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Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview

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Summary

Almost all borrowing by the federal government is conducted by the Treasury Department, within the restrictions established by a single, statutory limit on the total amount of debt that may be outstanding at any time. Most adjustments to the debt limit have been increases, but sometimes the change has been a reduction.

The annual budget resolution includes recommended levels of the public debt limit for each fiscal year covered by the resolution. Because a budget resolution does not become law, Congress and the President must enact legislation in order to implement budget resolution policies. The House and Senate may develop legislation adjusting the debt limit in any one of three ways: (1) under regular legislative procedures in both chambers, either as freestanding legislation or as a part of a measure dealing with other topics; (2) pursuant to the House's so-called Gephardt rule; or (3) as part of the budget reconciliation process provided for under the Congressional Budget Act of 1974. During the period from 1940 to the present, a total of 84 debt-limit measures were enacted into law — 68 under regular legislative procedures in both chambers, 12 under the Gephardt rule, and 4 under reconciliation procedures.

President Bush's budget for FY2006 estimates the debt limit for that fiscal year at \$8.673 trillion, nearly \$500 billion higher than the current limit. Accordingly, Congress and the President are expected to have to enact an increase in the debt limit by late this session or early next session.

This report will be updated as developments warrant.

Almost all borrowing by the federal government is conducted by the Treasury Department, within the restrictions established by a single, statutory limit on the total

amount of debt that may be outstanding at any time.¹ In a few instances, agencies such as the Tennessee Valley Authority operate within their own borrowing limits established separately in law. For years, the public debt limit has been codified in Section 3101(b) of Title 31, *United States Code*. Periodic adjustments in the debt limit take the form of amendments to 31 U.S.C. 3101(b), usually by striking the current dollar limitation and inserting a new one. While most adjustments to the debt limit have been increases, in some instances the debt limit has been reduced or extended at its current level for a specified interval.²

The Congressional Budget Act of 1974 (P.L. 93-344, as amended) requires the House and Senate to adopt a concurrent resolution on the budget each year before considering revenue, spending, and debt-limit legislation. In addition to recommending the appropriate levels of total revenues, spending, and the deficit or surplus, the budget resolution also specifies the appropriate level of the debt limit for each fiscal year covered by the measure. Inasmuch as a budget resolution does not become law, Congress and the President must enact legislation implementing budget resolution policies, including any needed adjustment in the debt limit. Even if a budget resolution is not adopted by the House and Senate, as occurred in 1998, 2002, and 2004, legislation must be enacted to raise the debt limit whenever it becomes insufficient.

Under current legislative procedures, the House and Senate may develop legislation adjusting the debt limit in any one of three ways: (1) under regular legislative procedures in both chambers, either as freestanding legislation or as a part of a measure dealing with other topics; (2) pursuant to the House's so-called Gephardt rule; or (3) as part of the budget reconciliation process provided for under the Congressional Budget Act of 1974. While the Constitution requires that revenue measures originate in the House, this requirement is not considered to apply to debt-limit measures.³ Over the years, however, most debt-limit legislation has originated in the House. In 2002 and 2004, a Senate-originated bill was the vehicle for the debt-limit increase. The House Ways and Means Committee and the Senate Finance Committee exercise jurisdiction over debt-limit legislation.

It is extremely difficult for Congress to effectively influence fiscal and budgetary policy through action on legislation adjusting the debt limit. The need to raise (or lower) the limit during a session is driven by many previous decisions regarding revenues and spending stemming from legislation enacted earlier in the session or in prior years.

¹ For a discussion of federal debt, the debt limit, and debt management practices, see the Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2006, Analytical Perspectives*, Chapter 16 — Federal Borrowing and Debt, Feb. 2005, pp. 245-259. Also, see CRS Report RL31967, *The Debt Limit: The Ongoing Need for Increases*, by Philip D. Winters.

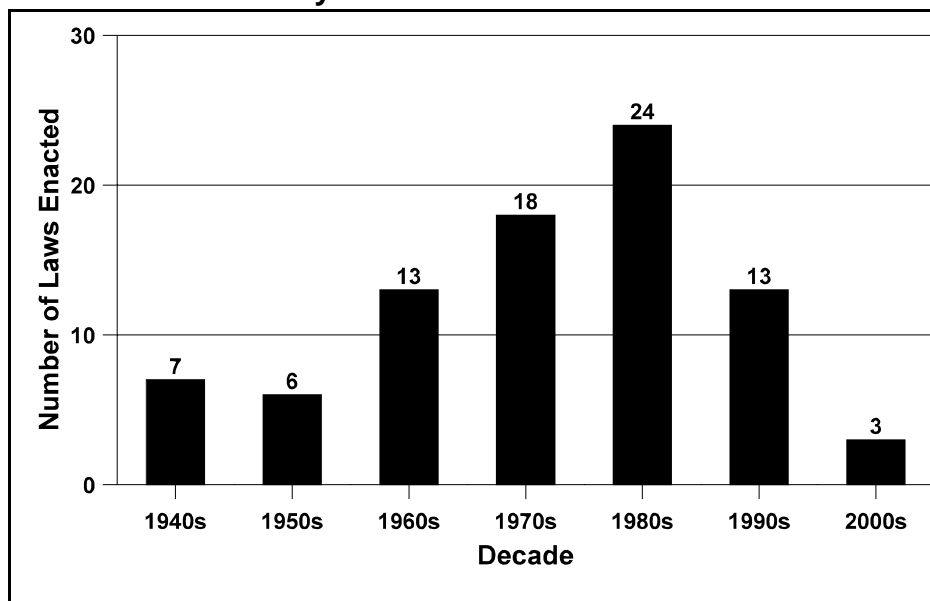
² For example, P.L. 455 of the 79th Congress (60 Stat. 316; June 26, 1946) reduced the debt limit from \$300 billion to \$275 billion as budget surpluses reemerged following World War II, and P.L. 101-461 (104 Stat. 1078; October 25, 1990) extended the current debt limit level of \$3.195 trillion for three days (as part of a series of short-term extensions) while a budget summit was underway.

³ See the discussion on pages 16 and 17 of CRS Report RL31399, *The Origination Clause of the U.S. Constitution: Interpretation and Enforcement*, by James V. Saturno.

Nevertheless, the consideration of debt-limit legislation often is viewed as an opportunity to reexamine fiscal and budgetary policy and is marked by controversy. Consequently, House and Senate action on legislation adjusting the debt limit often is complicated, hindered by political difficulties, and subject to delay.

As shown in **Figure 1**, a total of 84 debt-limit measures were enacted into law during the period from 1940 to the present. The number of laws rose steadily from the decade of the 1950s through the decade of the 1980s, from 6 to 24, but dropped to 13 in the past decade. Six of the 13 laws enacted in the 1990s were temporary extensions over a three-month period in 1990, enacted largely to accommodate lengthy negotiations during a budget summit between Congress and the President. Three debt-limit laws have been enacted so far in this decade.

Figure 1. Number of Debt-Limit Measures Enacted Into Law by Decade: 1940s to the Present



Source: Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2006, Historical Tables*, Table 7.3, Feb. 2005, pp. 121-124.

As mentioned previously, debt-limit legislation may be considered under regular legislative procedures in both chambers, pursuant to the House's so-called Gephardt rule, or as part of the budget reconciliation process. Of the total 84 debt-limit measures enacted into law during the period from 1940 to the present, 68 were enacted under regular legislative procedures, 12 were enacted pursuant to the Gephardt rule, and four were enacted as part of omnibus budget reconciliation legislation. Compared to regular legislative procedures, the Gephardt rule accelerates action in the House (but not the Senate) and the budget reconciliation process expedites consideration in both chambers.

Table 1, at the end of this report, provides information on the 16 debt-limit measures enacted into law during the period from 1990 to the present. Debt-limit increases were enacted three times in omnibus budget reconciliation legislation and once pursuant to the Gephardt rule. In the remaining 12 instances, debt-limit increases were considered under regular legislative procedures in both chambers, either as freestanding legislation (five

times) or as part of legislation involving other matters (four continuing appropriations acts, two measures dealing with the timely payment of Social Security benefits, and the Contract with America Advancement Act).

The three ways of developing debt-limit legislation are discussed briefly below.

Regular Legislative Procedures in Both Chambers. The House Ways and Means Committee and the Senate Finance Committee may originate measures adjusting the debt limit at any time. The Senate usually acts on legislation originated by the House. In 2002 and 2004, however, the Senate originated debt-limit bills (S. 2578 and S. 2986, respectively), which became P.L. 107-199 and P.L. 108-415.

Consideration of debt-limit measures in the House usually is subject to special rules, reported by the House Rules Committee, that may include debate limitations, restrictions on the offering of amendments, and other expediting features. In the Senate, consideration of debt-limit measures generally is not subject to expediting procedures; nongermane amendments may be offered and the measures may be debated at length, unless cloture is invoked. The Senate sometimes has considered debt-limit measures for days and amended them with controversial, substantive provisions. In 1985, for example, the Senate added extensive budget enforcement procedures (the Balanced Budget and Emergency Deficit Control Act of 1985, also known as the “Gramm-Rudman-Hollings Act”) to H.J.Res. 372, a measure that the House had originated under the Gephardt rule.

On June 22, 2004, the House incorporated a debt-limit “placeholder” into the Defense Appropriations Act for FY2005 (H.R. 4613) under the terms of H.Res. 683, a self-executing rule. The purpose of the placeholder was to allow a specific increase in the debt limit to be included in the conference report on the appropriations measure, thereby avoiding a separate vote on the matter, but the Senate did not pursue this strategy. The Senate originated a debt-limit measure, S. 2986, passing the bill by a vote of 52-44 on November 17, 2004. The House passed the measure, without amendment, the next day by a vote of 208-204. President Bush signed it into law on November 19 as P.L. 108-415. The act raised the debt limit by \$800 billion, from \$7.384 trillion to \$8.184 trillion.

Gephardt Rule Procedures. Debt-limit legislation may be developed under House Rule XXVII, commonly referred to as the Gephardt rule (named after its author, Representative Richard Gephardt).⁴ The Gephardt rule was established by P.L. 96-78 (93 Stat. 589-591; September 29, 1979) and first applied in calendar year 1980. It provides for the automatic engrossment and transmittal to the Senate, upon the adoption of the budget resolution, of a joint resolution changing the public debt limit by the amount recommended in the budget resolution. The joint resolution is deemed to have passed the House by the same vote as the conference report on the budget resolution. The Senate has no comparable procedure; if it chooses to consider such a House-passed joint resolution, it does so under the regular legislative process.

The Gephardt rule originally was designated as House Rule XLIX. The House recodified the rule as House Rule XXIII at the beginning of the 106th Congress, repealed

⁴ For further information, see CRS Report RL31913, *Developing Debt-Limit Legislation: The House’s “Gephardt Rule,”* by Bill Heniff Jr.

it at the beginning of the 107th Congress, and reinstated it, as new Rule XXVII, at the beginning of the 108th Congress.

In 12 of the 24 calendar years from 1980 to the present, the House originated 16 joint resolutions under this procedure; 12 of them were enacted into law. The Senate took action on 13 of these joint resolutions, passing eight without amendment and five with amendments. On April 11, 2003, pursuant to the adoption of the FY2004 budget resolution (H.Con.Res. 95), the House originated H.J.Res. 51 under this procedure. The Senate passed the measure on May 23, without amendment, and President George W. Bush signed it into law on May 27 (P.L. 108-24; 117 Stat. 710). The act increased the debt limit by \$984 billion, to \$7.384 trillion.

During the remaining 12 years of this period (calendar years 1988, 1990-1991, and 1994-2002), the rule did not apply due to its suspension or repeal. In most cases, the House suspended the rule because legislation changing the statutory limit was not necessary at the time. The automatic engrossment of H.J.Res. 51 in 2003 marked the first time since 1993 that a measure originated under the Gephardt rule. No such measure has been automatically engrossed in 2004 because the House and Senate have not reached final agreement on the FY2005 budget resolution (S.Con.Res. 95).

The Budget Reconciliation Process. The budget reconciliation process is an optional procedure, authorized by Section 310 of the Congressional Budget Act of 1974, that operates as an adjunct to the budget resolution process.⁵ The chief purpose of the reconciliation process is to enhance Congress's ability to change current law in order to bring revenue, mandatory spending, and debt-limit levels into conformity with the policies of the budget resolution. Reconciliation legislation is subject to expedited consideration in both chambers. In the Senate, in particular, debate on reconciliation legislation is limited, amendments must be germane, and extraneous matter is barred.

Reconciliation was first used by the House and Senate in 1980 for FY1981. As an optional procedure, it has not been used every year. During the period covering FY1981 through FY2003, 15 omnibus reconciliation measures were enacted into law and three were vetoed. While the predominant focus of reconciliation legislation has been to change revenue and spending levels, four such measures also were used to adjust the debt limit:

- the **Omnibus Budget Reconciliation Act of 1986** (P.L. 99-509; October 21, 1986), Section 8201 (100 Stat. 1968);
- the **Omnibus Budget Reconciliation Act of 1990** (P.L. 101-508; November 5, 1990), Section 11901 (104 Stat. 1388-560);
- the **Omnibus Budget Reconciliation Act of 1993** (P.L. 103-66; August 10, 1993), Section 13411 (107 Stat. 565); and
- the **Balanced Budget Act of 1997** (P.L. 105-33; August 5, 1997), Section 5701 (111 Stat. 648).

⁵ For more information on the reconciliation process, see CRS Report RL30458, *The Budget Reconciliation Process: Timing of Legislative Action*, by Robert Keith.

**Table 1. Laws Adjusting the Public Debt Limit
Enacted From 1990 to the Present**

Public Law Number	Statutes-at-Large Citation	Date Enacted	Type of Act	Nature of Adjustment
101-350	104 Stat. 403	08-09-90	Debt-limit increase	Temporary
101-405	104 Stat. 878	10-02-90	Debt-limit increase	Temporary increase
101-412	104 Stat. 894	10-09-90	Continuing resolution	Temporary increase
101-444	104 Stat. 1030	10-19-90	Continuing resolution	Temporary increase
101-461	104 Stat. 1075	10-25-90	Continuing resolution	Temporary increase
101-467	104 Stat. 1086	10-28-90	Continuing resolution	Temporary increase
101-508	104 Stat. 1388-560	11-05-90	Omnibus budget reconciliation	Permanent increase
103-12	107 Stat. 42	04-06-93	Debt-limit increase	Temporary increase
103-66	107 Stat. 312	08-10-93	Omnibus budget reconciliation	Permanent increase
104-103	110 Stat. 55	02-08-96	Timely payment of Social Security benefits	Temporary exemption for certain borrowing
104-115	110 Stat. 825	03-12-96	Timely payment of Social Security benefits	Temporary exemption for certain borrowing
104-121	110 Stat. 875	03-29-96	Contract with America Advancement Act	Permanent increase
105-33	111 Stat. 648	08-05-97	Omnibus budget reconciliation	Permanent increase
107-199	116 Stat. 734	06-28-02	Debt-limit increase	Permanent increase
108-24	117 Stat. 710	05-27-03	Debt-limit increase	Permanent increase
108-415	118 Stat. 2337	11-19-04	Debt-limit increase	Permanent increase

Sources: (1) Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2006, Historical Tables*, Table 7.3, Feb. 2005, pp. 121-124; and (2) *Statutes-at-Large*, various volumes.