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THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

DEC 4 1974

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: ROY L. ASH

SUBJECT: Supplemental Appropriations for Implementation
of the Freedom of Information Act Amendments

Last week you suggested that we request supplemental appropriations for implementation of all substantive legislative proposals that are vetoed and subsequently overridden in order to impress upon the Congress the fiscal implications of their actions and to share the responsibility for budgetary restraint with them.

The recent veto of the Freedom of Information Act Amendments is one case, however, where we may not want to employ this strategy. While the Freedom of Information Act amendments will have some budgetary impact, by requiring more information, shorter response times, and more staff, to a great extent these costs arise from provisions to which we did not object and, which in fact, we indicated would be acceptable to us. Although we have attempted to develop an estimate of the cost of implementation, we found it virtually impossible because of the many agencies that are affected and the unknown potential public response to the amendments. The grounds for the veto were essentially substantive in nature and involved disagreements with the Congress over the effect these amendments would have on military secrets, diplomatic relations and confidential investigatory matters of law enforcement agencies. Furthermore, where you made reference to additional costs this Act may impose upon the Executive, such as in the veto message, and in your November 14, 1974, Phoenix remarks, these have been more in the context of the impracticality of implementation rather than with regard to any specific adverse budget impact. In Phoenix for example, you indicated that the FBI would have to establish a new bureaucracy to carry-out these provisions.

Another concern is that if we adopt this strategy in this case and submit a supplemental, the Congress may accept it and we could be compelled to create bureaucracies or otherwise implement the Act in an inefficient or objectionable manner. Part of this concern stems from the recognition that the costs of implementing the Act are almost impossible to predict in advance on an agency by agency basis. Finally it may not be desirable to pose this challenge to the Congress after so much controversy has surrounded the passage of the amendments.

Because of these concerns, we recommend that you not submit a supplemental appropriation request for this Act. Rather, we would prefer to have the flexibility to deal with each agency separately as they develop experience in handling responsibilities imposed by the Act.

DECISION

Agree, do not submit supplemental MRH. (Buchen, Cole, Hartmann,
Marsh and Timmons concur.)
Disagree, submit supplemental _____.