

CRS Report for Congress

Developing Debt-Limit Legislation: The House's "Gephardt Rule"

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Summary

The amount of money the federal government is allowed to borrow generally is subject to a statutory limit. From time to time, Congress and the President enact legislation to adjust this limit.

The House may develop debt-limit legislation under House Rule XXVII, commonly referred to as the Gephardt rule, named after its author, former Representative Richard Gephardt. The rule, which was established by P.L. 96-78 and first applied in calendar year 1980, provides for the automatic engrossment and transmittal to the Senate of a joint resolution changing the public debt limit, upon the adoption by Congress of the budget resolution, thereby avoiding a separate vote in the House on the public debt-limit legislation. The Senate has no comparable procedure; if it chooses to consider a House-passed joint resolution, it does so under the regular legislative process.

The House also may develop and consider debt-limit legislation without resorting to the Gephardt rule, either as freestanding legislation, as part of another measure, or as part of a budget reconciliation bill. Of the 42 public-debt limit changes enacted into law during the period 1980 to the present, 28 were enacted without resorting to the Gephardt rule.

In 11 of the 29 years since the Gephardt rule was established, the rule did not apply, due to its suspension or repeal by the House (calendar years 1988, 1990-1991, 1994-1997, and 1999-2002). In most cases, the House suspended the rule because legislation changing the statutory limit was not necessary; at the time, the existing public debt limit was expected to be sufficient.

During the remaining 18 years, when the rule was in effect, the House originated 19 joint resolutions under this procedure; 14 were signed into law. The first seven of these 18 joint resolutions were generated under the Gephardt rule in its original form. The rule was modified in 1983; the current rule is substantively the same as the 1983 form of the rule. The subsequent 12 joint resolutions were generated under this modified language. In three years (calendar years 1998, 2004, and 2006), the House and Senate did not agree to a conference report on the budget resolution and therefore the automatic engrossment process under the Gephardt rule was not utilized.

The Senate passed 15 of the 19 joint resolutions automatically engrossed pursuant to the Gephardt rule, passing 10 without amendment and five with amendments. Only one of these 15 joint resolutions was not signed into law. Of the remaining four joint resolutions, the Senate began consideration on one but came to no resolution on it, took no action on two, and has not taken action on the most recent one (H.J.Res. 92, 110th Congress).

This report will be updated as developments warrant.

Contents

Introduction	1
Legislative History of the Gephardt Rule	2
Current Features of the Gephardt Rule	3
Implementation of the Gephardt Rule	4
Appendix. Text of the Gephardt Rule	11

List of Tables

Table 1. House Joint Resolutions Increasing the Public Debt Limit Automatically Engrossed Pursuant to the Gephardt Rule, 1980-2008	6
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Developing Debt-Limit Legislation: The House's "Gephardt Rule"

Introduction

The amount of money the federal government is allowed to borrow generally is subject to a statutory limit, which is set forth as a dollar limitation in 31 U.S.C. 3101(b). From time to time, Congress and the President enact legislation adjusting the limit.¹ Legislation adjusting the debt limit takes the form of an amendment to 31 U.S.C. 3101(b), usually striking the current dollar limitation and inserting a new one.

The House may develop debt-limit legislation under House Rule XXVII, commonly referred to as the Gephardt rule, named after its author, former Representative Richard Gephardt. The rule, which first applied in calendar year 1980, provides for the automatic engrossment and transmittal to the Senate of a joint resolution changing the public debt limit, upon the adoption by Congress of the budget resolution, thereby avoiding a separate vote in the House on the public debt-limit legislation. The Senate has no comparable procedure; if it chooses to consider a House-passed joint resolution, it does so under the regular legislative process.

The House also may develop and consider debt-limit legislation without resorting to the Gephardt rule, either as freestanding legislation, as part of another measure, or as part of a budget reconciliation bill.² Regardless of the process by which debt-limit legislation is developed, the House Ways and Means Committee maintains exclusive jurisdiction over debt-limit legislation. (In the Senate, the Finance Committee has exclusive jurisdiction over debt-limit legislation.)

This report describes the legislative history of the Gephardt rule, explains its current features, and reviews its implementation from its inception through the present.

¹ For more information on the debt limit, see CRS Report RL31967, *The Debt Limit: History and Recent Increases*, by D. Andrew Austin.

² For more information on these alternative procedures, see CRS Report RS21519, *Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview*, by Bill Heniff Jr.

Legislative History of the Gephardt Rule

The Gephardt rule, initially codified as Rule XLIX of the Standing Rules of the House of Representatives, was established by P.L. 96-78 (93 Stat. 589-591), an act to provide for a temporary increase in the public debt limit. The House adopted the legislation (H.R. 5369) by a vote of 219-198 on September 26, 1979.³

During consideration of the measure, Representative Gephardt explained that the purpose of the new House rule was to place the consideration of the public debt limit within the context of the overall budget policies contained in the annual budget resolution. In addition, it was intended to reduce the amount of time spent and the number of votes in the House and in committees on the issue of raising the public debt limit.

One of the aggregate figures required to be included in the annual budget resolution is the appropriate level of the public debt. As the budget resolution has evolved over time from a single-year time frame to a multi-year time frame, the budget resolution has gone from including a debt-limit level for only one fiscal year to including debt-limit levels for each fiscal year over a multi-year period. Because a budget resolution does not become law, it is necessary to enact legislation in order to implement budget resolution policies regarding debt-limit adjustments. The Gephardt rule enables the House to combine the finalization of the budget resolution and the initiation of debt-limit legislation into a single step.

Representative Gephardt stated that the new automatic engrossment process:

puts the consideration of the appropriate level for the debt ceiling where it legitimately and logically belongs. That is in the context of when we vote for the spending that creates the need to change the debt ceiling.⁴

In its original form, the rule required the engrossment of a joint resolution changing the temporary public debt limit. In 1983, the existing, separate temporary and permanent statutory limits on the public debt were combined into one permanent statutory limit (P.L. 98-34). Subsequently, the House amended the Gephardt rule to reflect this change by agreeing to H.Res. 241 (98th Congress) by voice vote on June 23, 1983.⁵ Under the modified rule, the automatically engrossed joint resolution would contain a change to the permanent statutory limit. In addition to this modification,

The rules change also provided that where a budget resolution contains more than one public debt limit figure (for the current and the next fiscal year), only

³ For the consideration in the House, see *Congressional Record*, vol. 125 (September 26, 1979), pp. 26337-26350. The Senate passed H.R. 5369 by a vote of 49-29 on September 28, 1979. For the consideration in the Senate, see *Congressional Record*, vol. 125 (September 28, 1979), pp. 26669-26691. The President signed the legislation into law on September 29, 1979.

⁴ *Congressional Record*, vol. 125 (September 26, 1979), p. 26342.

⁵ See *Congressional Record*, vol. 129 (June 23, 1983), pp. 17162-17164.

one joint resolution be engrossed, containing the debt limit figure for the current fiscal year with a time limitation, and the debt limit figure for the following fiscal year as the permanent limit.⁶

During consideration of H.Res. 241, Representative Butler C. Derrick explained the limitation of a single joint resolution by stating that:

The Committee on Rules ... believes that it is unnecessary and confusing to have ... a single concurrent resolution on the budget trigger the engrossment and passage of two separate joint resolutions to increase or decrease the public debt [limit].⁷

At the beginning of the 106th Congress, the House recodified the rule as House Rule XXIII. Certain language was deleted and modified from the existing rule but the revisions were intended to continue the automatic engrossment process “without substantive change.”⁸

The House repealed the rule at the beginning of the 107th Congress.⁹ On the opening day of the 108th Congress, the House reinstated this automatic engrossing process as a new rule, Rule XXVII.¹⁰ The current rule contains the exact language as Rule XXIII of the 106th Congress.

Current Features of the Gephardt Rule

House Rule XXVII requires that the House clerk automatically engross and transmit to the Senate, upon the adoption of the budget resolution, a joint resolution changing the public debt limit to the level specified in the budget resolution. The rule stipulates that the joint resolution is deemed to have passed the House by the same vote as the conference report on the budget resolution.

Under clause 2 of the current rule:

If an adopted concurrent resolution under clause 1 sets forth different appropriate levels of the public debt for separate periods, only one engrossed joint resolution

⁶ U.S. Congress, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives of the United States, One Hundred Tenth Congress*, 109th Cong., 2nd sess., H.Doc. 109-157 (Washington: GPO, 2007), p. 981.

⁷ *Congressional Record*, vol. 129 (June 23, 1983), p. 17163.

⁸ See *Congressional Record*, vol. 145 (January 6, 1999), pp. 206-208; or U.S. Congress, House Committee on Rules, *The Recodification of the Rules of the House of Representatives*, committee print, 106th Cong., 1st sess. (Washington: GPO, 1999), pp. 172-174.

⁹ It was repealed by H.Res. 5, adopted on January 3, 2001. See *Congressional Record*, vol. 147 (January 3, 2001), pp. 24-37.

¹⁰ Section 2(t) of H.Res. 5, which was agreed to by the House on January 7, 2003. See *Congressional Record*, vol. 149 (January 7, 2003), pp. 7-21.

shall be prepared under clause 1; and the blank referred to in the preceding sentence shall be filled with the limitation that is to apply for each period.

Further, clause 3(a) of Rule XXVII requires the House Budget Committee and the conference committee on the budget resolution to issue a clear statement regarding the impact of the automatically engrossed joint resolution on the public debt.¹¹ Specifically, clause 3(a) states:

The report of the Committee on the Budget on a concurrent resolution described in clause 1 and the joint explanatory statement of the managers on a conference report to accompany such a concurrent resolution each shall contain a clear statement of the effect the eventual enactment of a joint resolution engrossed under this rule would have on the statutory limit on the public debt.

The full text of the Gephardt rule in its current form is provided in the **Appendix**.

Implementation of the Gephardt Rule

Table 1 provides information on the joint resolutions changing the public debt limit that were engrossed and deemed passed by the House pursuant to the Gephardt rule during calendar years 1980-2008.

In 11 of the 29 years since the Gephardt rule was first established, the rule did not apply, due to its suspension or repeal by the House (calendar years 1988, 1990-1991, 1994-1997, and 1999-2002).¹² In most cases, the House suspended the rule because legislation changing the statutory limit was not necessary; at the time, the existing public debt limit was expected to be sufficient. In three cases, the House passed, or was expected to pass, separate legislation to increase the statutory limit. As noted above, the rule was repealed at the beginning of the 107th Congress and therefore did not apply in 2001 and 2002.

During the remaining 18 years, when the rule was in effect, the House originated 19 joint resolutions under this procedure. The first seven of these 18 joint resolutions were generated under the Gephardt rule in its original form. As mentioned above, the rule was modified in 1983; the current rule is substantively the same as this 1983 form of the rule. The subsequent 12 joint resolutions were generated under this modified language. In three years (calendar years 1998, 2004, and 2006), while the rule was in effect, the House and Senate did not agree to a conference report on the budget resolution and therefore the automatic engrossment process under the Gephardt rule was not utilized.

¹¹ For a recent example of such a statement, see U.S. Congress, Committee of Conference, *Concurrent Resolution on the Budget for Fiscal Year 2008*, conference report to accompany S.Con.Res. 21, 110th Cong., 1st sess., H.Rept. 110-153 (Washington: GPO, 2007), p. 133.

¹² For each of these cases, a brief explanation regarding the rule's suspension is provided in the notes at the end of **Table 1**.

As **Table 1** shows, although budget resolutions adopted during this period contained debt limit amounts for between three and 11 different fiscal years (as the time frame of each budget resolution dictated), the joint resolutions automatically engrossed under the Gephardt rule contained debt limit amounts for only one or two fiscal years, depending on the requirements of the rule at the time. As noted above, the 1983 modification provided that the automatically engrossed joint resolution could include multiple debt-limit increases, one temporary and another permanent. The first three of the 11 joint resolutions automatically engrossed pursuant to this modified version of the rule contained two different public debt limits and the other eight contained a single public debt limit.

The Senate passed 15 of the 19 joint resolutions automatically engrossed pursuant to the Gephardt rule, passing 10 without amendment and five with amendments. Only one of these 15 joint resolutions was not signed into law.¹³ Of the remaining four joint resolutions, the Senate began consideration on one but came to no resolution on it, took no action on two, and has not taken action on the most recent one (H.J.Res. 92, 110th Congress).

Of the 19 joint resolutions originated by the House under the Gephardt rule, 14 were enacted into law.¹⁴

¹³ Specifically, during the second session of the 99th Congress, the Senate passed, as amended, the joint resolution (H.J.Res. 668) automatically engrossed by the House and requested a conference with the House, but no further action was taken (as indicated in **Table 1**).

¹⁴ During this period, a total of 42 public-debt limit changes were signed into law as independent measures or as parts of other legislation. For a listing of such changes through 2006, see Table 7.3 in Office of Management and Budget, *Historical Tables, Budget of the U.S. Government, Fiscal Year 2008* (Washington: GPO, 2007), pp. 129-132. The most recent change (P.L. 110-91) was enacted on September 29, 2007.

**Table 1. House Joint Resolutions Increasing the Public Debt Limit
Automatically Engrossed Pursuant to the Gephardt Rule, 1980-2008**

Congress/ Session	Budget Resolution		Debt-limit Resolution		Senate Initial Disposition (Date of Action)	Final Disposition (Date of Action)
	Fiscal Year and Resolution #	Number of Public Debt Amounts Specified	Joint Resolution #	Number of Public Debt Amounts Set Forth		
96/2	FY1981 (first) H.Con.Res. 307	3	H.J.Res. 569	1	Passed without amendment (06-26-1980)	P.L. 96-286 (06-28-1980)
			H.J.Res. 570	1	Passed without amendment (12-12-1980)	P.L. 96-556 (12-19-1980)
	FY1981 (second) H.Con.Res. 448	3	H.J.Res. 636	1	Laid aside (12-12-1980)	—
97/1	FY1982 H.Con.Res. 115	3	H.J.Res. 265	1	Passed without amendment (09-29-1981)	P.L. 97-49 (09-30-1981)
			H.J.Res. 266	1	Passed without amendment (09-29-1981)	P.L. 97-48 (09-30-1981)
97/2	FY1983 S.Con.Res. 92	3	H.J.Res. 519	1	Passed without amendment (06-23-1982)	P.L. 97-204 (06-28-1982)
			H.J.Res. 520	1	Passed without amendment (09-23-1982)	P.L. 97-270 (09-30-1982)
98/1	FY1984 H.Con.Res. 91	4	H.J.Res. 308	2	Passed, amended (11-17-1983)	P.L. 98-161 (11-21-1983)

CRS-7

Congress/ Session	Budget Resolution		Debt-limit Resolution		Senate Initial Disposition (Date of Action)	Final Disposition (Date of Action)
	Fiscal Year and Resolution #	Number of Public Debt Amounts Specified	Joint Resolution #	Number of Public Debt Amounts Set Forth		
98/2	FY1985 H.Con.Res. 280	4	H.J.Res. 654	2	Passed without amendment (10-12-1984)	P.L. 98-475 (10-13-1984)
99/1	FY1986 S.Con.Res. 32	4	H.J.Res. 372	2	Passed, amended (10-10-1985)	P.L. 99-177 (12-12-1985)
99/2	FY1987 S.Con.Res. 120	3	H.J.Res. 668	1	Passed, amended (08-09-1986)	Senate requested conference (08-09-1986) and no further action was taken
100/1	FY1988 H.Con.Res. 93	3	H.J.Res. 324	1	Passed, amended (07-31-1987)	P.L. 100-119 (09-29-1987)
100/2	FY1989 H.Con.Res. 268 ^a	3	—	—	—	—
101/1	FY1990 H.Con.Res. 106	3	H.J.Res. 280	1	Passed, amended (11-07-1989)	P.L. 101-140 (11-08-1989)
101/2	FY1991 H.Con.Res. 310 ^b	5	—	—	—	—
102/1	FY1992 H.Con.Res. 121 ^c	6	—	—	—	—
102/2	FY1993 H.Con.Res. 287	5	H.J.Res. 494	1	No action taken	—

CRS-8

Congress/ Session	Budget Resolution		Debt-limit Resolution		Senate Initial Disposition (Date of Action)	Final Disposition (Date of Action)
	Fiscal Year and Resolution #	Number of Public Debt Amounts Specified	Joint Resolution #	Number of Public Debt Amounts Set Forth		
103/1	FY1994 H.Con.Res. 64	5	H.J.Res. 174	1	No action taken	—
103/2	FY1995 H.Con.Res. 218 ^d	5	—	—	—	—
104/1	FY1996 H.Con.Res. 67 ^e	7	—	—	—	—
104/2	FY1997 H.Con.Res. 178 ^f	6	—	—	—	—
105/1	FY1998 H.Con.Res. 84 ^g	5	—	—	—	—
105/2	FY1999 H.Con.Res. 284 ^h	6	—	—	—	—
106/1	FY2000 H.Con.Res. 68 ⁱ	10	—	—	—	—
106/2	FY2001 H.Con.Res. 290 ^j	6	—	—	—	—
107/1	FY2002 H.Con.Res. 83 ^k	11	—	—	—	—
107/2	FY2003 H.Con.Res. 353 ^k	5	—	—	—	—

CRS-9

Congress/ Session	Budget Resolution		Debt-limit Resolution		Senate Initial Disposition (Date of Action)	Final Disposition (Date of Action)
	Fiscal Year and Resolution #	Number of Public Debt Amounts Specified	Joint Resolution #	Number of Public Debt Amounts Set Forth		
108/1	FY2004 H.Con.Res. 95	11	H.J.Res. 51	1	Passed without amendment (05-23-2003)	P.L. 108-24 (05-27-2003)
108/2	FY2005 S.Con.Res. 95 ¹	5	—	—	—	—
109/1	FY2006 H.Con.Res. 95	6	H.J.Res. 47	1	Passed without amendment (03-16-2006)	P.L. 109-182 (03-20-2006)
109/2	FY2007 H.Con.Res. 376 ^m	5	—	—	—	—
110/1	FY2008 S.Con.Res. 21	6	H.J.Res. 43	1	Passed without amendment (09-27-2007)	P.L. 110-91 (09-29-2007)
110/2	FY2009 S.Con.Res. 70	6	H.J.Res. 92	1	No action taken (as of July 1, 2008)	—

Sources: Legislative Information System [<http://www.congress.gov>] and *Congressional Record*, various years.

Notes: The Gephardt rule provides for the automatic engrossment of a House joint resolution increasing the public debt limit once Congress agrees to the conference report on a budget resolution. Initially, the rule was codified as House Rule XLIX. The rule was recodified as House Rule XXIII at the beginning of the 106th Congress, and subsequently was repealed at the beginning of the 107th Congress. The rule was restored as a new rule, Rule XXVII, by H.Res. 5 at the beginning of the 108th Congress.

- a. Pursuant to H.Res. 461, the Gephardt rule was suspended because there was no need to increase the public debt limit. See comments by Rep. Butler C. Derrick in *Congressional Record*, vol. 134 (May 26, 1988), p. 12529.
- b. Pursuant to H.Res. 488, the Gephardt rule was suspended because the House previously had passed and sent to the Senate legislation (H.R. 5355) providing for a long-term increase in the public debt limit. See comments by Rep. Derrick in *Congressional Record*, vol. 136 (Oct. 4, 1990), p. 27590.

CRS-10

- c. Pursuant to H.Res. 157, the Gephardt rule was suspended because the previous year's reconciliation act (P.L. 101-508) provided a sufficient increase. See comments by Rep. Derrick in *Congressional Record*, vol. 137 (May 22, 1991), p. 11856.
- d. Pursuant to H.Res. 418, the Gephardt rule was suspended because at the time the current public debt limit was expected to be sufficient until spring or summer 1995. See comments by Rep. Anthony C. Beilenson in *Congressional Record*, vol. 140 (May 5, 1994), pp. 9411-9412.
- e. Pursuant to H.Res. 149, the Gephardt rule was suspended because some Members wanted the House to have a separate vote on legislation increasing the public debt limit instead of an automatic engrossment of such legislation. See comments by Rep. Gerald B. H. Solomon in *Congressional Record*, vol. 141 (May 17, 1995), pp. 13275-13276.
- f. Pursuant to H.Res. 435, the Gephardt rule was suspended because at the time the current public debt limit was expected to be sufficient until at least October 1997. See comments by Rep. Solomon in *Congressional Record*, vol. 142 (May 16, 1996), p. 11477.
- g. Pursuant to H.Res. 152, the Gephardt rule was suspended because legislation increasing the public debt limit was contemplated by the balanced budget agreement with the White House in the context of reconciliation legislation. See comments by Rep. Solomon in *Congressional Record*, vol. 143 (May 20, 1997), pp. 8904-8905.
- h. The House and Senate did not complete action on the FY1999 budget resolution and therefore the automatic engrossment process under the Gephardt rule was not utilized.
- i. Pursuant to H.Res. 131, the Gephardt rule was suspended, presumably because at the time legislation increasing the public debt limit was not necessary due to expected future surpluses. See *Congressional Record*, vol. 145 (March 25, 1999), pp. 5671-5672.
- j. Pursuant to H.Res. 446, the Gephardt rule was suspended, presumably, as in 1999, because at the time legislation increasing the public debt limit was not necessary due to expected future surpluses. See *Congressional Record*, vol. 146 (March 23, 2000), pp. 3442-3443.
- k. The Gephardt rule was repealed at the beginning of the 107th Congress by H.Res. 5, adopted on January 3, 2001. See *Congressional Record*, vol. 147 (Jan. 3, 2001), pp. 24-37.
- l. The House and Senate did complete action on the FY2005 budget resolution and therefore the automatic engrossment process under the Gephardt rule was not utilized.
- m. The House and Senate did complete action on the FY2007 budget resolution and therefore the automatic engrossment process under the Gephardt rule was not utilized.

Appendix. Text of the Gephardt Rule

(House Rule XXVII)

STATUTORY LIMIT ON PUBLIC DEBT

1. Upon adoption by Congress of a concurrent resolution on the budget under section 301 or 304 of the Congressional Budget Act of 1974 that sets forth, as the appropriate level of the public debt for the period to which the concurrent resolution relates, an amount that is different from the amount of the statutory limit on the public debt that otherwise would be in effect for that period, the Clerk shall prepare an engrossment of a joint resolution increasing or decreasing, as the case may be, the statutory limit on the public debt in the form prescribed in clause 2. Upon engrossment of the joint resolution, the vote by which the concurrent resolution on the budget was finally agreed to in the House shall also be considered as a vote on passage of the joint resolution in the House, and the joint resolution shall be considered as passed by the House and duly certified and examined. The engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action.

2. The matter after the resolving clause in a joint resolution described in clause 1 shall be as follows: “That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof ‘\$_____’.”, with the blank being filled with a dollar limitation equal to the appropriate level of the public debt set forth pursuant to section 301(a)(5) of the Congressional Budget Act of 1974 in the relevant concurrent resolution described in clause 1. If an adopted concurrent resolution under clause 1 sets forth different appropriate levels of the public debt for separate periods, only one engrossed joint resolution shall be prepared under clause 1; and the blank referred to in the preceding sentence shall be filled with the limitation that is to apply for each period.

3. (a) The report of the Committee on the Budget on a concurrent resolution described in clause 1 and the joint explanatory statement of the managers on a conference report to accompany such a concurrent resolution each shall contain a clear statement of the effect the eventual enactment of a joint resolution engrossed under this rule would have on the statutory limit on the public debt.

(b) It shall not be in order for the House to consider a concurrent resolution described in clause 1, or a conference report thereon, unless the report of the Committee on the Budget or the joint explanatory statement of the managers complies with paragraph (a).

4. Nothing in this rule shall be construed as limiting or otherwise affecting —

(a) the power of the House or the Senate to consider and pass bills or joint resolutions, without regard to the procedures under clause 1, that would change the statutory limit on the public debt; or

(b) the rights of Members, Delegates, the Resident Commissioner, or committees with respect to the introduction, consideration, and reporting of such bills or joint resolutions.

5. In this rule the term “statutory limit on the public debt” means the maximum face amount of obligations issued under authority of chapter 31 of title 31, United States Code, and obligations guaranteed as to principal and interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), as determined under section 3101(b) of such title after the application of section 3101(a) of such title, that may be outstanding at any one time.