



UNITED STATES SENATE

March 18, 2009

The Honorable Peter R. Orszag
Director
Office of Management and Budget
Washington, DC 20503

Dear Director Orszag:

I am writing to you about an urgent matter and I hope you will be able to provide guidance on this important issue to the people of South Carolina.

While I did not support passage of H.R. 1, the *American Recovery and Reinvestment Act of 2009* (ARRA), I am interested and greatly concerned about how the Administration plans to interpret and implement several provisions of this Act.

It appears the legislative intent and the actual language of ARRA are, at times, at odds. Whether this was intentional or simply a byproduct of the rushed nature in which the legislation was passed through Congress, it is clear the Administration's interpretation will have a major impact on South Carolina.

The intent of Section 1607 of ARRA is to allow a state legislature to seek federal funding in the event the governor chooses not to accept the funds. However, the legislation was drafted in a manner to bring this issue into question.

I reviewed the relevant provisions of legislation regarding state legislatures' request for funding and requested the Congressional Research Service (CRS) do likewise.

In their response they expressed concerns and noted the language on the availability of funds to state legislatures "contains significant ambiguities and the terms used may not be easily reconciled with either other portions of this Act or with existing statutory law."

While many believe that a state legislature may accept ARRA funds that are not sought by a governor, there also appears to be a contradiction in the statute which states that a governor is the entity authorized to actually apply for these funds so that they may be available to a state.

It is these "significant ambiguities" in the law, particularly in how Section 1607 impacts the State Fiscal Stabilization fund, that need to be clarified. I am extremely concerned about the confusion over these areas of the Act and how the Administration will interpret these provisions.

As you are aware, the April 3 deadline for certification of ARRA funds by the governor is fast approaching. South Carolina's state legislature is currently debating the state budget and is operating under the assumption the state legislature will be able to request and receive the money allocated to South Carolina under the State Fiscal Stabilization fund of ARRA. Governor Sanford has made it clear he will not accept funding in certain areas. Last night, the South Carolina State Senate Finance Committee voted 18-3 to adopt a concurrent resolution that expresses their desire to accept ARRA funds in the event that the governor does not wish to seek them. Your interpretation over these seemingly conflicting provisions will help settle the confusion and allow South Carolina to move forward.

Thank you for your attention to this matter. Please do not hesitate to contact me should you have questions regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Lindsey O. Graham". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lindsey O. Graham
United States Senator