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Ending this Manufactured Debt Limit Crisis (and Preventing the Next One)

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Ten years ago, the U.S. was slowly recovering from the Great Recession. Elevated unemployment, declines in tax revenue, and necessary stimulus spending increased federal debt. Congress needed to increase the statutory debt limit. This increase was necessary to finance spending that it had already authorized and appropriated to boost the economy and keep basic government functions running. However, deficit hawks in Congress used a looming debt default as political leverage, threatening an economic crisis. This led to the Budget Control Act of 2011, which avoided default but placed new caps on federal spending for the next ten years.

Now, as the U.S. emerges from the COVID-19 pandemic, an unnecessary fight over the debt limit once again threatens the economy. The next debt limit crisis is coming this month. Congress should not only act expeditiously to prevent a financial crisis that would imperil recovery from the COVID-19 pandemic but also prevent similar manufactured crises from happening in the future.

Underrepresented communities have borne the brunt of the COVID-19 pandemic. Millions of families fell behind on rent and mortgage payments, businesses shut down, and students lost crucial in-person learning time. At a time when families are struggling to get their footing in a still volatile public health crisis, some in Congress are playing brinkmanship with their lives and livelihoods by threatening default on the debt. The economic impact of this default would be disastrous to families' finances.

Congress created the debt limit and, by extension, manufactured the repeated debt limit crises in recent years. It is past time for Congress to manufacture a solution to this crisis of its own making.

The Origin of the Debt Limit

Prior to 1917, Congress passed specific bills stipulating when and how the Treasury could borrow money and issue debt—a process even more cumbersome than the current debt limit regime. Around the time of the U.S. entry into World War I in 1917, Congress gave the Treasury more leeway, setting an aggregate limit on federal debt

and loosening limits on specific debt issues. In 1939, Congress further simplified debt issuance by establishing an aggregate debt limit that covered nearly all public debt.¹

Under the 1939 framework, which continues today, Congress gives the Treasury discretion to manage the federal debt as long as total debt stays below the statutory debt limit. However, Congress still sets that statutory limit, and it usually votes on that limit separately from the policies that necessitate issuing more federal debt. This has allowed several current Members of Congress to vote against “increasing the debt” even though they supported record military spending and deficit-financed tax cuts for the wealthy—both policies that actually increase the debt.

Debt Limit Adjustments

Debt limit increases and suspensions are pretty routine. Congress has adjusted the debt ceiling hundreds of times since its creation in 1939.²

Historically, these adjustments raised the debt to a specific dollar amount. Since 2013, though, Congress has suspended the debt limit until a specific date and then reestablished the debt limit at the current public debt level as of that date. Most recently, the Bipartisan Budget Act of 2019, which also set discretionary spending caps for FY2020 and FY2021, suspended the debt limit through July 31, 2021.³ The debt limit returned on August 1, 2021 at the level of federal debt that existed on that date.

The Threat of Default

Even though the need to increase the debt limit is foreseeable, Congress sometimes lets the Treasury hit the debt limit before voting to raise it. When the Treasury hits the statutory limit, it resorts to extraordinary measures to finance the federal government’s obligations. How long the Treasury can keep up these extraordinary measures depends on the daily inflow and outflow of spending and revenue, but typically the Treasury can provide Congress weeks or months to act.

In an August 2, 2021 letter, Treasury Secretary Janet Yellen notified House Speaker Nancy Pelosi that the Treasury Department began using extraordinary measures to keep the government afloat.⁴ This includes suspending additional investments to the Civil Service Retirement and Disability Fund, the Postal Service Retiree Health Benefits Fund, the sale of State and Local Government Series securities, and limiting contributions to the Thrift Savings Plan Government Securities Investment Fund.

¹ Glenn Kessler. “History Lesson: Why did Congress create a national debt limit?” *The Washington Post*. 14 January 2013.

https://www.washingtonpost.com/blogs/fact-checker/post/history-lesson-why-did-congress-create-a-national-debt-limit/2013/01/13/21114db8-5db8-11e2-9940-6fc488f3fecf_blog.html

² Bill Heniff Jr. “Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview.” Congressional Research Service. 6 May 2016.

<https://crsreports.congress.gov/product/pdf/RS/RS21519>

³ D. Andrew Austin. “The Debt Limit Since 2011.” Congressional Research Service. 1 April 2021. <https://crsreports.congress.gov/product/pdf/R/R43389>

⁴ Treasury Secretary Janet Yellen letter to House Speaker Nancy Pelosi, 2 August, 2021.

https://home.treasury.gov/system/files/136/Debt-Limit-Letter-Congress_20210802_Pelosi.pdf

Since the debt limit came back on August 1, Republican Senators have repeatedly blocked legislation to prevent economic catastrophe. In a September 28 letter, Treasury Secretary Janet Yellen estimated that the government would exhaust its extraordinary measures if Congress does not raise or suspend the debt limit by October 18.⁵ That same day, Republican Senators blocked a measure that would have suspended the debt limit until December 16, 2022 and kept the government funded through December 3, 2021. They also blocked a unanimous consent request that would have allowed Senate Democrats to pass a debt limit suspension on a simple majority vote. On October 7, 2021, Senate Democratic and Republican leadership agreed to raise the debt limit by \$480 billion, which should cover the government's obligations through at least December 3, 2021.

A month after raising the debt limit, Treasury Secretary Janet Yellen in a November 16, 2021 letter revised the December 3rd date and warned lawmakers that the U.S. would be unable to pay its bills soon after December 15, 2021.⁶ While the short-term increase was welcome and necessary, the measure simply kicked the can down the road and set up another debt limit crisis before the end of this year.

If Congress fails to raise the debt limit before the Treasury exhausts its extraordinary measures, the federal government will default on its debt. The U.S. has never had a full-scale default since the statutory debt limit began, but Congress has come perilously close. If Congress fails to raise the debt limit in time, the resulting default could trigger a financial crisis because the global financial system relies on Treasury securities to be a safe asset. It would also do long-term fiscal damage: a default would permanently increase the cost of borrowing for the federal government. This means the U.S. would have to pay more over the long term to provide the same level of government services.

Households across the country would feel the economic impact. According to an analysis by Moody's Analytics, a default would force the government to dramatically reduce spending, including delaying billions of dollars in Social Security payments. A debt default could also wipe out \$15 trillion of household wealth. The scenario would be comparable to the 2008 financial crisis and would result in the loss of nearly 6 million jobs and a spike in unemployment to 9 percent.⁷

Despite the economic chaos that would ensue in the event of default, congressional Republicans have used the threat of default as leverage multiple times in the past decade.

In 2011, former House Speaker John Boehner insisted that federal spending be cut by one dollar for every dollar increase in the debt limit. President Obama and

⁵ Treasury Secretary Janet Yellen letter to House Speaker Nancy Pelosi, 28 September, 2021. <https://home.treasury.gov/system/files/136/Debt-Limit-Letter-to-Congress-20210928.pdf>

⁶ Treasury Secretary Janet Yellen letter to House Speaker Nancy Pelosi, 16 November, 2021. <https://home.treasury.gov/system/files/136/Debt-Limit-Letter-to-Congress-20211116.pdf>

⁷ Mark Zandi and Bernard Yaros. "Playing a Dangerous Game With the Debt Limit." Moody's Analytics. 21 September 2021. <https://www.moodysanalytics.com/-/media/article/2021/playing-a-dangerous-game-with-the-debt-limit.pdf>

congressional Democrats ultimately agreed to the Budget Control Act of 2011, which raised the debt limit and capped federal spending for the next decade.⁸ (FY2022 will be the first year in a decade that discretionary spending is free from the budget caps set in tandem with the debt limit increase 10 years ago.)

In 2013, Congress came within days of debt default amidst a 16-day government shutdown as congressional Republicans pushed for the repeal of the Affordable Care Act.⁹ The subsequent debt limit suspensions over the past decade have been relatively less dramatic. Most were part of budget agreements that relaxed the severe discretionary spending caps put in place by the Budget Control Act of 2011.¹⁰

Current State of Play

Soon after passing the short-term increase in October, Senate Minority Leader Mitch McConnell signaled that Republicans will not vote to increase the debt limit in December and insisted that Democrats act alone through the reconciliation process (even though this process would still require Republican cooperation).¹¹ More recently, after conversations with Senate Majority Leader Chuck Schumer, Minority Leader McConnell softened his stance and affirmed that the country will not default on its debts. While both leaders are optimistic about acting on the debt limit, it is unclear which legislative route they will take or when they will act. What is clear, however, is that lawmakers will continue to find themselves in this game of brinkmanship unless the threat of default is completely taken off the table.

Legislative Options to Raise the Debt Limit

Congress can consider a debt limit increase on its own or as part of another bill. The House has passed a debt limit suspension until December 16, 2022 both as part of a larger funding bill and as a standalone measure.

The challenge is moving a debt limit adjustment through the Senate. Most bills in the Senate are subject to a filibuster and need 60 votes to advance. All Republican Senators have voted against a debt limit suspension even though they have separately voted for some of the policies that made an adjustment to the debt limit necessary.

While the Senate has several options for the exact form that a debt limit adjustment takes, all legislative options under current Senate rules require some level of

⁸ Paul N. Van de Water. “‘Boehner Rule’ Linking Debt-Ceiling Increase to Spending Cuts Is Dangerous Policy.” Center on Budget and Policy Priorities. 4 October 2013. <https://www.cbpp.org/research/boehner-rule-linking-debt-ceiling-increase-to-spending-cuts-is-dangerous-policy>

⁹ Jonathan Weisman and Ashley Parker. “Republicans Back Down, Ending Crisis Over Shutdown and Debt Limit.” *The New York Times*. 16 October 2013. <https://www.nytimes.com/2013/10/17/us/congress-budget-debate.html>

¹⁰ Austin 2021

¹¹ Tony Romm. “Senate passes bill to raise debt ceiling into early December.” *The Washington Post*. 7 October 2021. <https://www.washingtonpost.com/us-policy/2021/10/07/senate-deal-debt-ceiling/>

Republican cooperation because the Senate is evenly split between Democrats and Republicans.

Regular Order: Under regular order, a debt limit adjustment would require 60 votes to avoid a filibuster in the Senate, meaning 10 Republican Senators would have to join all 50 Democratic Senators in voting to end debate on the bill. (The bill itself only takes a simple majority to pass.) Alternatively, Senate Republicans could choose not to object to a unanimous consent allowing the bill to pass by a simple majority vote (where Vice President Harris would cast the tie-breaking vote). The Senate used this avenue to kick the can down the road and pass S. 1301, a short-term debt limit increase until December 3, 2021.

Over the past decade, Congress has gotten creative about how to adjust the debt limit by regular order. In 2013, for instance, Congress allowed the Treasury to suspend the debt limit but then took a second vote allowing Members to vote in disapproval of that suspension (without actually stopping it).¹²

Revising the FY2022 Budget Resolution: Rather than allowing a debt limit adjustment to advance under regular order, Senate Republicans have suggested that congressional Democrats could revise the FY2022 budget resolution passed in August with debt limit instructions. While it is true that lawmakers can amend the budget resolution to direct the Senate Finance Committee and the House Ways and Means Committee to raise (though not suspend) the debt limit, that process is complicated and time-consuming. Moreover, it still requires Republican cooperation in an evenly divided Senate.

According to a recent opinion earlier this year from the Senate Parliamentarian, a revised budget resolution cannot be automatically discharged from the Budget Committee to the Senate floor.¹³ It would need to be marked up in the evenly divided Budget Committee. Republican Senators could effectively block the resolution in committee by refusing to provide a quorum.

If Republicans showed up to the markup, the resolution would still fail on a tie vote in committee unless a Republican Senator voted for it. That would then require the Senate to go through a discharge process to bring the resolution to the Senate floor. After discharging the bill, the Senate would spend hours debating the resolution followed by a long amendment vote-a-rama. The House would also need to approve the revised resolution.

Once both chambers approve the resolution, then the actual bill to increase the debt limit would need to be marked up in the House Ways & Means or the Senate Finance Committee, marked up in the Budget Committee, and then passed in both chambers. In the Senate, that would involve a second amendment vote-a-rama.

¹² Roll Call 570 | Bill Number: H. J. Res. 99. Office of the Clerk.

<https://clerk.house.gov/Votes/2013570?Page=1&Title=disapproval>

¹³ Paul M. Krawzak. "Parliamentarian guidance deals blow to reconciliation strategy". Roll Call. 2 June 2021.

<https://www.rollcall.com/2021/06/02/democrats-reconciliation-strategy-dealt-blow-senate-parliamentarian/>

Shortening any part of this process in the Senate would take the consent of all senators.

This process has never been used before and is incredibly long. It does not actually allow Democrats to pass a debt limit increase “on their own.” It still requires an amount of Republican cooperation even as it wastes weeks of time.

Annual Budget Resolution: While the annual budget process provides a path to passing a debt limit increase with a simple majority in the Senate, the route is *not available* because the House and Senate have already passed the FY2022 budget resolution without reconciliation instruction on the debt limit.¹⁴ Congress has increased the debt limit four times through the reconciliation process.¹⁵ However, a hypothetical FY2023 budget resolution could not be discharged from the Senate Budget Committee before April 1, 2023.

Unlike a revision to the budget resolution, the annual budget resolution would not require Republican cooperation in the Budget Committee to reach the Senate floor. That said, it would still be a time-consuming, multi-step process.

Changing Senate Rules: In the absence of Republican cooperation to raise or suspend the debt limit, Senate Democrats could act unilaterally by changing the Senate rules with a simple majority vote to exempt debt limit increases or suspensions from the filibuster. While it would set a precedent allowing similar debt limit changes to avoid a filibuster in the future, it would not necessarily change the filibuster for other types of legislation.

Options for Executive Action

In the extraordinary event that a debt default is imminent, the Administration may want to pursue executive action. However, these actions have little precedent and could be subject to legal challenge.

Trillion Dollar Coin: If Congress fails to raise or suspend the debt limit, President Biden could hypothetically direct the Department of the Treasury to mint a coin worth \$1 trillion (or another large amount), deposit it with the Federal Reserve, and use the funds to keep the government running.

Invoking the 14th Amendment: Section 4 of the 14th Amendment reads: “The validity of the public debt of the United States ... shall not be questioned.” Some legal and constitutional scholars have argued that the concept of a debt limit is unconstitutional as the threat of default questions the validity of the government’s public debts. The Administration could simply ignore the debt limit and continue issuing debt. The legal uncertainty could still cause significant economic damage.

¹⁴ Congress adopted a Senate point of order against including a debt limit increase through budget reconciliation in the FY2016 budget resolution ([S.Con.Res. 11](#), 114th Congress), but that rule could be changed by a simple majority in a subsequent budget resolution.

¹⁵ Heniff 2016.

Preventing the Next Crisis

While Congress has never failed to raise or suspend the debt limit and has protected the full faith and credit of the United States, the government has come close to default too many times. Congress will continue to put the country in these perilous situations unless debt limit crises are effectively taken off the table.

The most obvious way to prevent a future crisis is to get rid of the debt limit altogether, a move Treasury Secretary Janet Yellen supports.¹⁶ Some lawmakers have introduced legislation that would do just that. Rep. Bill Foster (D-IL-11) introduced H.R. 3305 and Rep. Brendan Boyle (D-PA-2) introduced H.R. 1041. Both bills would repeal the debt limit and remove the threat of default for good. Alternatively, Rep. Boyle also introduced a measure that would transfer the duty to raise the debt limit from Congress to the Treasury Department.¹⁷

A second way to prevent future threats of defaults is to raise the debt limit to an amount the Treasury would never conceivably hit. House Budget Committee Chairman John Yarmuth (D-KY-3) has endorsed raising the debt limit to a “gazillion dollars,” rendering the debt limit effectively inoperative. This could be done through the budget reconciliation process.

In addition, enacting a long or even permanent suspension could avoid similar crises years into the future.

While increasing the debt limit to a certain amount or suspending it until a specific date addresses the immediate crisis, it sets up a similar situation whenever the government inevitably reaches the debt ceiling or when the suspension expires. Families will only be safe from manufactured debt limit crises when Congress stops manufacturing these crises.

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¹⁶ Jeff Cox. “Yellen lends support for effort to remove the debt ceiling altogether”. *CNBC*. 30 September 2021.

<https://www.cnbc.com/2021/09/30/yellen-lends-support-for-effort-to-remove-the-debt-ceiling-altogether.html>.

¹⁷ H.R. 5415, To provide the Secretary of the Treasury authority to increase the public debt limit, <https://www.congress.gov/bill/117th-congress/house-bill/5415>