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THE WHITE HOUSE

WASHINGTON

March 28, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM:

JACK MARSH

SUBJECT:

Tax Bill



Pursuant to your request, I am conveying to you some of my thoughts and recommendations in reference to the pending tax bill as to whether you should sign or veto.

As I explained to you personally, were I considering this bill as a Member of Congress, I feel certain I would vote against it and I suspect you would also. However, although this is a helpful insight, it cannot be a binding criteria for the position in which you now find yourself where you represent a National constituency.

In approaching my recommendations, I have tried to establish some criteria by which you should measure the bill from the standpoint of a veto. This criteria is set out as follows:

To support a veto on legislation of this magnitude and consequence, the bill must be totally unacceptable and the unacceptability must be apparent, or capable of being made apparent.

The elements to determine if this definition applies, are as follows:

a. Overwhelming Reason:

An examination of the Bill should lead an individual to conclude its adverse features present an overwhelming reason it should be vetoed as opposed to being signed. The growing Federal deficit lends itself to this argument but I believe it is limited for your purposes for reasons set out later in this paper.

b. An Understandable Reason:

The adverse features that lead you to a veto should, in addition to presenting an overwhelming reason, must also be an understandable reason which is capable of being explained otherwise the chances of sustaining the veto and protecting your credibility are lost.

c. Relevancy and Significance:

The adverse features in support of a veto must be measures of a significant nature and they must be relevant to the total bill. Arguments in support of a veto on a lesser or insignificant provision, regardless of merit, will be irrelevant and in the nature of nitpicking.

d. Integral Part of the Whole:

Those measures to which you object, in order to support a decision to veto, must be so germane and so significant as to go to the heart of the bill and make the whole measure unacceptable.

e. The Weight of the Facts:

It is essential that you be able to make a clear and convincing case that you are right on the basis of the facts in support of your veto when addressing objectionable features. If it is merely debatable with strong points on either side, you should sign the bill. For example, it is difficult to argue you feel that measures will become permanent when the proposed legislation clearly states they are temporary.

f. The Veto reasons must be defensible against rebuttal:

This point is closely related to the proceeding one. If you should decide to veto, then the case you make in the public forum must be so strong as to resist rebuttal. There is a question in my mind as to whether this test can be met.

g. Glaring Error:

If there is glaring error in the bill, which arose out of mistake or misunderstanding, you can probably make the easiest case in support of a veto. This type of legislation lends itself to such a flaw and the housing provision could be close to meeting such a criteria.

h. Veto Sustainability:

Finally, the practicalities of the situation cannot be ignored. Can the veto be sustained and by what margin? As of this time, I believe it can be sustained but it will require a tremendous effort and even then, the margin will, in my opinion, be less than 10 votes. A narrowly sustained veto strains future Congressional action. A failure to sustain would be a major setback. The economic outlook as of the date of the vote would have a substantial impact on the vote result. New employment statistics cannot be discounted in this regard.

In reviewing the proposed bill in light of the above tests, I am of the view that notwithstanding its objectionable features, it should be signed. I believe that we would concur in a strong veto message that points to the objections and waves the caution flag for the future.

To me one of the best reasons to support a veto is what I term the massive deficit reason which would argue that a tax reduction, coupled with uncontrolled Congressional spending, will adversely impact on the economy. Although I lean very strongly to this position, I recognize that it is a veto with no tax bill as opposed to a veto with an improved tax bill. I am doubtful you can select this option in light of the continued emphasis and demand for a tax cut since the State of the Union Message.

We all agree that your credibility is a major factor in your decision. It is for this reason that I also recommend signing the bill rather than vetoing the same. There are realities and overriding practicalities that drive your decision. This does not mean the principle must be set aside but the test of principle on one or more objectionable features of the entire bill must be weighed in terms of the overall measure on national need as well as the future effectiveness of your Presidency.

It may be that by later today, or tomorrow morning, expressions of public opinion will indicate support for a veto course, but I doubt it. However, I suggest a careful examination today of editorial statements

as well as expressions of the financial, business and labor communities as to their view of the legislation.

When you consider these, and the risk of an unsustained veto, or even a sustained veto and the chance of a minimally improved bill, I feel the arguments to sign outweigh those to veto.

Finally, you should assess the position of the Republicans who voted against the bill, particularly the House Leadership. Special attention must be given to them to assure they understand the compelling reasons that led to your decision to sign if that is the course you take.