

TRANSPORTATION WEEKLY

UPDATE – SENATE ADJOURNS FOR THE YEAR

THURSDAY, DECEMBER 24, 2009 – 11:30 A.M.

The U.S. Senate has adjourned for the year after passing health care reform and a short-term debt ceiling increase by identical party-line 60-39 votes earlier this morning (Jim Bunning (R-KY) missed both votes).

Before adjourning, the Senate also approved a package of legislation and nominations by unanimous consent, including the nominations of David Strickland to head the National Highway Traffic Safety Administration and of Michael Khouri to be a member of the Federal Maritime Commission.

Equally important, as part of the agreement to get the short-term \$290 billion debt ceiling increase (H.R. 4314) passed before Christmas, Majority Leader Harry Reid (D-NV) locked in the Senate floor agenda for January 2010 – and that agenda does not include a second economic stimulus bill.

Instead, upon their return to Washington on January 20, the Senate will take up an earlier House-passed joint resolution (H. J. Res. 45) with a \$1.635 trillion debt limit increase (measured against the ceiling as amended by the bill passed this morning). Reid will then immediately offer an amendment in the nature of a substitute raising that debt ceiling increase to an even higher level that will prevent the need for another debt ceiling increase before the 2010 mid-term elections.

At that point, eleven more amendments to H. J. Res. 45 will be in order. All eleven amendments are apparently subject to an unlimited number of second-degree amendments, and there are no time limits on debate on any of the eleven amendments (or on any second-degree amendments thereto).

The eleven amendments in order to the Reid substitute to H. J. Res. 45 are, in no order:

**A Conrad (D-ND) – Gregg (R-NH) amendment establishing a bipartisan commission making recommendations on deficit reduction that must receive a fast-tracked up or down vote in Congress.

**A Reid amendment establishing statutory PAYGO budget treatment for mandatory spending and tax cuts.

**A Thune (R-SD) amendment related to TARP.

**A Sessions (R-AL) amendment establishing statutory spending caps.

**A Coburn (R-OK) amendment consisting of a package of rescissions of previously enacted spending.

**A Murkowski (R-AK) amendment on endangered species.

**Five amendments to be named later that must be relevant to the above amendments. Three are to be offered by Finance chairman Max Baucus (D-MT), one by Reid and one by Minority Leader Mitch McConnell (R-KY). This is done in order to allow side-by-side votes on differing versions of various proposals – the original amendment, and a watered-down cover vote offered by the party opposed to the amendment.

Under the agreement, each of the eleven amendments to the Reid substitute to H. J. Res. 45 will require at least 60 votes for passage. This is done under the assumption that each amendment would get filibustered and would then require 60 votes for cloture, so establishing a 60-vote threshold at the outset simply saves the two days per amendment required to set up the cloture process.

After all eleven amendments have received a final vote, a vote will immediately occur on passage of H. J. Res. 45 as amended, which will also require at least 60 votes.

The lack of any time constraint on the amendment process and the fact that unlimited second-degree amendments to the eleven first-degree amendments are apparently allowed means that debating H. J. Res. 45 will probably take up all of the Senate's floor time between the time they return on the 20th and the time that President Obama submits his fiscal year 2011 budget on February 1. At that point, the President's own proposals for a second stimulus package (if any) will be made clear, which could necessitate the House passing a new bill more along the lines of what the President requests in his budget.

(Conceivably, Reid could file cloture on the whole debt ceiling bill, but it is doubtful he could get 60 votes until after the Conrad-Gregg amendment (at least) has been fully debated and disposed of.)

If the Thune amendment on TARP should pass, it could jeopardize the reduction in TARP funding totals used as a funding offset in the House-passed second economic stimulus bill last week. And there is no telling what funds Senator Coburn will propose to rescind, or whether or not his rescissions package will be well-crafted enough to potentially gain 60 votes.

While many of the amendments listed in the agreement are controversial, it should be noted that the Senate has a history of adding controversial and wide-ranging amendments to debt ceiling increases. Both the Gramm-Rudman I deficit reduction agreement in 1985 and the Gramm-Rudman II agreement in 1987 were passed as Senate floor amendments to "clean" House-passed debt ceiling increase legislation, and Congress also would

up passing a half-dozen short-term debt limit increases in 1990 pending the outcome of that year's bipartisan deficit reduction "budget summit" negotiations.