

MEMORANDUM TO SENATOR DOLE

DA: July 14, 1995

FR: Alec Vachon *AV*

RE: FYI/REG REFORM--HARKIN CIVIL/DISABILITY RIGHTS AMENDMENT

Senator Harkin will file an amendment this afternoon to include civil rights in the same category as health and safety regs in sec. 624, "Decisional Criteria"--i.e., allows an agency to promulgate a reg other than the least cost alternative if justified by "nonquantifiable benefits." Harkin is specifically concerned with extra protection for ADA regs.

Harkin's intent is curious: his staff says Harkin will not ask for a vote or otherwise push his amendment. He wants to provide you or Senator Hatch "political cover" if you want to provide this extra protection to ADA regs.

As you know, some members of the disability community, including John Kemp, have expressed concern over the possible impact of reg reform on ADA and other disability rights laws.

Senator Hatch's staff have expressed little enthusiasm for this amendment. Also, during debate on June 28th Hatch riled the blind community by misstating a ADA reg re braille instructions at ATM machines--calling it ridiculous. (At best, many Republican staff are ambivalent about ADA.)

Below are arguments for/against allowing nonquantifiable benefits to be considered in choosing other than the least cost alternative among ADA reg options:

FOR. The whole point of ADA is nonquantifiable benefits, e.g., inclusion and participation. Such benefits should be considered in choosing among reg options. Moreover, ADA regs have received little criticism--in fact, some local government associations have gone so far as to say that if environmental regs were written like ADA regs, environmental regs would receive less criticism. Supporting this change would receive positive attention for you in the disability community.

AGAINST. Concerns about the impact of reg reform on ADA regs are unfounded. In fact, this amendment would send the message--albeit incorrect--that ADA regs are onerous or not carefully crafted. This amendment could provide another wedge for other "special interests" to ask for exemptions from reg reform. Very few people in the disability community are focused on this issue --mostly a few big mouths and others they have roped in.