment rights. A fourth amendment, offered by EMK and Boxer, stipulates that nothing in the bill affects the right of states to regulate abortions. (Clymer, p. 535; *1993 CQ Almanac*, p. 356)

On the 18<sup>th</sup>, the House approves its version of the abortion clinic access bill (HR 796). The measure is similar to S 636, but it does not contain the Senate amendments. The Senate and House do not agree on a compromise bill in 1993. (*1993 CQ Almanac*, p. 355)

On the 20<sup>th</sup>, the last day of the congressional session, Clinton's 1,342 page universal health care bill (HR 3600, S 1757) is introduced in Congress. The plan would require all Americans to enroll in a health care plan offered through new quasi government health alliances. Employers would pay about 80% of the cost of the plan and employees the rest. The government would insure the unemployed and subsidize low income individuals and families and small businesses. All plans would be required to offer comprehensive benefits. The bill would also create a federal entitlement program for long term care, and a new prescription drug benefit under Medicare. The bill would create a new National Health Board to oversee the new system. There would be various cost control mechanisms, including a cap on premiums. A new tobacco tax and changes in the tax code would raise money to help pay for the new system. In the Senate, Moynihan and EMK cannot agree on which committee, Finance or Labor, should have primary jurisdiction over the bill and engage in what one staffer calls a "giant spitting contest." The Senate leadership decides to refer the Clinton bill directly to the floor in 1994. In the meantime, both committees work on their own bills to be introduced as amendments to the Clinton bill. EMK holds "dozen of hearings" to generate support for the plan. (Clymer, pp. 530-531; *1994 CQ Almanac*, pp. 321-323; C. Lawrence Evans, "Committees and Health Jurisdictions in Congress," Thomas E. Mann and Norman J. Ornstein, eds., *Intensive Care: How Congress Shapes Health Policy*, Wash, D.C.: A.E.I. and The Brookings Institution, 1995, p. 43)

**1994**

Important issues EMK works on this year include the Elementary and Secondary Education Act Reauthorization, the Goals 2000: Educate America Act, the Clinton health care plan, and abortion clinic access.

- January* A couple of days before Clinton's State of the Union speech, EMK and **Littlefield** meet with White House aides Harold Ickes and Pat Griffin to press Clinton to threaten to veto any health insurance bill without universal coverage. In the State of the Union, Clinton does pledge to veto "legislation that does not guarantee every American private health insurance that can never be taken away." (1994 *CQ Almanac*, p. 6D; Clymer Interview with Littlefield, 01/17/1999, pp. 1-2)
- Feb.-Mar.* Congress approves and Clinton signs a bill that for the first time establishes national educational goals for elementary and secondary schools. The Goals 2000: Educate America Act sets eight education goals to be achieved by 2000. Most controversially, the legislation calls for states to develop standards of learning for grades 4, 8, and 12. EMK helps to organize groups of experts around the country to develop the standards. States can apply for grants to meet the goals. State participation in the goals program is voluntary, and states do not have to join the program to apply for funds. (1994 *CQ Almanac*, p. 397; Clymer interview with Littlefield, 01/30/1999, pp. 6-7)
- April* House and Senate conferees reach agreement on abortion clinic access legislation. The compromise measure, proposed by EMK, includes the Senate bill's language protecting places of religious worship and lowering penalties for non-violent offenders while retaining the House version on several technical issues. In May, the Senate and House approve the bill and Clinton signs it into law. (1994 *CQ Almanac*, pp. 356-357)
- May* A Senate Labor subcommittee approves (17 to 0) the Elementary and Secondary Education Reform Act (S 1513). The legislation would renew and revamp the 1965 Education Act. The committee approves the measure after EMK and the Education, Arts, and Humanities subcommittee chairmen Claiborne Pell (D-RI) craft a formula designed to target more money to higher poverty areas. The EMK-Pell formula also would provide bonuses for states that devote more tax dollars to education and equalize spending between rich and poor areas. Some Democrats on the committee criticize the formula for not targeting enough money to needy students. The EMK-Pell formula does not target needy students as much as a Clinton administration proposal. (1994 *CQ Almanac*, p. 388)
- June* The Labor Committee approves 16-1 the Elementary and Secondary Education Act Reauthorization. The Committee rejects an amendment designed to target more money to poorer districts than the EMK-Pell formula but less than the Clinton plan. The Committee also rejects an amendment to require states to create standards to ensure that all students had equal access to educational resources. The Committee approves a weaker substitute proposed by EMK to encourage states to adopt standards. (1994 *CQ Almanac*, pp. 388-389)
- The Labor Committee votes 11 to 6 to approve a universal health insurance bill modeled on Clinton's plan. It is the first congressional committee to act on health

care reform. Senator James Jeffords (R-VT) is the only Republican to vote for it, but the bill does reflect Republican input. Like the Clinton plan, the legislation (S 1757) provides universal coverage and requires employers to pay for the bulk of the cost. The bill also includes premium caps to control costs, although EMK had originally opposed them. It departs from Clinton's proposal in three important ways. It provides significant exemptions and subsidies for small businesses, it does not require participation in health alliances, and it calls for a more comprehensive benefit package. EMK insists on expanded benefits, which include special care for women, adolescents, the disabled and the elderly. A national health board would review the benefit package to determine its fiscal impact and recommend changes. The bill also contains an EMK-Kassebaum amendment to fund clinics in public schools. EMK calls the bill "really the beginning" of the process of drafting a health care reform bill. He acknowledges that winning Republican votes for final passage is "still an uphill battle." He continues to stir public interest in universal health insurance through hearings and press conferences. All told, EMK holds approximately 47 hearings. Over the summer, several other congressional committees pass health care reform bills but no consensus emerges behind any of them. (Clymer, p. 543; *1994 CQ Almanac*, pp. 336-337; Clymer interview with Littlefield, 01/30/1999, p. 12)

#### *August*

Mitchell proposes his own health care bill. The bill delays employer mandates and drops price controls, but provides coverage for the unemployed. Despite misgivings, EMK supports the bill saying it is "designed to achieve" universal coverage. On the Senate floor he calls the bill "the defining test for Congress today. This is the job the American people elected us to do, and I urge the Senate to get the job done." After the Senate begins debate on the Mitchell bill, the first time the full Senate has debated national health insurance, a bipartisan group of Senators led by Senator John Chafee (R-RI) emerges to oppose the Mitchell bill and propose its own compromise bill. But the Mainstream Group, as they are known, fails to make deadlines to announce its bill. At a caucus luncheon, EMK, who is excluded from the group's meetings, calls out group member Bob Kerrey (D-NE) saying, "We are watching the self destruction of all of us because the Mainstream Group can't make up their minds. How long do we have to wait? How long do you have to take while we are out there taking hits?" The next day the group produces its plan, which calls for insuring over 90 % of Americans by 2004, but does not specify whether the poor would receive full government coverage. On August 25<sup>th</sup>, Mitchell removes his bill. (*1994 CQ Almanac*, p. 321)

After more than a week of debate, the Senate passes the Elementary and Secondary Education Act Reauthorization 94 to 6 with a dramatically altered EMK-Pell spending formula. Senators defeat (46-54) the alternative formula proposed by Dale Bumpers (D-AK) that would have greatly increased funding to the nation's ten poorest states, including Arkansas. Bumpers calls the EMK-Pell formula a gimmick aimed at gaining votes for the bill, not at helping low-income children. EMK calls the formula "a comprehensive political compromise." But Senators adopt by voice vote a Hatch amendment that would give most states

more money than they stood to receive under the EMK-Pell plan. The EMK-Pell plan favors smaller, more affluent states that tend to provide more funding for poorer districts. EMK reluctantly accepts the Hatch plan but also wins two amendments of his own. One directs more money to rural areas and the other provides more money for construction grants for poorer schools. Another EMK amendment to prohibit the use of federal funds to promote any sexual activity, homosexual or heterosexual, is adopted 99 to 0. (1994 *CQ Almanac*, pp. 389-390)

*September* On the 26<sup>th</sup>, Mitchell declares health care reform dead after failing to attract enough votes for a compromise bill he and EMK negotiate with the Mainstream Group. On the Senate floor, EMK vows not to give up saying: "I will never give up the fight for health reform until the working men and women of this country know that years of effort and hard won savings cannot be wiped out by a sudden illness. The drive for comprehensive health reform will begin next year. We are closer than ever to our goal and I am confident that we will prevail." (Clymer, pp. 547-548; 1994 *CQ Almanac*, p. 321)

On the 27<sup>th</sup>, House-Senate conferees agree to a compromise version of the Elementary and Secondary Education Act Reauthorization that directs slightly more money to poor children than under existing law or the under the House bill, though not as much as either the Senate bill or the Clinton plan. (1994 *CQ Almanac*, pp. 390-391)

*October* The Senate clears the education bill 77 to 20. The final version of the Elementary and Secondary Education Act Reauthorization authorizes \$12.7 billion for fiscal 1995 and unspecified sums through fiscal 1999. EMK calls the bill a step in the right direction. The legislation essentially leaves in place the existing formula for distributing Title 1 money, but directs slightly more to poorer school districts. The bill requires states to develop standards to insure that all students are held to the same expectations and have equal educational opportunities. It also requires states to expel students for one year for bringing a gun to school and prohibits schools from using federal funds to distribute condoms in schools or support heterosexuality or homosexuality. The bill reauthorizes Eisenhower education grants but shifts their focus from math and science to professional training for teachers and administrators. Clinton signs the bill. (1994 *CQ Almanac*, pp. 383, 392)

*November* EMK beats Mitt Romney to be re-elected to the Senate. EMK runs a "very, very disciplined, focused campaign" around traditional Democratic themes of jobs, education, and health care. He gives an important speech at Faneuil Hall in Boston. EMK's central message is that he is "fighting for the working people of Massachusetts." **Littlefield** does some door-to-door campaigning in Gloucester to get a sense of what people think about EMK and the issues. (Clymer interview with Littlefield, 08/06/1996; Clymer interview with Littlefield, 01/30/1999, p. 18)

Republicans win majorities in both houses of Congress in the “Republican Revolution.” EMK will lose the chairmanship of the Labor Committee. (*The Boston Globe*, 11/09/1994; *The Washington Post*, 07/09/1996)

*December* EMK meets with the President in the White House and argues that the Democrats should not give in to the Republicans. According to Littlefield, EMK is worried that the President will “give away the store.” He tells Clinton that he won the 1994 election as a fighter for working families and that that theme could work for Clinton, too. EMK assures the President that Democrats can win an increase in the minimum wage and limited health care reform. After the meeting, EMK leaves the President a copy of talking points he had worked out with Littlefield and Carey Parker. The talking points urge Clinton not to make cuts in student aid, Medicare, and other core Democratic programs. (Clymer interviews with Littlefield, 08/06/1996, 01/17/1999, p. 2; Clymer, pp. 560-562)

**1995** Important issues EMK works on in 1995 include the minimum wage, budget reconciliation (EMK tries to restore funding for education and limit spending reductions), and health insurance portability.

*January* On the 11<sup>th</sup>, EMK gives a speech at the National Press Club, in which he emphasizes the need for Democrats to “stick to their basic guns of fighting for Democratic principles.” It is the first of many he will make in 1995 rallying Democrats to oppose Republican budget cuts. According to Littlefield, EMK felt he had to “organize the resistance.” At the time, Littlefield typically wrote the first draft of EMK’s speeches and Parker and Bob Shrum reworked the draft into its final form. “Carey would make the prose and Shrum would make them sing.” (Clymer interviews with Littlefield, 08/06/1996, 01/17/1999, p. 2; Clymer, pp. 560-562)

A few days before the State of the Union speech, EMK’s mother Rose Kennedy dies. Clinton calls to offer EMK his condolences and tells EMK he will mention the minimum wage increase in his speech. (Clymer interview with Littlefield, 01/30/1999, p. 20)

In his State of the Union message on the 24<sup>th</sup>, Clinton proposes an increase in the minimum wage and says his budget “protects education, veterans, Social Security and Medicare.” (Clymer, p. 562)

*Jan.-March* EMK defends his proposal to raise the minimum wage before Democratic leaders on the Hill. He tells John Kerry (D-MA), who has doubts about the proposal: “If you’re not for raising the minimum wage, you don’t deserve to call yourself a Democrat.” EMK lobbies new minority leader Tom Daschle (D-SD) to support the legislation. Daschle agrees to support the increase provided EMK gets more conservative Democrats on board. EMK negotiates with AFL-CIO labor leaders Thomas Donohue and Lane Kirkland, a coalition of 50 or more liberal interest groups, the White House, and congressional Democrats. EMK brokers a deal

between the various parties after he drops his original proposal to increase the minimum wage \$1.50 over three years, with the increase indexed to inflation, and backs an increase of 90 cents over two years without indexing. EMK, who no longer has the power to hold hearings, organizes a forum on the proposed increase in the Russell building. EMK attends a House hearing on the minimum wage bill and defends the measure. (Clymer, pp. 565-566; Clymer interview with Littlefield, 08/06/1996, pp. 1-4)

*Feb.-March* EMK and Daschle organize Democrats around an amendment to restore education funding to a Republican rescission bill, which would rescind \$17 billion in appropriations for the current year. The plan would put back \$1.3 billion into child care, Head Start, and other programs. Dole is forced to withdraw the rescission bill for fear the amendment might pass. In the end, Dole agrees to restore \$800 million of spending. (Clymer, pp. 566-567; Clymer interview with Littlefield, 08/06/1996)

*June* On the 8<sup>th</sup>, EMK urges Clinton not to take the bait the Republicans were dangling in front of him and make a commitment to balance the budget. EMK argues that a new budget would be a starting point for further compromise and retreat. The next week Clinton does propose to balance the budget in ten years. He suggests he can cut Medicare spending without harming patients. EMK voices his concern about the proposed Medicare cuts but does not publicly attack the President. According to Littlefield, EMK spends the fall of 1995 “getting him [Clinton] not to cave on everything.” (Clymer, pp. 568-569; Clymer interview with Littlefield, 01/17/1999, p. 3)

On the 29<sup>th</sup>, EMK votes against a massive budget reconciliation bill (HR 2491) that would reduce government spending on Medicare by \$270 billion through higher premiums and lower payments to doctors and hospitals and by providing seniors with the option of choosing managed care or other insurance options. The bill also would cut \$182 billion from Medicaid. The Senate passes the measure in a party-line vote 54 to 46. EMK privately presses Clinton not to agree to more than \$89 billion in cuts to Medicare. That is the most that could be cut without increasing premiums for seniors. (Clymer interview with Littlefield, 08/06/1996; *1995 CQ Almanac*, pp. S-49, 7-3)

*July* A non-binding Senate resolution to raise the minimum wage fails by one vote. (*1996 CQ Almanac*, p. 7-4)

*August* The Labor Committee approves 16-0 a bipartisan health insurance bill (S 1028) sponsored by EMK and Kassebaum, the new Labor chairwoman. The bill is part of EMK’s efforts to keep health insurance reform moving forward after the collapse of Clinton’s health care reform by refocusing on a smaller, less controversial initiative that can gain bipartisan support. The measure aims to guarantee health insurance “portability” by enabling people to keep their health insurance when they get sick or change jobs. The measure would bar insurers

from denying medical coverage for more than 18 months to people with pre-existing medical conditions if they had been covered previously by a group plan. After 18 months, a person with a pre-existing condition could change jobs without penalty. The bill would create incentives for small businesses and individuals to form voluntary groups to buy health insurance. It would also recommend the creation of tax deferred medical savings accounts to help people pay for health expenses. EMK opposes medical savings accounts but the amendment passes 9 to 7. In the past, EMK had opposed a piece-meal approach to health care. In an interview with health reporters he explains his change of heart saying: “I’m eating a little bit of crow about incremental health care.” Republicans threaten to filibuster the bill, and it does not reach the Senate floor in 1995. (Clymer, p. 570; *1995 CQ Almanac*, pp. 7-24 to 7-25)

*Summer-Fall* EMK and his staffers repeatedly press Dole to bring the Kennedy-Kassebaum bill to the floor. **Littlefield** talks weekly with Kassebaum staff director Susan Hattan about it. EMK holds “endless” meetings with health care groups to get their support for the bill. (Clymer interview with Littlefield, 08/06/1996)

*October* Another non-binding Senate resolution to raise the minimum wage passes by one vote. (*1996 CQ Almanac*, p. 7-4)

*December* Kassebaum opposes a minimum wage increase but finally agrees to hold a Labor hearing on the minimum wage. During the one day hearing, EMK challenges the conclusions of a pro-business economist. (Clymer, p. 573)

Clinton vetoes the budget reconciliation bill. He outlines his plan to cut \$124 billion from Medicare. (*1995 CQ Almanac*, p. 7-3)

**1996** Important issues EMK works on in 1996 include health insurance portability and the minimum wage.

*January* In his State of the Union address on the 23<sup>rd</sup>, Clinton announces support for the EMK-Kassebaum health insurance portability bill. According to **Littlefield**, EMK worries the Clintons will settle for any bill. Daschle advises Hillary Clinton to let EMK manage the bill. (*1996 CQ Almanac*, p. 6-28; Clymer interview with Littlefield, 01/17/1999, p. 2)

On the 31<sup>st</sup>, ABC’s *Nightline* program asks Dole, who is campaigning for the presidency in New Hampshire, why he will not call up the Kennedy-Kassebaum bill. Dole responds that there are a lot of holds on it and that he does not know why. (*1996 CQ Almanac*, p. 6-28; Clymer, p. 573)

*February* Dole lifts the holds on the Kennedy-Kassebaum bill, and debate is scheduled for mid-April. (*1996 CQ Almanac*, p. 6-30)

- March* The House passes its own version of the Kennedy-Kassebaum bill (HR 3103) by a party-line vote of 267-151. The House bill contains provisions for group and individual insurance portability, the creation of medical savings accounts, and incentives for insurance-pooling among small businesses. The House bill also includes a \$250,000 cap on psychological damages for medical malpractice claims. (1996 *CQ Almanac*, pp. 6-32, 6-33)
- Mar.-April* Senate Democrats take the offensive in the minimum wage fight. The staffs of Senators Daschle, Kerry, Paul Wellstone (D-MN) and EMK meet to plan strategy. EMK, Wellstone, Barbara Boxer (D-CA) and others hold a press conference in which they commit to bringing minimum wage legislation to the floor before the Easter recess. Over the next few weeks Senate Democrats try to attach a minimum wage increase to almost every bill coming to the floor. Senate Majority Leader Dole, who is running for president, repeatedly pulls legislation from the floor rather than allow a vote. Democratic leaders keep the pressure on. They hold another press conference in which they introduce two single mothers who earn the minimum wage and highlight their struggles. Democrats win a test vote and a majority of the Senate, 47 Democrats and eight Republicans, vote for the minimum wage increase. In the House, Speaker Newt Gingrich (R-GA) and Majority Leader Dick Armey (R-TX) declare that the House will not vote on minimum wage in 1996. But privately many House Republicans tell their leaders that they would vote for a minimum wage increase. Public opinion polls show as many as 85% of Americans favor an increase. (Clymer, pp. 573-574; 1996 *CQ Almanac*, p. 7-3)
- April* The Senate approves 100-0 its version of the Kennedy-Kassebaum bill (S 1028). EMK and Kassebaum initially work out an agreement with Dole not to offer any amendments to the bill. EMK holds numerous press conferences to build support for the legislation and convince Senators to pledge not to attach any amendments to it. But Dole offers a broad amendment that includes the creation of medical savings accounts and various health insurance tax deductions. Daschle lobbies Democrats against the medical savings account provision; Kassebaum appeals to Republicans. In the end, the medical accounts provision is stripped from Dole's amendment 52-46. The final Senate bill contains other Dole provisions, including a provision requiring health plans to provide the same coverage for mental health conditions as physical ones, and a provision protecting volunteer health care workers from lawsuits. (Clymer interview with Littlefield, 08/06/1996; 1996 *CQ Almanac*, pp. 6-28 to 6-34)
- EMK criticizes Dole's list of conferees for the House-Senate conference to reconcile the health care portability bill. EMK accuses Dole of "stacking the deck" in favor of medical savings accounts. Democrats use various procedural motions to prevent Dole from appointing conferees. Republicans complain that EMK is blocking health insurance reform. (Clymer, p. 579; 1996 *CQ Almanac*, pp. 6-34, 6-37 to 6-38)

- May* Dole suggests a gasoline tax reduction instead of minimum wage increase. Democrats filibuster the proposal and kill it. EMK says the Senate is stuck in the “Doledrums.” The next week Dole announces he will resign from the Senate to concentrate on his campaign for president. (Clymer, p. 574)
- The House votes (281-144) for a bill that includes a minimum wage increase from \$4.25 to \$5.15 and a variety of small tax breaks for business. (*1996 CQ Almanac*, p. C-39)
- June* EMK publicly challenges Dole to conclude negotiations for the health insurance portability legislation before he leaves the Senate. The sticking point is medical savings accounts. At the same time, House and Senate Republicans reconcile their differences. House Republicans agree to drop the medical malpractice cap and incentives for small business to establish insurance pools. Senate Republicans agree to drop mental health parity and accept a scaled-down medical savings pilot program. Kassebaum, who had steadfastly opposed medical savings accounts, goes along with the compromise. EMK calls the compromise “a travesty” and adds: “I regret very much that Senator Kassebaum has bowed to the pressure of . . . the House Republican leadership.” EMK and the Democrats object to the number of people eligible for the pilot program, and its automatic extension in four years unless Congress voted against it. (*1996 CQ Almanac*, p. 6-38; Clymer Interview with Littlefield, 08/06/1996)
- July* New Senate majority leader Trent Lott (R-MS) agrees to a vote on the minimum wage. On the 9<sup>th</sup>, the Senate passes (74 to 24) the minimum wage increase coupled with business tax breaks similar to those in the House bill. A Republican amendment to exempt small businesses fails. New Majority Whip Don Nickles (R-OK) initially blocks the bill from going to conference until EMK agrees to a conference on a health insurance bill. (*1996 CQ Almanac*, p. 7-3)
- On the 25<sup>th</sup>, EMK and Ways and Means chairman Archer reach an agreement on medical savings accounts. EMK agrees to let the minimum wage and health insurance conferences take place. Their compromise would make medical savings accounts available on a limited basis for four years, with the number of policies capped at about 750,000. Congress then could vote to make eligibility universal. Anyone who started an account in the first four years could continue it regardless of whether Congress voted to extend the program. EMK wins several concessions to protect consumers who enroll in medical savings plans and to prevent them from being used as tax shelters. Soon after EMK and Archer strike their deal, the conferees for the minimum wage bill reach an agreement. The major sticking point is the effective date of the increases. EMK and Kassebaum negotiate a 50 cent raise that October and a 40 cent raise the following September. (Clymer, pp. 578-579; *1996 CQ Almanac*, pp. 6-39, 7-3; Clymer interview with Littlefield, 08/06/1996)
- August* The Senate (76 to 22) and the House (354 to 72) clear the minimum wage bill and Clinton signs it. It is the first increase in the minimum wage since 1991. The final

bill includes a set of business tax cuts totaling \$14 billion and a lower training wage for teenage workers but does not exempt small businesses from the minimum wage increase. (1996 CQ Almanac, p. 7-3)

After health care conferees agree to drop mental illness and medical malpractice provisions, the House and Senate approve the health insurance measure and Clinton signs it. The final bill, known as the Kassebaum-Kennedy Health Insurance Portability and Accountability Act of 1996, guarantees that most workers could maintain insurance coverage if they leave or lose their jobs. HIPAA also includes a provision making premiums for long term care insurance tax deductible, leading to a dramatic increase in the sale of long term care insurance. HIPAA does not, however, guarantee that individuals would not be rejected for coverage because of health. It is the first bill in thirty-four years with EMK's name on it. (Clymer, p. 581; Jill Quadagno, *One Nation, Uninsured: Why the U.S. Has No National Health Insurance*, New York: Oxford Univ. Press, 2005, p. 196; 1996 CQ Almanac, p. 6-39)

*October* EMK and Senator John Kerry (D-MA) propose a bill designed to provide health insurance to all uninsured children in America. The plan would be paid for through an increase in the cigarette tax. (Clymer, p. 585)

**1997** Important issues EMK works on in 1997 include the State Children's Health Insurance Program (S-CHIP), the Presidential Race Initiative and affirmative action, the tobacco case, and the nomination of Bill Lee to the Civil Rights Commission.

**Littlefield** leaves the Labor Committee at some point in 1997. Michael Myers takes over as the Labor staff director and chief counsel in 1998.

*February* EMK introduces his Health Insurance Bill of Rights Act, which would give managed care patients greater access to specialists, allow them to get emergency room treatment without prior approval from their plan, give them greater rights to appeal denials of payment and allow those patients under plans covered by ERISA to bring medical malpractice suits in state courts, where judgments were not limited to economic damages only. Dingell introduces the bill in the House. Later in the year, Representative (and Dr.) Charlie Norwood (R-GA) develops and introduces his own, less comprehensive Patient's Bill of Rights bill.

*Spring* EMK, Hatch, and seven other Republican co-sponsors introduce child health insurance legislation. The bill would raise \$30 billion over five years through a 43 cents cigarette tax hike, with \$20 billion going to children's health insurance and \$10 billion for deficit reduction. Four of the Republicans withdraw their support after Senate Majority Leader Trent Lott (R-MS) and others pressure them. Conservative groups attack Hatch for his sponsorship of the bill. In the meantime, Senators John Chafee (R-RI) and Jay Rockefeller (D-WV) propose a \$16 billion expansion of Medicaid to cover more uninsured children. EMK and Hatch agree

to support the measure. But EMK and Hatch also propose their bill as amendment to the budget resolution being negotiated by Clinton and Republicans. EMK and Hatch help launch a public campaign to generate support for the amendment. The campaign pits tobacco companies against kids' health. After EMK and Hatch get enough votes, Lott threatens to scuttle the budget deal he had finally negotiated with Clinton unless the EMK-Hatch amendment is pulled. The Clinton administration removes its support for the amendment and immediately sends Vice President Al Gore and several aides to apologize to EMK. Lott wins the vote 55 to 45, with the support of eight Democrats. Clinton later says the episode was one big misunderstanding. EMK calls the administration "mistaken" for siding with Lott and vows to offer the child care proposal "again and again until we prevail." (Clymer, pp. 585-590; *The Boston Globe*, 05/22/1997)

#### *June*

The Labor Committee (14 to 4) approves a bill (S 830) to reauthorize the drug user fee act and streamline the FDA regulatory process over EMK's strong objections. EMK says: "Timely reauthorization is tremendously important, but it is not so important that Americans should accept the threats to public health included in this bill." EMK's opposition focuses on two provisions offered by Judd Gregg (R-NH). The first would allow companies to make health claims that are approved by scientific agencies other than the FDA on food labels. EMK's amendment to strike the provision fails 5 to 13. The second would establish a national standard for warning labels on non-prescription drugs and cosmetics. EMK's amendment to block the provision fails 3 to 15. EMK is also unable to block a provision that would expand a pilot program that uses outside contractors for reviews of low-risk medical devices. EMK offers an amendment that would impose civil penalties on companies that do not complete required drug trials, but it is rejected 6 to 12. (1997 *CQ Almanac*, pp. 6-19 to 6-20)

#### *June-July*

Hatch introduces the child health insurance plan to the Finance Committee and wins its approval after agreeing to reduce the tax increase to 20 cents over five years. The increase would raise an estimated \$15 billion, with \$8 billion to be spent on children's health. This is \$12 billion less than the original EMK-Hatch bill. But when it is added to the \$16 billion proposal to expand Medicare to cover uninsured children it brings the total increase in spending on children's health care to \$24 billion. Nevertheless, EMK initially criticizes the compromise. On the Senate floor he tries to raise the tax to 43 cents but fails, 30 to 70. Hatch votes against the amendment. But EMK works with the Clinton administration and outside groups to preserve funding for child insurance in conference. In the end, conferees approve a \$24 billion, five year block grant. After the Senate approves the measure EMK calls it "the most far-reaching step that Congress has ever taken to help the nation's children and the most far-reaching advance in health care since the enactment of Medicare and Medicaid a generation ago." Clinton signs it. (Clymer, pp. 591-592)

#### *September*

On the 24<sup>th</sup>, the Senate finally approves the FDA overhaul bill 98 to 2, with EMK and Jack Reed (D-RI) opposing, after EMK, almost single-handedly, manages to

delay the vote for weeks. In the end, EMK allows the vote to be taken, but not before he succeeds in modifying dozens of provisions. During floor debate, EMK argues that the establishment of national standards for warning labels on non-prescription drugs and cosmetics would endanger the health of women, the main consumers of cosmetics. He says the FDA has neither the legal authority nor adequate staffing to regulate cosmetics and that the job should be left to the states. EMK, Gregg, and the Clinton administration eventually agree on a compromise that allows the states to continue regulating cosmetics, but authorizes the FDA to issue warning labels. EMK also voices his opposition to narrowing the criteria by which the FDA evaluates the safety of low-risk medical devices. EMK co-sponsors an amendment to alter the medical device language, but it is rejected 35 to 65. (*1997 CQ Almanac*, pp. 6-20 to 6-21)

*November*      The House and Senate reconcile their FDA bills and the Senate approves the conference report by a voice vote. EMK praises the final version of the bill. He says: "I am convinced that as a result of this legislation the health of the American people will be enhanced through faster availability of pharmaceutical drugs and medical devices." Among other things, the final bill limits the scope of an FDA medical device review to the intended use described on the manufacturer's label, but authorizes the FDA to require manufacturers to include warning labels on the product if they agency believes the device could cause harm if used in another way. It also limits the types of medical devices that could be reviewed by outside contractors. (*1997 CQ Almanac*, pp. 6-20 to 6-21)

## EMK AND 1989-1997 LEGISLATIVE HIGHLIGHTS

*Prepared by Rob Martin and Mark Nevin*

*Miller Center, University of Virginia, 03/29/2008*

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- 1986**      *EMK becomes Chairman of the Labor Committee in January, 1987 after the Democrats retake the Senate in the mid-term elections. Senate party balance: D-55, R-45; House party balance: D-258, R-177.*
- 1988**      *George H.W. Bush wins the 1988 presidential election. Senate party balance: D-55, R-45; House party balance: D-260, R-175.*
- 1989**      Important issues EMK works on include national service legislation (which is Littlefield's first bill), the minimum wage increase, the Employee Pension Protection Act, Drug Free Schools Amendments, the Americans with Disabilities Act (ADA), the Pepper Commission and NHI legislation. EMK is able to get his NHI bill out of the Labor Committee for a second time since becoming Labor chair in 1987. EMK also tours country/holds hearings on health issues.
- 1990**      Important issues EMK works on include ADA (which is passed this year), civil rights legislation, the Ryan White Comprehensive Aids Act of 1990, Nutrition Labeling and Education Act of 1990, Safe Medical Devices Act, Head Start Improvement Act of 1990, National Health Services Corps Revitalization, National and Community Service Act of 1990, NEA funding, Child Care Block Grant, Carl Perkins Vocational Education Act Amendments, Excellence in Science and Math Act, and NIH funding for women's research. EMK also continues working on NHI; the Pepper Commission releases its report and EMK joins bipartisan Finance-Labor working group on NHI around this time.
- Senate party balance: D-56, R-44; House party balance: D-267, R-167.*
- 1991**      Important issues EMK works on this year include higher education legislation, the Civil Rights Act of 1991, the Gulf War, and the Clarence Thomas hearings.
- William Kennedy Smith is charged with sexual battery in Palm Beach.
- EMK gives Kennedy School speech in October acknowledging he has made mistakes in the conduct of his private life.
- 1992**      Important issues EMK works on this year include higher education legislation, family medical leave, Prescription Drug User Fee Act, fetal tissue research, and NHI with Mitchell on the Health America bill (after their Finance-Labor working group fails to initiate its own bill.)
- EMK marries Vicki Reggie in July.

*Bill Clinton wins the 1992 presidential election, as the Democrats gain control of the House, Senate, and White House. Senate party balance: D-57, R-43; House party balance: D-258, R-176.*

**1993** Important issues EMK works on this year include national health care, NIH reauthorization, family and medical leave, abortion access, Stephen Breyer nomination to the Supreme Court, and national service legislation.

**1994** Important issues EMK works on this year include the Elementary and Secondary Education Act Reauthorization, the Goals 2000: Educate America Act, the Clinton health care plan, and abortion clinic access legislation.

*The GOP wins control of both the House and Senate in the “Republican Revolution.” EMK loses chairmanship of the Labor Committee and narrowly defeats Mitt Romney to win reelection to the U.S. Senate. Senate party balance: R-52; D-48; House party balance: R-230, D-204.*

**1995** Important issues EMK works on in 1995 include the minimum wage, budget reconciliation (EMK tries to restore funding for education and limit spending reductions), and health insurance portability.

Rose Kennedy dies in January.

**1996** Important issues EMK works on in 1996 include health insurance portability with Kassebaum and the minimum wage.

*Clinton defeats Dole to be reelected president. Senate party balance: R-55, D-45; House party balance: R-228, D-206.*

**1997** Important issues EMK works on in 1997 include the State Children’s Health Insurance Program (S-CHIP), the Presidential Race Initiative and affirmative action, the tobacco case, and the nomination of Bill Lee to the Civil Rights Commission.

## **EMK'S HEALTH CARE HIGHLIGHTS (1989-1997)**

*Prepared by Rob Martin*

*Miller Center, University of Virginia, 03/29/2008*

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**1980s/90s AIDS Legislation:** EMK plays a leading role in fighting discrimination towards people with HIV, and works to pass legislation to fund AIDS research, health services and treatment, including the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990.

**1988-92 The Pepper Commission and the “Play or Pay” approach to NHI:** After becoming chairman of the Labor Committee in 1987, EMK sponsors the first NHI bill ever to be passed out of a committee. EMK is named to the Bipartisan Commission on Comprehensive Health Care Reform, created by Reagan and Democratic congressional leaders in 1988, which issues recommendations on universal access and long-term care. The commission generally supports a plan that would require employers to either provide health insurance for their employees or contribute to a government insurance fund, but employer mandates are controversial and in the end the committee is unable to agree on how the plan should be funded. EMK begins working with a bipartisan group of senators from the Finance and Labor Committees that meets in Riegle’s office with several other members of the Pepper Commission, including Rockefeller and Durenberger, in an effort to reach a consensus on universal health insurance. Key Republicans in the working group include Hatch and Dole. With the group unable to reach an agreement, EMK and Senate Majority Leader George Mitchell sponsor a “play or pay” bill in 1992, which is passed by the Labor Committee. Mitchell had originally sponsored a similar bill in 1991. The “play or pay” approach is similar to Nixon’s NHI proposals.

**1993-94 Clinton and Health Care Reform:** EMK works closely with the Clinton Administration on the development of its health care reform proposal and is a lead Senate sponsor of the Administration’s plan. Progress is reportedly impeded by Clinton’s initial decision to give first priority to deficit reduction, inept Administration management of the political process, Rostenkowski’s resignation from House Ways and Means, opposition from the insurance industry, organized medicine and business, and controversy in the Senate over employer mandates. A number of Senate committees develop their own plans, including EMK’s HELP Committee, which passes a plan with some bipartisan support. However no consensus emerges behind any single plan. Mitchell proposes a modified plan in the summer, 1994, to expand coverage to 95% of the population without requiring an employer mandate, which Clinton says would now be acceptable. EMK negotiates on behalf of the Mitchell plan with John Chafee’s bipartisan “Mainstream Coalition” to produce a compromise agreement, but Mitchell declares health care reform dead on September 26<sup>th</sup> after failing to attract enough votes for the new proposal. The GOP goes on to win control of both houses in the midterm elections; no health care reform legislation is passed.

- 1994**     *The GOP wins control of the House and Senate in the 1994 mid-term elections. EMK loses chairmanship of the Labor Committee.*
- Mid-90s**   **Blocking the Gingrich cutbacks:** EMK works to prevent the Republicans, who have just won control of the House and Senate in the “Republican Revolution,” from cutting funding for numerous programs including Medicare, Medicaid and the FDA.
- 1996**     **The Kennedy-Kassebaum Health Insurance Portability and Accountability Act of 1996 (HIPPA):** EMK and Labor chairman Nancy Kassebaum cosponsor legislation protecting health insurance coverage for workers and their families when they change or lose their jobs. HIPPA is part of EMK’s efforts to keep health insurance reform moving forward after the collapse of NHI by refocusing on a smaller initiative that can gain bipartisan support. It is passed after EMK battles Dole over Medical Savings Accounts, which EMK is able to keep limited to a small, temporarily pilot program.
- 1996-97**   **State Children’s Health Insurance Program (SCHIP) of 1997:** EMK works with Orin Hatch and Hillary Clinton to pass legislation creating federal coverage of children’s health care. The bill is passed as part of the Balanced Budget Amendment and is funded in part by a cigarette tax increase. SCHIP, along with HIPPA, is one of the proposals that EMK pulls from the various failed NHI proposals to keep health insurance reform moving forward.
- 1997-02**   **Patients’ Bill of Rights:** EMK makes repeated attempts to enact legislation to strengthen patients’ rights including giving patients the right to sue their HMOs to hold their health plans accountable for harm done. The Senate passes the McCain-Edwards-Kennedy Patients’ Bill of Rights after the Democrats retake the Senate in 2001 but, unlike in 2000, the House bill contains weaker provisions. Negotiations with the Bush White House are unable to resolve the issue of damages and no legislation is enacted.

## THE AMERICANS WITH DISABILITIES ACT

Prepared by Anne Mariel Peters

Miller Center, University of Virginia, 04/25/2006

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*The Americans with Disabilities Act sought to remedy extant civil rights legislation that did not extend protection against discrimination in public accommodations, private sector employment, and the provision of state and local government services to disabled individuals. The legislation met opposition from business groups concerned about costs of accommodation, and was also controversial because of its implicit coverage of individuals with HIV/AIDS. EMK co-sponsored the bill, saw it through the Labor and Human Resources committee, and chaired the conference. A consistent supporter of the bill, Dole took a lead in facilitating negotiations between the Bush administration and a bipartisan group of senators.*

The first version of the Americans with Disabilities Act (ADA) was introduced in April 1986 by Senator Lowell Weicker (R-CT). In 1988, Weicker introduced the bill again with Senator Tom Harkin (D-IA), who had succeeded Weicker as chairman of the subcommittee on the handicapped in 1987. No serious legislative effort was made to push the bill through in 1988, although its existence served as a rallying point for disabled advocacy groups. After Weicker was defeated for re-election in 1988, EMK replaced him as Harkin's chief cosponsor in 1989. In March and April of 1989, drafts of the bill went back and forth among the White House, Harkin, and Senator Orrin Hatch (R-UT). Although President George H.W. Bush had long supported the ADA concept, his administration was hesitant to support the bill because of the massive changes in accommodation and hiring practices that it would entail; these were also the primary concerns of the business community. The strongest administration critics of the bill were chief of staff John Sununu and Secretary of Transportation Samuel Skinner.

The ADA bill (S 933) was introduced on May 9, 1989, and hearings in the Senate Labor and Human Resources Committee (the only committee with jurisdiction over the bill) began immediately. On the 16<sup>th</sup>, Dole testified in general support of the bill, but expressed concern that some of its provisions might invite excessive litigation. He conveyed that the Bush administration wanted to support the bill, but that they required more time to "get their act together." On the 22<sup>nd</sup>, the Bush administration sent Attorney General Richard Thornburgh to testify; EMK designated Thornburgh's testimony as a full committee meeting, over which he presided. In his opening statements, EMK explained the bill in the context of civil rights, and emphasized that the bill's accommodation requirements would not adversely affect small businesses. Thornburgh conveyed administration concerns with the bill's cost, scope of public accommodations to be covered, and the precision of the terms "undue hardship" and "reasonable accommodation."

On May 27, negotiations between Senate leaders and the White House on the ADA began. Of the bill's cosponsors, administration officials preferred to deal with EMK, as Harkin was up for re-election and it was believed he would likely try to take credit for the bill. Early on in the negotiations, Sununu told EMK that all rifts could be settled easily if EMK removed his chief civil rights counsel, Carolyn Osolinik, from the negotiating team (EMK subsequently called Osolinik and congratulated her on a job well done).

During the month of July, Senate and White House negotiators met roughly ten times to discuss the ADA. A breakthrough meeting occurred on the 28<sup>th</sup>, when Senator Dave Durenberger (R-MN), Harkin, Hatch, Dole, and EMK met in Dole's Capitol office with Thornburgh, Harkin aide Bobby Silverstein, Samuel Skinner, Roger Porter, Sununu, and Osolinik. Sununu reportedly lost his temper with Silverstein, after which EMK turned red in the face and told Sununu that yelling at staff was unacceptable. After this exchange, a compromise was engineered in which EMK accepted a provision eliminating damages in lawsuits in exchange for administration acceptance of a broad definition of public accommodation. All disagreements occurring in negotiation were kept secret until after the bill's passage. The Bush administration threw its support behind the bill after congressional sponsors agreed to limit remedies for discrimination to those available under the 1964 Civil Rights Act. In public accommodations cases, the attorney general would only be allowed to seek compensatory (not punitive) damages and civil penalties of up to \$50,000 for the first violation and \$100,000 for subsequent violations. Initially S 933 would have allowed the victim to sue for both compensatory and punitive damages.

On September 7, 1989, the Senate approved its version of the ADA by a 76-8 vote. EMK and Dole voted in favor of the bill, which also contained a Dole amendment to provide federal assistance to private entities to help them meet the law's accessibility requirements. Major provisions of the Senate bill included:

- **Employment.** Prohibited an employer from discriminating against a qualified individual with a disability with regards to job application procedures; the hiring or discharge of employees; compensation; advancement or job training; and other terms and conditions of employment. Individuals using illegal drugs were barred from being considered disabled, and the U.S. government, U.S. government corporations, and private membership clubs were exempted from the law.
- **Public Services.** Prohibited discrimination against a person with a disability in the provision of services by any state or local government agency.
- **Public Accommodations.** Barred discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation. Failure of covered entities to provide accommodations for the disabled within thirty months of enactment would be considered discriminatory.
- **Telecommunications.** Required the Federal Communications Commission to ensure that communications relay services were constantly available for the deaf within and across states; also required common carriers to provide relay services either individually or through designees.

The House passed its version of the ADA (HR 2273) on May 22, 1990 by an overwhelming majority of 403-20. Support for the bill was so strong in both chambers that a House-Senate conference would probably not have been required but for the House bill's inclusion of a controversial amendment permitting employers to transfer employees with contagious diseases out of food-handling jobs (known as the Chapman amendment). Lawmakers claim that the amendment was aimed towards people with HIV/AIDS, and the White House opposed it. Dole was in favor of the amendment despite his dedication to the ADA, disabled rights groups, and AIDS research. The amendment was eventually dropped in the conference,

which EMK chaired. The conference report was passed by the House 377-28 on July 12, and on July 13, the Senate approved the conference report by a 91-6 vote. EMK and Dole voted in favor.

Bush signed the ADA (PL 101-336) on July 26, 1990. All of the managers of the bill were invited to the signing ceremony, but Dole was the only lawmaker mentioned by Bush during the ceremony. In his autobiography, Dole cites the ADA as one of his greatest legislative achievements.

## CIVIL RIGHTS ACT OF 1991

*Prepared by Rob Martin and Nadia Shairzay*

*Miller Center, University of Virginia, 03/20/2008*

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In 1989, the Supreme Court rules on six cases, including *Wards Cove Packing Co. v. Atonio*, which weakens civil rights protections in employment discrimination cases by making it more difficult for the plaintiff to prove discrimination, easier for the employer to hide behind business necessity defenses, and restricting the plaintiffs ability to sue for damages.

In an attempt to overturn the six Supreme Court decisions, EMK proposes the Civil Rights Act of 1990, which would permit victims of discrimination or sexual harassment to sue their employers more easily for damages, permit the awarding of financial compensation and punitive damages, and allow jury trials in these cases. Quotas become a controversial issue, as the bill addresses how the courts should determine when discrimination has occurred, and conservatives fear the mere existence of a statistical imbalance in the employer's workforce could become sufficient legal grounds for determining civil rights violations. Bush responds by saying he will not sign any bill that imposes minority hiring quotas. EMK denies that he is offering a quota bill and, allying himself with Danforth, offers an amendment that would explicitly prevent quotas. EMK attempts to negotiate with the administration but Sununu is unwilling to compromise. EMK's bill passes the Senate 65-34 without a veto-proof majority. It passes the House 272-154.

In conference that fall, EMK helps add a cap on damages for all but racial discrimination cases, as an attempt to satisfy southern Democrats supporters. Though EMK was initially optimistic that the conference report would draw a veto-proof majority, it passes 62-34, three votes shy. The House also fails to garner a veto-proof majority, passing the report 273-154. Bush vetoes the bill, arguing "The bill actually employs a maze of highly legalistic language to introduce the destructive force of quotas into our national employment system." (Clymer, p. 480) EMK works hard in the Senate to gain the votes to override the veto, but fails when thirty-four senators vote to sustain. The override vote fails, 66-34, one vote short. (1990 CQ Almanac, pp. 462-473)

The next spring, the House begins consideration of its own civil rights bill, which is repackaged to emphasize women's equity. While EMK supports the bill, Danforth prefers a weakened, more conservative version, which the House ultimately passes. That same week, Danforth introduces compromise legislation in the Senate which limits damages available to victims of non-racial discrimination. Bush continues to oppose legislation until the fall, when the Clarence Thomas confirmation hearings place unprecedented focus on sexual discrimination issues. With the White House now more willing to compromise, Danforth, EMK, the White House, and Republican Senate leaders reach an agreement for a no-quota employment discrimination bill. The bill makes it easier for workers to file and win discrimination suits and amends Title VII of the 1964 Civil Rights Act to permit sexual harassment victims to seek damages, but caps them at \$300,000. Bush threatens to veto again but is convinced otherwise after Dole sets up a final meeting with EMK, Danforth, six undecided Republican senators and White House officials in Dole's Capitol hideaway. Bush signs the bill into law, claiming that it validates him as a supporter of civil rights without sacrificing his opposition to hiring quotas. Clymer reports, "Ultimately, the differences between the bills agreed to in 1991 and vetoed in 1990 were slight." (Clymer, pp. 500) EMK is the only Democratic lawmaker to attend the signing ceremony.

## KENNEDY-KASSEBAUM BILL

Prepared by Anne Mariel Peters

Miller Center, University of Virginia, 03/16/2006

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*In August 1996, Congress passed the Kennedy-Kassebaum health insurance bill after a battle over provisions for medical savings accounts, which were favored by Senate Majority Leader Bob Dole (R-KS) and House Republicans as a stimulus for private-sector health insurance competition, yet opposed by President Bill Clinton and congressional Democrats for their potential use as tax havens for the wealthy. The final bill provided for both individual and group insurance portability and established a four-year MSA pilot program.*

After the failure of his national health insurance plan in 1994, President Bill Clinton shifted his focus to supporting a narrower bipartisan health insurance initiative being developed by retiring Senator Nancy Landon Kassebaum (R-KS) and EMK. On August 2, 1995, the Senate Labor Committee approved 16-0 the Kennedy-Kassebaum initiative (S 1028) with the following key provisions:

- Group health insurance portability: Limited to twelve months the period in which a group insurer could refuse or limit coverage of a new enrollee for a health condition that was diagnosed or treated in the six-month period before the enrollment.
- Individual health insurance portability: Required insurers offering individual coverage to issue an individual policy to anyone who met three criteria: (1) had coverage for at least eighteen months; (2) was not eligible for coverage under any group plan; and (3) has exhausted COBRA coverage.
- Following a 9-7 partisan vote on an amendment proposed by Senator Bill Frist (R-TN), language encouraging the creation of medical savings accounts (MSAs) was inserted. The creation of MSAs would allow individuals with high-deductible insurance plans (catastrophic plans) to make tax-deductible contributions to a special medical savings account. The account was to be used to pay for medical expenses, and employees could save what they did not use. Concerned that they could be used as tax havens for the wealthy, EMK opposed MSAs, which Republicans touted as a means to encourage private-sector competition.

It took months to bring S 1028, which subsequently became the target of interest groups, presidential campaigns, and partisan politics, to the Senate floor. The health insurance industry, which was crucial to the defeat of the 1994 Clinton initiative, vehemently opposed individual insurance portability. Clinton called for the passage of Kennedy-Kassebaum in his 1996 State of the Union address. And Senate Republicans concerned about group-to-individual portability requirements placed holds on the bill.

In the meantime, the House passed its own version of the bill (HR 3103) by a party line vote of 267-151 on March 28, 1996. The House bill included the following key provisions:

- Group insurance portability
- Individual insurance portability

- Provisions for MSAs
- Exemption from state regulations for small businesses forming insurance pools

Dole did not persuade his GOP colleagues to lift their holds on the bill until February 7, 1996, when debate was scheduled for late April. On April 23, the Senate approved the House bill 100-0 after substituting an amended version of S 1028, a vote that masked the degree of controversy over the inclusion of MSAs in the bill. Dole had led the fight for MSAs in the Senate, going against the wishes of Kassebaum and EMK, who had already built a broad coalition for the bill on the basis that no provision for MSAs and no additional amendments would be added. On April 17, Dole proposed a broad amendment that included the controversial MSA program and an array of politically desirable tax provisions designed to lure other senators from Kassebaum's no-amendment strategy. However, Kassebaum and EMK succeeded in stripping the MSA provision from the Dole amendment 52-46, with Vice President Al Gore present in the case of a tie vote. Five Republicans, including Kassebaum, joined Democrats in opposing the MSA provision. Dole tried to persuade Republican colleagues to switch to his side, but after winning over Frist and Senator William Cohen (R-ME), Dole gave up. The Senate voted 98-0 to accept the rest of Dole's amendment, with the exception of revenue programs intended to fund the MSAs. Key provisions of the Senate bill included:

- Group insurance portability
- Individual insurance portability
- Dole amendment, minus MSAs and MSA revenue programs
- Mental health parity provision

Dole had a second chance to insert MSAs into the bill during conference committee, although White House Chief of Staff Leon Panetta and Gore informed him that Clinton would veto the bill if it contained MSAs. When Dole sought approval of his proposed conferees in late April, EMK objected, accusing Dole of "stacking the deck" in favor of MSAs; Democrats then used procedural motions to block Dole from appointing conferees, insisting that Dole appoint conferees who reflected the Senate position on MSAs. Kassebaum, according to her spokesman, deferred to Dole on this issue due to his status as majority leader. In addition to the MSA provision, other difficult issues included mental health coverage provisions only in the Senate bill, and small business health insurance pools and a medical malpractice cap only in the House bill.

Just before Dole's departure from the Senate on June 11, Kassebaum reached a compromise with House Ways and Means Chairman Bill Archer (R-TX). The compromise included:

- A scaled down MSA program in exchange for an expansion of the program, subject to congressional vote, three years later
- No cap on malpractice awards
- No incentives for small-business health insurance pools
- No mental health parity provision

The Kassebaum-Archer compromise was met coldly by Democrats, and EMK expressed disappointment that Kassebaum had “bowed to the pressure of... the House Republican leadership.”

After Dole left the Senate to focus on his presidential campaign, Senator Trent Lott (R-MS) took his place as majority leader. On July 25, EMK and Archer unveiled a new compromise, the focus of which was a pilot MSA program that would expand after four years, subject to congressional vote. This requirement for congressional approval of MSA expansion was a victory for EMK, who also won several other provisions considered crucial for consumer protection, including restrictions on catastrophic coverage deductibles and limits on annual contributions to MSAs. Lott subsequently appointed conferees, and negotiations began.

After dropping the mental health and medical malpractice provisions, the Kennedy-Kassebaum bill (HR 3103/ S 1028, formally “The Health Insurance Revisions Act of 1996”) was passed by the House on August 1 and by the Senate 98-0 on August 2, 1996. Key provisions of the bill included:

- Group insurance portability
- Individual insurance portability
- MSA pilot program: The MSAs were to be made available to a limited population of roughly 750,000 for four years, beginning January 1, 1997. After that, Congress was to vote on whether to expand eligibility to everyone. Included in the pilot were workers at companies with fewer than fifty employees, self-employed workers, and the uninsured.
- Required enrollment: Required group insurers to enroll employees who initially declined coverage because they were covered under another group plan that they had since lost.
- Exclusions based on health: Prohibited insurers from refusing coverage because of an employee’s health status.
- Availability of group coverage: Required insurers that sold policies in the small group market to offer health plans to all employers in that market.
- Guaranteed renewability: Required insurers to renew most policies, with cases of fraud and non-payment exempted.

On August 21, 1996, Clinton signed the bill (PL 104-191).