



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

Bill Heniff Jr.

Analyst on Congress and the Legislative Process

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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 is required to include appropriate levels of the public debt for each fiscal year covered by the resolution. In some years, the budget resolution includes amounts of the public debt specifically subject to limit or amounts by which the public debt subject to limit is recommended to be changed. Because a budget resolution does not become law, Congress and the President must enact legislation to implement budget resolution policies. Under current legislative procedures, the House and Senate may develop and consider legislation adjusting the debt limit in one of two ways: (1) under regular legislative procedures in both chambers, either as freestanding legislation or as a part of a measure dealing with other topics; or (2) as part of the budget reconciliation process provided for under the Congressional Budget Act of 1974. The House also has initiated debt limit legislation under its former House Rule XXVIII (the so-called “Gephardt rule”); the House repealed the rule at the beginning of the 112th Congress.

During the period from 1940 to the present, Congress and the President have enacted a total of 92 measures adjusting the public debt limit—73 under regular legislative procedures in both chambers, 15 under the Gephardt rule, and 4 under reconciliation procedures.

On August 2, 2011, President Barack Obama signed into law the most recent measure adjusting the public debt limit, as part of the Budget Control Act of 2011 (P.L. 112-25). The act established special procedures for congressional disapproval of the increases to the debt limit authorized by the act. The act authorized increases to the debt limit by at least \$2.1 trillion (and up to \$2.4 trillion), in three installments: (1) an initial increase of \$400 billion; (2) an additional increase of \$500 billion; and (3) an additional increase of an amount between \$1.2 trillion and \$1.5 trillion, depending on certain subsequent actions. Although the initial increase in the debt limit of \$400 billion was effective immediately and not subject to congressional disapproval, the subsequent additional increases were subject to congressional disapproval. In both cases, Congress did not enact a disapproval resolution. Therefore, the debt limit was increased by the additional amounts of \$500 billion and \$1.2 trillion, as provided by the act.

This report will be updated as developments warrant.

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Introduction

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. In the past, such changes to the debt limit have been either permanent or temporary.

The Congressional Budget Act of 1974 (P.L. 93-344, 2 U.S.C. 601-688) 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 public debt for each fiscal year covered by the resolution. In some years, the budget resolution includes amounts of the public debt specifically subject to limit or amounts by which the public debt subject to limit is recommended to be changed. 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 has occurred in several years, Congress and the President may need to enact legislation increasing the statutory debt limit in order to meet existing financial obligations.

Legislative Procedures for Adjusting the Public Debt Limit

Under current legislative procedures, the House and Senate may develop and consider legislation adjusting the debt limit in one of two ways: (1) under regular legislative procedures in both chambers, either as freestanding legislation or as a part of a measure dealing with other topics; or (2) as part of the budget reconciliation process provided for under the Congressional Budget Act of 1974. In addition, the Budget Control Act of 2011 (P.L. 112-25), signed into law on August 2, 2011, established special procedures for congressional disapproval of the increases to the debt limit authorized by the act. Finally, the House has initiated debt limit legislation under its former House Rule XXVIII (the so-called “Gephardt rule”); the House repealed the rule at the beginning of the 112th Congress.

Although the Constitution requires that revenue measures originate in the House, this requirement is not considered to apply to debt limit measures.² Over the years, however, most debt limit legislation has originated in the House. In 2002 and 2004, a Senate-originated bill was the vehicle

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 2013, Analytical Perspectives*, Chapter 6—Federal Borrowing and Debt, pp. 67-82. For an additional discussion of issues related to increasing the debt limit, see CRS Report RL31967, *The Debt Limit: History and Recent Increases*, by D. Andrew Austin and Mindy R. Levit.

² See the discussion under section “Other Legislation and the Origination Clause” of CRS Report RL31399, *The Origination Clause of the U.S. Constitution: Interpretation and Enforcement*, by James V. Saturno.

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. 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.

The three ways the House and Senate have developed and considered debt limit legislation, as well as the disapproval procedures established under the Budget Control Act of 2011, are discussed briefly below.

Regular Legislative Procedures in Both Chambers

The House and Senate may develop and consider legislation adjusting the debt limit under regular legislative procedures in both chambers, either as freestanding legislation or as a part of a measure dealing with other topics. 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, respectively.

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 expedited procedures; nongermane amendments may be offered and the measures may be debated at length, unless cloture is invoked or other limitations are agreed to by unanimous consent.

In 2009, for instance, an adjustment to the public debt limit (Section 1604, Div. B, P.L. 111-5) was considered under the regular legislative process as part of the economic stimulus legislation considered in the early part of 2009. The House passed (on January 28) its version of the economic stimulus legislation (H.R. 1, the American Recovery and Reinvestment Act of 2009) without any provision increasing the public debt limit. The Senate, however, included an increase to the public debt limit in its version passed on February 10. The House and Senate subsequently agreed to the conference report to accompany H.R. 1, which included the Senate's provision to increase the public debt limit, on February 13. President Barack Obama signed the legislation on February 17, 2009 (P.L. 111-5).

The Budget Reconciliation Process

The budget reconciliation process is an optional procedure that operates as an adjunct to the budget resolution process; the budget reconciliation process may be used only if the House and

Senate agree to a budget resolution that contains reconciliation directives.³ The chief purpose of the reconciliation process is to enhance Congress's ability to change current law 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.

Although 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).

“Gephardt Rule” Procedures

The House also has initiated debt limit legislation pursuant to its former House Rule XXVIII, commonly referred to as the “Gephardt rule” (named after its author, Representative Richard Gephardt).⁴ As noted above, the House repealed this rule at the beginning of the 112th Congress.⁵

The rule provided 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 was deemed to have passed the House by the same vote as the conference report on the budget resolution.

The Senate has had no comparable procedure. If the Senate chose to consider a House joint resolution originated pursuant to the Gephardt rule, it did so under the regular legislative process. As noted above, under the regular legislative process, consideration of debt limit measures, even those originated by the Gephardt rule, generally is not subject to expedited procedures; nongermane amendments may be offered and the measures may be debated at length, unless cloture is invoked or other limitations are agreed to by unanimous consent.

³ For more information on the budget reconciliation process, see CRS Report RL33030, *The Budget Reconciliation Process: House and Senate Procedures*, by Robert Keith and Bill Heniff Jr.

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

⁵ 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 originally was designated as House Rule XLIX. The House recodified the rule as House Rule XXIII at the beginning of the 106th Congress, repealed it at the beginning of the 107th Congress, and reinstated it, as new Rule XXVII, at the beginning of the 108th Congress. The rule was redesignated (without change) as Rule XXVIII during the 110th Congress upon the enactment of the Honest Leadership and Open Government Act of 2007 (S. 1, P.L. 110-81, September 14, 2007, see Section 301(a)).

The Senate sometimes has considered such debt limit measures for days and amended them. 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. More recently, in 2010, the Senate added statutory “pay-as-you-go” (PAYGO) enforcement procedures to H.J.Res. 45, a measure that the House had originated under the Gephardt rule pursuant to the adoption of the FY2010 budget resolution (S.Con.Res. 13, 111th Congress) on April 29, 2009. The Senate passed the measure, as amended, on January 28, 2010, and the House subsequently passed the measure without further amendment on February 4, 2010.⁶ In such cases that the Senate amended the rule-initiated debt limit legislation, the House was required to vote on the Senate-amended legislation before it was sent to the President.

Overall, from the time the rule was established in 1980 to the end of the 111th Congress, the House had originated 20 joint resolutions under this procedure. The Senate had passed 16 of these joint resolutions, passing 10 without amendment and six with amendments.⁷ Of the 20 joint resolutions originated by the House under the Gephardt rule, 15 have been enacted into law.

In 14 years (calendar years 1988, 1990-1991, 1994-2002, 2004, and 2006) during this period, the rule did not apply or was not used due to its suspension or repeal, or a budget resolution was not finally agreed to. In most cases, the House suspended the rule because legislation changing the statutory limit was not necessary at the time.

Disapproval Procedures Under the Budget Control Act of 2011

The Budget Control Act of 2011 (P.L. 112-25), signed into law on August 2, 2011, established special procedures for congressional disapproval of the increases to the debt limit authorized by the act. The act authorized increases to the debt limit by at least \$2.1 trillion (and up to \$2.4 trillion), in three installments. First, upon the certification by the President that the debt subject to limit was within \$100 billion of the debt limit, the debt limit was increased by \$400 billion immediately.⁸ Second, if Congress did not enact into law a joint resolution of disapproval within 50 calendar days of receipt of the certification, the debt limit was to be increased by an additional \$500 billion. The House passed a disapproval resolution (H.J.Res. 77), but the Senate did not.⁹ If Congress had enacted a joint resolution of disapproval (presumably over a presidential veto), the debt limit would not have been increased by the additional \$500 billion and the Office of Management and Budget would have been required to sequester budgetary resources on a “pro

⁶ President Obama signed it into law on February 12, 2010 (P.L. 111-139).

⁷ Only one of these 16 joint resolutions was not signed into law. (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.) Of the remaining four joint resolutions, the Senate began consideration on one but came to no resolution on it, and took no action on three.

⁸ President Obama submitted such certification on August 2, 2011. It is available at <http://www.whitehouse.gov/the-press-office/2011/08/02/message-president-us-congress>.

⁹ The House passed H.J.Res. 77 on September 14, 2011. See *Congressional Record*, daily edition, vol. 157 (September 14, 2011), pp. H6156-H6168. The Senate, however, did not take any action on this joint resolution. It had previously rejected a motion to proceed to a Senate disapproval resolution (S.J.Res. 25) on September 8, 2011. See *Congressional Record*, daily edition, vol. 157 (September 8, 2011), p. S5466.

rata” basis, subject to sequestration procedures and exemptions provided in Sections 253, 255, and 256 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.¹⁰

Third, after the debt limit had been increased by the first \$900 billion and upon another certification that the debt subject to limit was again within \$100 billion of the debt limit,¹¹ Congress had 15 calendar days of receipt of this second certification to enact into law a joint resolution of disapproval to prevent the third automatic increase in the debt limit (again over a presumed presidential veto). If Congress did not enact such resolution, the debt limit was to be increased by one of three amounts: (1) by \$1.2 trillion; (2) by an amount between \$1.2 trillion and \$1.5 trillion, if Congress passed and the President signed into law legislation introduced by the Joint Select Committee on Deficit Reduction,¹² or (3) by \$1.5 trillion, if a Constitutional amendment requiring a balanced budget was submitted to the states for ratification. The House again adopted another disapproval resolution (H.J.Res. 98), but the Senate subsequently rejected a motion to proceed to the resolution. Therefore, the debt limit was increased by \$1.2 trillion because the other criteria that would have allowed for a larger amount were not met.

In summary, while an initial increase in the debt limit of \$400 billion was effective immediately and not subject to congressional disapproval, subsequent additional increases of \$500 billion and an amount between \$1.2 trillion and \$1.5 trillion were subject to congressional disapproval. That is, for either of the two subsequent additional increases in the debt limit, if Congress had enacted a joint resolution of disapproval, the debt limit would not have been increased by such amounts.

Expedited procedures that limited debate and prevented amendments were established for the joint resolution of disapproval to ensure timely consideration. Although only a majority of each chamber would have been necessary to agree to a resolution of disapproval, to prevent an increase, supermajority support would have been necessary. This is because if the Treasury had advised the President that further borrowing was required to meet existing commitments, the President might normally be expected to veto the congressional resolution of disapproval. Congress can override a presidential veto, but to do so would require the support of two-thirds of each chamber.

Measures Adjusting the Public Debt Limit

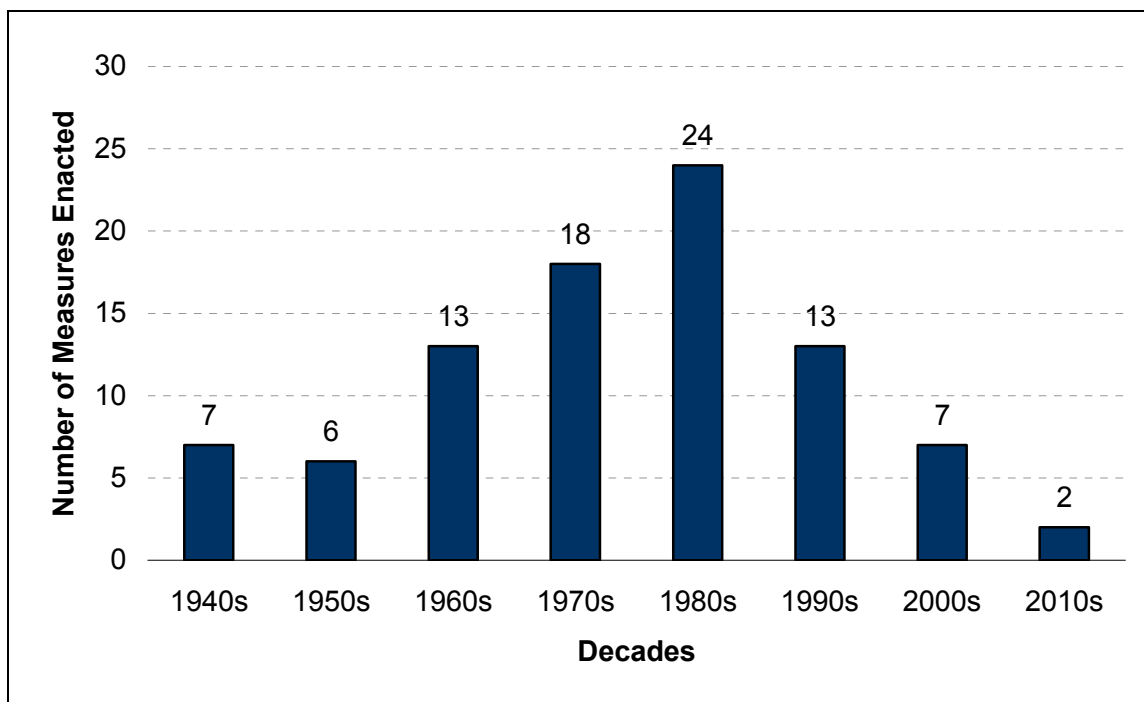
A total of 92 debt limit measures were enacted into law during the period from 1940 to the present (see **Figure 1**). The number of laws rose steadily from the decade of the 1950s through the decade of the 1980s, from 6 to 24, but dropped to 13 in the 1990s. Six of the 13 laws enacted in the 1990s were temporary extensions over a three-month period in 1990, enacted largely to accommodate lengthy negotiations during a budget summit between Congress and the President. Nine debt limit laws were enacted in the 2000s, and two debt limit laws have been enacted so far in this decade.

¹⁰ Sequestration is a process of automatic largely across-the-board spending cuts to non-exempt programs. Under the specified procedures, the cuts would be equally split between defense and non-defense nonexempt programs. For background information on the sequestration process, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch.

¹¹ President Obama submitted such certification on January 12, 2012. It is available at <http://www.whitehouse.gov/the-press-office/2012/01/12/letter-president-speaker-house-representatives-and-president-senate-rega>.

¹² The debt limit increase would be equal to the amount by which the legislation reduces the deficit, if such amount exceeds \$1.2 trillion, up to \$1.5 trillion.

Figure I. Number of Measures Adjusting the Public Debt Limit Enacted by Decade: 1940s to the Present



Source: Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2012, Historical Tables*, Table 7.3, pp. 142-144; and the Legislative Information System (LIS).

As mentioned previously, debt limit legislation has been developed and 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 92 debt limit measures enacted into law during the period from 1940 to the present, 73 were considered under regular legislative procedures, 15 were initiated pursuant to the Gephardt rule, and four were considered as part of omnibus budget reconciliation legislation. Compared with 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 provides information on the 17 measures adjusting the public debt limit enacted during the period from 1993 to the present. Of these 17 measures, 11 were considered under regular legislative procedures in both chambers, either as stand-alone legislation (four measures) or as part of legislation involving other matters (seven measures), four were initiated pursuant to the Gephardt rule, and two were considered as part of omnibus budget reconciliation legislation.

Table I. Legislation Adjusting the Public Debt Limit Enacted from 1993 to the Present

Bill Number	Procedure	Title of Act	Nature of Adjustment	Public Law (Date Enacted)
H.R. 1430	Regular legislative procedures	To provide for a temporary increase in the public debt limit	Temporary increase	P.L. 103-12 (04-06-1993)
H.R. 2264	Reconciliation process	Omnibus Budget Reconciliation Act of 1993	Permanent increase	P.L. 103-66 (08-10-1993)
H.R. 2924	Regular legislative procedures	To guarantee the timely payment of social security benefits in March 1996	Temporary exemption for certain borrowing	P.L. 104-103 (02-08-1996)
H.R. 3021	Regular legislative procedures	To guarantee the continuing full investment of Social Security and other Federal funds in obligations of the United States	Temporary exemption for certain borrowing	P.L. 104-115 (03-12-1996)
H.R. 3136	Regular legislative procedures	Contract with America Advancement Act of 1996	Permanent increase	P.L. 104-121 (03-29-1996)
H.R. 2015	Reconciliation process	Balanced Budget Act of 1997	Permanent increase	P.L. 105-33 (08-05-1997)
S. 2578	Regular legislative procedures	A bill to amend title 31 of the United States Code to increase the public debt limit	Permanent increase	P.L. 107-199 (06-28-2002)
H.J.Res. 51	“Gephardt rule” procedures	Increasing the statutory limit on the public debt	Permanent increase	P.L. 108-24 (05-27-2003)
S. 2986	Regular legislative procedures	A bill to amend title 31 of the United States Code to increase the public debt limit	Permanent increase	P.L. 108-415 (11-19-2004)
H.J.Res. 47	“Gephardt rule” procedures	Increasing the statutory limit on the public debt	Permanent increase	P.L. 109-182 (03-20-2006)
H.J.Res. 43	“Gephardt rule” procedures	Increasing the statutory limit on the public debt	Permanent increase	P.L. 110-91 (09-29-2007)
H.R. 3221	Regular legislative procedures	Housing and Economic Recovery Act of 2008	Permanent increase	P.L. 110-289 (07-30-2008)
H.R. 1424	Regular legislative procedures	Emergency Economic Stabilization Act of 2008	Permanent increase	P.L. 110-343 (10-03-2008)
H.R. 1	Regular legislative procedures	American Recovery and Reinvestment Act of 2009	Permanent increase	P.L. 111-5 (02-17-2009)
H.R. 4314	Regular legislative procedures	To permit continued financing of Government operations	Permanent increase	P.L. 111-123 (12-28-2009)
H.J.Res. 45	“Gephardt rule” procedures	Increasing the statutory limit on the public debt	Permanent increase	P.L. 111-139 (02-12-2010)

Bill Number	Procedure	Title of Act	Nature of Adjustment	Public Law (Date Enacted)
S. 365	Regular legislative procedures	Budget Control Act of 2011	Permanent increase, in three installments, subject to congressional disapproval process	P.L. 112-25 (08-02-2011)

Sources: Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2013, Historical Tables*, Table 7.3, pp. 142-144; and the Legislative Information System (LIS).

Author Contact Information

Bill Heniff Jr.
Analyst on Congress and the Legislative Process
wheniff@crs.loc.gov, 7-8646

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