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THE WHITE HOUSE
WASHINGTON

September 19, 1974

MR. PRESIDENT:

Attached is Ash's staff analysis of the Muskie problem as it relates to the Rescission/Deferral Package.

As the analysis confirms, Roy believes we should proceed with the package, but wanted you to be aware of Muskie's attitude with respect to it.



Al Haig



Attachment

F 1 4

~~THE PRESIDENT HAS SEEN~~ J. F.
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 19, 1974

MEMORANDUM FOR GENERAL HAIG

FROM: Stan Ebner *AZ*

SUBJECT: Rescission/Deferral Package

Following up Senator Muskie's comments on the new budget reform legislation at the Tuesday night White House Dinner, several OMB staff members met last night with Muskie's staff on the new Senate Budget Committee.

Senate staff expressed Muskie's view that the whole thrust of the new law was to severely limit the President's authority to impound for "fiscal policy" reasons. They interpret the statute to allow deferrals, which make up practically all of the current \$20.3 billion package, only for contingencies, or when specifically permitted by some other statute. Muskie and his staff insist that any deferrals which we propose for fiscal policy purposes, such as the \$10.7 billion in highway funds in the current package, must be submitted as proposed rescissions.

The net effect of their interpretation would be to require the affirmative ratification of some key Presidential impoundment actions through enactment of the rescission bill within 45 days, rather than to permit these actions to remain in effect unless overridden by either House of Congress.

We do not read the law this way, nor do a number of congressional members. Although the highway funds are the only deferral in contention in this package, they represent a significant sum. There will also be additional "fiscal policy" deferrals in future submissions under the new law which would have to be proposed as rescissions under Muskie's view.

Muskie believes we should hold up submission of the current package long enough to seek a GAO opinion. He has already gone public on this issue (see attached Post article). We feel this is not a good option for the President, and that we will be in a better political posture if GAO is forced to rule after the proposals are on the Hill with some clear congressional and public support. Our view remains that the package should go today as is.

Attachment

Clash Seen On Deferring Of Spending

By Spencer Rich

Washington Post Staff Writer

President Ford's plan to hold back spending about \$20.3 billion in appropriations already approved by Congress could produce a serious constitutional confrontation over budget powers.

The plan was revealed by the President and Budget Director Roy L. Ash at a "working dinner" Tuesday night with congressional committee chairmen and senior Republicans. Mr. Ford said delays, or in some cases outright cancellations, of projected spending are needed to battle inflation.

Although few details were available, Senate Budget Committee Chairman Edmund S. Muskie (D-Maine) said he presumed most of the cuts would come from highway and water funds voted in past years and still not spent, such as \$9 billion for water pollution clean-ups.

Only about \$600 million from this year's appropriations would be affected, Muskie said, though it is expected that added cuts for the current fiscal year will be proposed later.

From other sources, it was learned that the hold-back, at least as initially outlined, involves—in addition to the \$9 billion in water money that President Nixon had refused to spend—\$10.7 billion in highway funds, which also had been held up by Mr. Nixon, and about \$600 million in 16 other small items.

Muskie said a confrontation could arise not only over the wisdom of holding up specific items but over the method used by the President.

He said the new budget law passed this year authorizes the President to hold back minor funds for "housekeeping" adjustments and project emergencies by simply declaring that he is deferring spending. The deferral is automatically effective unless overturned by either chamber of Congress.

However, when the President wants to hold up spending of major amounts for broad policy purposes—the case right now—he is required to use the much more difficult method called rescission, Muskie said.

Under this method, the President must notify Congress and he cannot put his plan into effect unless he wins positive approval of both chambers.

Muskie said Ash had indicated to him that deferral would be the method used on most of the items in the \$20.3 billion total. Muskie said this would constitute an illegal use of the easier deferral procedure or policy reasons.