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

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**Abstract.** 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 and consider 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 House Rule XXVII (the 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, Congress and the President have enacted a total of 88 measures adjusting the public debt limit - 70 under regular legislative procedures in both chambers, 14 under the Gephardt rule, and 4 under reconciliation procedures. The current debt limit is \$11.315 trillion.

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## CRS Report for Congress

# 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 and consider 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 House Rule XXVII (the 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, Congress and the President have enacted a total of 88 measures adjusting the public debt limit — 70 under regular legislative procedures in both chambers, 14 under the Gephardt rule, and 4 under reconciliation procedures. The current debt limit is \$11.315 trillion.

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.<sup>1</sup> 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

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<sup>1</sup> 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 2009, Analytical Perspectives*, Chapter 16 — Federal Borrowing and Debt, Feb. 2008, pp. 229-241. 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.

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.<sup>2</sup>

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 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, 2004, and 2006, legislation must be enacted to raise the debt limit whenever it becomes insufficient.

Under current legislative procedures, the House and Senate may develop and consider 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 House Rule XXVII (the 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.<sup>3</sup> 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. 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 88 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 1990s. Six of the 13 laws enacted in the 1990s were temporary extensions over a three-

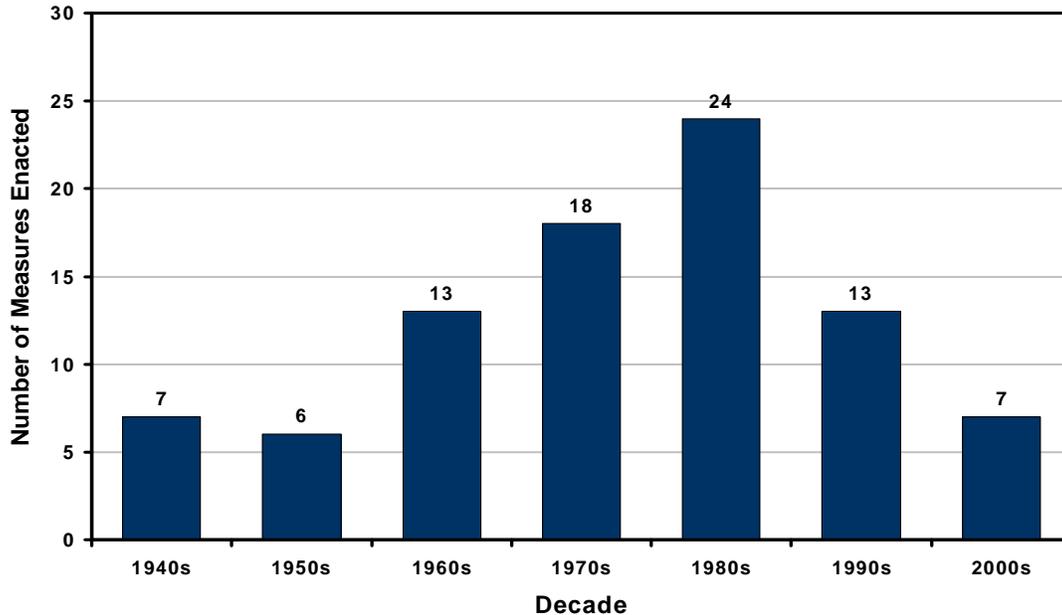
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<sup>2</sup> For example, P.L. 455 of the 79<sup>th</sup> Congress (60 Stat. 316; June 26, 1946) reduced the debt limit from \$300 billion to \$275 billion as budget surpluses reemerged following World War II, and P.L. 101-461 (104 Stat. 1078; October 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.

<sup>3</sup> 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.

month period in 1990, enacted largely to accommodate lengthy negotiations during a budget summit between Congress and the President. Seven debt-limit laws have been enacted so far in this decade.

**Figure 1. Number of Measures Adjusting the Public Debt Limit Enacted by Decade: 1940s to the Present**



**Sources:** Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2009, Historical Tables*, Table 7.3, Feb. 2008, pp. 130-133; and the Legislative Information System (LIS) of the U.S. Congress [www.congress.gov].

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 88 debt-limit measures enacted into law during the period from 1940 to the present, 70 were considered under regular legislative procedures, 14 were initiated pursuant to the Gephardt rule, and four were considered 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 13 measures adjusting the public debt limit enacted during the period from 1993 to the present. Of these 13 measures, eight were considered under regular legislative procedures in both chambers, either as freestanding legislation (three measures) or as part of legislation involving other matters (five measures), three were initiated pursuant to the Gephardt rule, and two were considered as part of omnibus budget reconciliation legislation.

The three ways of developing and considering 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 or other limitations are agreed to by unanimous consent.

The most recent adjustment to the public debt limit (Section 122, Div. A, P.L. 110-343), for instance, was considered under the regular legislative process as part of the economic stabilization legislation. The Senate, on October 1, 2008, added an increase to the public debt limit, among other provisions related to the proposed troubled assets relief program, as an amendment to mental health parity legislation (H.R. 1424) under the terms of a unanimous consent agreement. The House subsequently, under the terms of a special rule (H.Res. 1525), agreed to the legislation without change on October 3. President George W. Bush signed the legislation on the same day.

**Gephardt Rule Procedures.** Debt-limit legislation may be initiated pursuant to House Rule XXVII, commonly referred to as the Gephardt rule (named after its author, Representative Richard Gephardt).<sup>4</sup> 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 Gephardt rule originally was designated as House Rule XLIX. The House recodified the rule as House Rule XXIII at the beginning of the 106<sup>th</sup> Congress, repealed it at the beginning of the 107<sup>th</sup> Congress, and reinstated it, as new Rule XXVII, at the beginning of the 108<sup>th</sup> Congress.

Since the rule was established in 1980, the House has originated 19 joint resolutions under this procedure. The Senate passed 15 of these joint resolutions, passing 10 without amendment and five with amendments. 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. Of the 19 joint resolutions originated by the House under the Gephardt rule, 14 were enacted into law. The most recent one enacted into law, H.J.Res. 43, originated in the House pursuant to the adoption of the FY2008 budget resolution (S.Con.Res. 21) on May 17, 2007. The Senate passed the measure on September 27, 2007, without amendment, and President Bush signed it into law on September 29 (P.L. 110-91; 121 Stat. 988).

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<sup>4</sup> For further information, see CRS Report RL31913, *Developing Debt-Limit Legislation: The House's "Gephardt Rule,"* by Bill Heniff Jr.

In 14 years during this period (calendar years 1988, 1990-1991, 1994-2002, 2004, and 2006), 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.

The Senate has no comparable procedure. If the Senate chooses to consider a House joint resolution originated pursuant to the Gephardt rule, it does so under the regular legislative process. 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.

**The Budget Reconciliation Process.** The reconciliation process is an optional procedure that operates as an adjunct to the budget resolution process.<sup>5</sup> 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.

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).

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<sup>5</sup> For more information on the reconciliation process, see CRS Report RL33030, *The Budget Reconciliation Process: House and Senate Procedures*, by Robert Keith and Bill Heniff Jr.

**Table 1. Legislation Adjusting the Public Debt Limit Enacted From 1993 to the Present**

Bill Number	Procedure	Type of Act	Nature of Adjustment	Public Law (Date Enacted)
H.R. 1430	Regular legislative procedures	Debt-limit increase	Temporary increase	P.L. 103-12 (04-06-1993)
H.R. 2264	Reconciliation process	Omnibus budget reconciliation	Permanent increase	P.L. 103-66 (08-10-1993)
H.R. 2924	Regular legislative procedures	Timely payment of Social Security benefits	Temporary exemption for certain borrowing	P.L. 104-103 (02-08-1996)
H.R. 3021	Regular legislative procedures	Timely payment of Social Security benefits	Temporary exemption for certain borrowing	P.L. 104-115 (03-12-1996)
H.R. 3136	Regular legislative procedures	Contract with America Advancement Act	Permanent increase	P.L. 104-121 (03-29-1996)
H.R. 2015	Reconciliation process	Omnibus budget reconciliation	Permanent increase	P.L. 105-33 (08-05-1997)
S. 2578	Regular legislative procedures	Debt-limit increase	Permanent increase	P.L. 107-199 (06-28-2002)
H.J.Res. 51	Gephardt rule procedures	Debt-limit increase	Permanent increase	P.L. 108-24 (05-27-2003)
S. 2986	Regular legislative procedures	Debt-limit increase	Permanent increase	P.L. 108-415 (11-19-2004)
H.J.Res. 47	Gephardt rule procedures	Debt-limit increase	Permanent increase	P.L. 109-182 (03-20-2006)
H.J.Res. 43	Gephardt rule procedures	Debt-limit increase	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)

**Sources:** Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2009, Historical Tables*, Table 7.3, Feb. 2008, pp. 130-133; and the Legislative Information System (LIS), [<http://www.congress.gov>].