

SCHEDULE

Mr. LOTT. This morning the Senate will be in a period for morning business until 10:30 a.m. Following morning business, the Senate intends to consider and complete action on the following: A continuing resolution which continues funding through Friday, November 14; adoption of the foster care conference report—I am very pleased that we have been able to bring that very important matter to a favorable completion because it certainly needs to be done, and I think it is going to be a great help in getting children in foster care into adoption—and any other Legislative or Executive Calendar items that we can get cleared. However, no rollcall votes will occur in today's, Tuesday's, or Wednesday's session of the Senate. Of course, that is in observance of Tuesday, which is Veterans Day. Members will be given sufficient notice if any votes will occur on Thursday.

At this point there is a possibility of a couple of votes on Thursday, that is, Thursday, November 13, and there are some items that we would have to deal with yet, either an omnibus appropriations bill or the appropriations bills separately, if they wind up coming back to us in that way. But those would be the final items that we probably need to do before we adjourn for the first session.

The House has recessed until Wednesday, November 12, with the intention of concluding the appropriations process on that day. It is hoped that a few other remaining items can be considered by voice vote during Wednesday's session of the Senate, although I emphasize again no recorded votes.

Unfortunately, I cannot say at this time exactly what we can expect on Thursday. As the Members are finding out now, the House did not get to a conclusion on fast track. While we have not had enough time yet to discuss what happens next on that issue with the House leadership or with the administration, Senator DASCHLE and I have talked this morning. I have talked to the President's Chief of Staff. They will be having meetings this morning, and we would have some further announcement to make perhaps today or later on this week on what further will happen on the fast-track trade issue, if anything. Also, because of the energy and time that went into the fast-track efforts to come up with the votes in the House late last night, the House was not able to take up, of course, and deal with the appropriations bills. We will be working on that today and Wednesday.

MEASURE PLACED ON
CALENDAR—H.R. 2513

Mr. LOTT. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2513) to amend the Internal Revenue Code of 1986 to restore and modify

the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company income and to provide for the non-recognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives, and for other purposes.

Mr. LOTT. Mr. President, I object to further consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar for further consideration.

ORDER OF BUSINESS

Mr. LOTT. Two other comments. We will announce to Members a time for a vote, if any, on Thursday as soon as we can get information. That may not be, though, until Wednesday or Thursday.

Finally, it is our intent, serious intent, that we be finished for the year on Thursday of this week with adjournment at that time.

Mr. CONRAD. Will the leader yield for a question?

Mr. LOTT. I will be glad to yield to the Senator.

Mr. CONRAD. I thank the leader for his efforts to bring this session to a close.

THE HIGHWAY BILL

Mr. CONRAD. Mr. President, I ask the leader his intentions when we return, what the first order of business would be. The leader and I had had a chance to have a conversation last Friday, and he had indicated to me his intention was at that time that we would go to the highway bill when we return. Is that still the Senator's intention?

Mr. LOTT. Mr. President, it would be my intention. Of course, we would need to confer on that with the committee leaders. But I believe that Senator CHAFEE and Senator BAUCUS would like to take it up early. I talked with Senator DASCHLE about it. That is something I would like to maybe begin on the next day after the State of the Union but right at that first part. So we can go ahead and do our work and, hopefully, the House will follow our leadership.

One other issue that could come up early next year would be the juvenile justice bill reported out of the Judiciary Committee. I believe there is some language in the omnibus bill that we passed that would provide funds for it, but those funds are fenced until we do authorization. So that is something that could come up. And before we go out for the President's Day recess, we would also take up the Morrow nomination for a judicial position.

Mr. CONRAD. I thank the Senator. If I could just conclude the thought, a number of our States are very concerned about the highway legislation because, although we are going to have a 6-month extension here, they are concerned about having a short construction season and about our completing work on a highway bill in a timely way.

Mr. LOTT. Will the Senator yield so I can bring him up to date on that?

Mr. CONRAD. Yes.

Mr. LOTT. Throughout the day yesterday, meetings were occurring between the House and Senate leadership on the highway bill. We had passed in the Senate, as the Senator will recall, a fix which allowed flexibility so that some funds could be moved between accounts, if necessary, to keep the Department of Transportation employees working. I think there was a transit accommodation. So I think it had about four parts.

During the day yesterday, they were meeting with their counterparts in the House. I was led to believe last night that they had come to an agreement and that agreement, whatever it is—I just can't give you the total outlines of it now—would be attached to either the omnibus appropriations bill or one of the appropriations bills that would be going to the President for his signature.

Mr. CONRAD. So we will have a 6-month extension.

Mr. LOTT. I am not sure. As I said, I don't know what they came up with, but necessary actions to provide for safety, transit funds, and flexibility over some additional funds depending on what they agreed to, which I assume would take us to May 1.

But I do think, again, it is very important we have some deadline on this. Otherwise, we will never bring this very important but very difficult issue to a conclusion.

Mr. CONRAD. As one of the first orders of business when we turn to the 6-year bill.

Mr. LOTT. Right.

Mr. CONRAD. Which is what most of us would like to see, at least in this Chamber. We have a problem on the House side; they only want a 6-month bill, but we want a 6-year bill.

Mr. LOTT. Absolutely.

Do I have time?

If the Senator will allow me to respond—and I will yield the floor if you would like me to—the Senate, I believe, has acted very responsibly on this in terms of the package we had before us, the 6-year package within the budget. Obviously, there will be some important amendments to be offered.

As the Senator is aware, it got tangled up on an unrelated issue, but that issue will not be hanging over us on this bill when we come back.

What has me worried is I believe there are people really kind of interested in dragging this out because they want to keep the formula as it now is. I think the existing formula is fundamentally unfair to States like my own, and so I am very anxious for the Senate to keep the pressure on to move a 6-year bill that comes up with a fairer formula but also lives within budget constraints.

Mr. DORGAN. Will the Senator yield just for a moment on that point?

Mr. LOTT. I will be glad to yield.

Mr. DORGAN. The Senator from North Dakota [Mr. CONRAD] raised a question about the highway issue. I just wanted to follow up briefly.

The Senator from Mississippi will recall that the chairman of the transportation committee of the other side some many weeks ago indicated he would not even go to conference on a 6-year bill, and so we got tangled up for a lot of reasons, including I think the desire of some on the other side only to consider a 6-month bill. That pole vaults this into next year at some point when the Senator talks about May 1. I understand and share with him the need to be some end date that applies the pressure to say now we need to get the 6-year bill and get it done, because we cannot continue this approach of incremental funding without some understanding by the States of what they have to work with in the long run.

I have not had an opportunity to make contact or have discussions with folks in the other body, but when they indicated an unwillingness even to go to conference if we come up with a 6-year bill, it suggests an approach radically different than most of us in the Senate would have wanted.

Mr. LOTT. That is absolutely the case. But the problem they had in the House—we both served in the House; we know what it is like—highway infrastructure and transportation funds are very, very important in every State. This is not a partisan issue. This is an issue that divides us, some not really even by regions; States side by side can have a different view of the formula. And I think they pushed the 6-month proposal because they could not get the votes for anything else right then. But I think if the Senate does not show leadership and keep the pressure on them, we will never get this issue resolved.

That is why I had not wanted to do anything akin to 6 months. I wanted us to have some basic flexibility so States could reprogram, move funds around and make sure we had the safety fund but keep the heat on.

But I think the best thing that we could do on that right now is to make sure there is not a short-term problem with availability of funds, realizing that in the colder States you need to do contracting in December and perhaps early January to have those programs underway in the spring.

But again, it is my intent for the Senate to go ahead and take up this issue and address it early to put pressure on the House and also so that whenever they do get their act together and vote, we will be ready for conference. But I do think it is irresponsible for a Member on either side of the aisle, whether he or she be a chairman or not, to say they are not going to go to conference with the other body if the other body doesn't pass a bill that they like. We have feifdoms around here, but I believe we should not have that type of attitude

or we will never bring this important issue to a reasonable conclusion.

That is all I am pushing for. That is why I have tried to push this bill all this year. Frankly, in our own body I think our colleagues made a mistake by letting it drag out to this fall. I thought it should have been done last spring. I had a tentative schedule for the Senate to take it up in April of this year, last April. I know they had a hard time working it out in committee, but to their credit they worked it out and brought out a good, broadly bipartisan bill.

It will be a focus that we need to work on and we need to do it earlier in the year, because if we wait until next September right before elections, there will be no way we can do it.

Mr. DORGAN. Mr. President, I understand the comments of the Senator from Mississippi. I really share his desire to move on this early next year. I think the committee has done an exceptional job. I like the highway bill they brought to the floor, the 6-year bill. If we can move something like that early next year, I think we will have provided some significant leadership. So I appreciate very much the leadership of the Senator from Mississippi.

Mr. LOTT. I yield the floor, Mr. President.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each.

MAKING FURTHER CONTINUING APPROPRIATIONS, 1998

Mr. LOTT. We do have the continuing resolution and so I would just like to take 1 minute and go ahead and move that.

I ask unanimous consent that the Senate now turn to House Joint Resolution 105 making continuing appropriations through Friday, November 14; that the joint resolution be considered read the third time and passed and the motion to reconsider be laid upon the table, all without further action or debate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The joint resolution (H.J. Res. 105) was considered read the third time and passed.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from the State of Alaska.

Mr. MURKOWSKI. Mr. President, I believe we are in a period of morning business?

The PRESIDING OFFICER. That is correct. The Senator has up to 10 minutes to speak.

Mr. MURKOWSKI. I thank the Chair.

AMENDMENTS TO THE INTERNAL REVENUE CODE REGARDING TAX-EXEMPT OUTPUT FACILITY BONDS

Mr. MURKOWSKI. Mr. President, today we are on the verge of a revolution, the revolution of the transmission and distribution of electricity that is fast bringing about competition and deregulation to both the wholesale and retail level. Nowhere has the competitive model advanced further than in the State of California, where full deregulation will become a reality at the beginning of 1998. As many as 13 other States representing one-third of America have moved to competition in the electric industry. These are States with a significant population center.

On Saturday, November 8, I introduced legislation referred to the Finance Committee, and I believe that it will enhance the States' ability to facilitate competition. The legislation arises from the Energy Committee's intensive review of the electric power industry and from the Joint Tax Committee's report that I requested.

Over the past two Congresses, the committee has held 14 hearings and workshops on competitive change in the electric power industry, receiving testimony from more than 130 witnesses. One of the workshops specifically focused on how public power utilities will participate in the competitive marketplace. At these and in other forums, concerns have been expressed by representatives of public power about the potential jeopardy to their tax-exempt bonds if they participate in State competitive programs, or if they transmit power pursuant to FERC Order No. 888, or pursuant to a Federal Power Act section 211 transmission order.

The Joint Tax Committee report, titled "Federal Income Tax Issues Arising in Connection with Proposal to Restructure the Electric Power Industry," concluded that current tax laws effectively preclude public power utilities from participating in State open access restructuring plans without jeopardizing the tax-exempt status of their bonds. Under the tax law, if the private use and interest restriction is violated, the utility's bonds become retroactively taxable.

These concerns have been echoed by the FERC. For example, in FERC Order No. 888, the Commission stated the reciprocal transmission service by a municipal utility will not be required if providing such service would jeopardize the tax-exempt status of the municipal utility. A similar concern exists if FERC issues a transmission order under section 211 of the Federal Power Act.

Mr. President, if consumers and businesses are to maximize the full benefits of open competition in this industry it will be necessary for all electricity providers to interconnect their facilities into the entire electric grid. Unfortunately, this system efficiency is significantly impaired because of current