



MEMORANDUM

TO: Interested Chamber Members
FR: Neil Bradley, Executive Vice President and Chief Policy Officer
DT: May 12, 2023
RE: Debt Limit Update

As an update to our prior memos (below) on the debt limit, we are sketching out parameters of a potential agreement, an updated timeline for reaching and executing an agreement, and the possibility of invoking the 14th Amendment.

Potential Policy Agreement Between the White House and Congress:

We believe there are three likely areas of agreement that could accompany an increase in the debt limit:

- 1) Repeal of Unspent COVID Funding: The House-passed debt limit bill rescinds \$56 billion in unspent, unobligated COVID funding. According to the Congressional Budget Office (CBO), most of the reductions would come from the Public Health and Social Service Emergency Fund and from infrastructure, rental assistance, community development, and disaster relief programs. Notably, the bill did not rescind funds, totaling approximately \$316 billion, that are subject to legally binding obligations. Savings: \$56 billion in budget authority.
2) Discretionary Spending Caps: Currently there are no legal caps on federal discretionary spending (the approximately \$1.8 trillion appropriated by Congress on an annual basis to operate federal agencies). In the absence of caps, CBO assumes that spending grows with inflation.

The House-passed bill proposed to reduce discretionary spending by 8% next year and then increase spending by approximately 1% a year. This produced \$3.6 trillion in budget authority savings over ten years. Congress and the administration could settle on any number of spending paths that could produce quite substantial savings. The table below provides illustrative examples.

Billions of \$

Table with 5 columns: Scenario, 2023 Enacted, 2024 Proposed, Total 2023-2033, Savings. Rows include CBO Baseline, House GOP Proposal, Limit Growth to 2% a Year, and Freeze for One Year then Limit to 2% Growth.



Freeze for One Year then CBO Growth Rate	\$1,824	\$1,824	\$22,136	\$923
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Even if the caps were only in effect for a year or two, they would produce savings over the ten-year period as a result of resetting the baseline at a lower level of spending.

Because Discretionary spending caps have been enacted as part of debt limit deals in the past, including in 2011, and because the administration and Congress will have to come to an agreement on top-line spending levels at some point this year anyway, we believe it is likely that an agreement on top line spending enforced by caps is enacted as part of a debt limit agreement. *We would not rule out savings over ten years of \$750 billion to \$1 trillion.*

- 3) **Permitting Reform:** Both Republicans and Democrats continue to indicate their support for reforming the federal permitting process. This week the administration released its [priorities](#) for permitting reform. Last week Republican Senators [introduced](#) their own permitting reform bills. The week before that Senator Manchin reintroduced his bill from the last Congress. The bill passed by House Republicans also includes permitting reform.

While significant differences remain between the Republican and Democratic approaches, including with respect to electric transmission lines and meaningful NEPA reform, we believe those differences can be bridged in time to include a permitting reform package as part of a debt limit agreement.

While permitting reform itself is not a budgetary measure it will have implications for the cost of projects financed by both the private sector and the government. Lengthy permitting delays tie up capital and resources and increase project costs, including through inflation. A project that would cost X to build today will cost more to build in five years purely as a result of inflation.

To provide an illustrative example of the potential project savings, we calculated the possible inflationary savings from simply ensuring that projects would be permitted in no more than two years. The longer it takes today to get a permit, the greater the project savings from expediting the process.

<u>Project Type</u>	<u>Average Permitting Time</u>	<u>Illustrative \$1 Million Project Cost</u>	<u>Illustrative Cost if Permitting is Only 2 Years and Can Start Construction Sooner</u>	<u>Cost Savings from Reducing Permitting to 2 Years</u>	<u>% Saved from Reducing Permitting to 2 Years</u>
Waterway Navigation	7.7 Years	\$1,000,000	\$826,849	\$173,151	17.3%
Airport	7.7 Years	\$1,000,000	\$826,849	\$173,151	17.3%
Roads/Bridges	7.4 Years	\$1,000,000	\$832,997	\$167,003	16.7%
Storm and Flood Protection	6.7 Years	\$1,000,000	\$847,520	\$152,480	15.2%



Community Development	6.6 Years	\$1,000,000	\$849,616	\$150,384	15.0%
Freight Rail Project	6.4 Years	\$1,000,000	\$853,822	\$146,178	14.6%
Water Resource Management	6.3 Years	\$1,000,000	\$855,933	\$144,067	14.4%
Ecosystem Restoration	5.5 Years	\$1,000,000	\$873,009	\$126,991	12.7%
Transit Projects	5.3 Years	\$1,000,000	\$877,331	\$122,669	12.3%
Passenger Rail Project	5.2 Years	\$1,000,000	\$879,500	\$120,500	12.0%
Electric Transmission Lines	4.3 Years	\$1,000,000	\$899,264	\$100,736	10.1%

**Timeline for Action:**

Treasury Secretary Yellen previously [indicated](#) that the Treasury could exhaust extraordinary measures and be unable to pay all the government’s bills as soon as June 1.

The Congressional Budget Office this morning released its updated [estimate](#) finding:

- “...there is a significant risk that at some point in the first two weeks of June, the government will no longer be able to pay all of its obligations,”
- “That uncertainty exists because the timing and amount of revenue collections and outlays over the intervening weeks could differ from CBO’s projections,”
- “If the Treasury’s cash and extraordinary measures are sufficient to finance the government until June 15, expected quarterly tax receipts and additional extraordinary measures will probably allow the government to continue financing operations through at least the end of July.”

Given the likely time it will take for the House and Senate to process an agreement (for example we should not assume that there will be unanimous consent in the Senate to expedite passage), an agreement in principle likely needs to be reached between the administration and Congressional leaders by the end of next week in order to ensure enacted by June 1.

**14<sup>th</sup> Amendment:**

There has been renewed attention to the idea that the 14<sup>th</sup> Amendment to Constitution that provides that the public debt shall not be questioned could be invoked in order to allow the administration to issue new debt in order to meet the government’s obligations.

We do NOT believe that the 14<sup>th</sup> Amendment provides an alternative to raising the debt limit.

Most proponents of invoking the 14<sup>th</sup> Amendment skip over a key phrase in the amendment. Section 4 of the 14<sup>th</sup> Amendment reads in full:



“The validity of the public debt of the United States, **authorized by law**, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.” (Emphasis added)

The key phrase is public debt “authorized by law.” Under current law, debt issued by the government is only allowed up to the amount specified in the debt ceiling, currently \$31.4 trillion. Issuing debt above that amount is not authorized by law. Further, the power to “borrow money on the credit of the United States” is given to Congress (Article I, Section 8) and not the Executive.

If the Treasury Department attempted to borrow money above the statutory limit in order to pay obligations of the government, the validity of that debt would immediately be called into question and subject to litigation. This would only compound the negative economic consequences of reaching the X date.



## MEMORANDUM

TO: Interested Chamber Members  
FR: Neil Bradley, Executive Vice President and Chief Policy Officer  
DT: May 2, 2023  
RE: Debt Limit Update

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On Monday, Treasury Secretary Yellen sent a [letter](#) to Congress indicating that the Treasury could exhaust extraordinary measures and be unable to pay all the government's bills as soon as June 1. The same day, the non-partisan Congressional Budget Office (CBO) [confirmed](#) that Treasury could run out of funds in early June.

This memo, an update to our April 19th memo (below), covers:

- potential policy agreements that would lift the debt limit,
- the viability of process off-ramps (e.g. a discharge petition), and
- relevant background information.

### Potential Policy Agreements:

We continue to believe that a clean debt limit increase cannot pass Congress (more on that below). We currently see three potential successful outcomes, two more likely and one less likely.

1. Short-Term Extension: Congress and the administration could agree to a short-term extension potentially lining up the debt limit with the beginning of the new fiscal year on October 1<sup>st</sup>. There is a history of short-term debt limit increases, including:
  - April 1993: Congress passed a stand-alone short-term extension until September 30, 1993. Congress enacted a longer-term agreement in August.
  - February & March 1996: Congress enacted two short-term increases in the debt limit before a larger agreement at the end of March.
  - December 2009: Congress passed a small increase in the debt limit, necessitating a much larger increase in February.
  - February 2013: Congress passed the "No Budget, No Pay Act" providing a short-term debt limit suspension which was followed in October by another four-month extension as part of a continuing resolution to keep the government open.
  - October 2021: Congress passed a stand-alone small increase in the debt limit which was followed by a much larger stand-alone increase in December. This was the most recent increase.

A short-term extension aligned with the beginning of the fiscal year (constructed in such a way as to set a hard deadline that could not be extended using extraordinary measures) would align the debate over the debt limit with the debate over appropriated funding levels (something Republicans have sought). It would also mean that two must-pass items that will both require bipartisan support would be linked together. On one hand, this might make it easier to raise the debt limit because it would now be part of keeping the government open



and, for example, funding the troops. On the other hand, there is a history of Congress willingly allowing a lapse in appropriations that shuts down the government.

The tight, June 1 deadline has, in our opinion, significantly increased the odds of a short-term extension.

2. Broader Package with Extension into the Next Congress: While the House-passed “Limit, Save, Grow” bill cannot pass the Senate, there are elements that could form the basis of a smaller-deal, including:
  - **Limits on Discretionary Spending**: The House-passed bill reduces discretionary spending by 8% next year and saves \$3.6 trillion over a decade relative to the CBO baseline. A more modest proposal to say limit growth to no more than 2% a year for a decade still saves \$867 billion. Discretionary spending caps have been enacted as part of debt limit deals in the past, including in 2011. Further, the administration and Congress will have to come to an agreement on top-line spending levels at some point this year anyway, making some agreement on spending caps (even if for only a few years) a reasonable compromise.
  - **Repeal of Unspent COVID Funds**: The House-passed bill rescinded \$56 billion in unspent COVID funding. This appears to be a ripe area for bipartisan agreement.
  - **Permitting Reform**: Both Republicans and Democrats continue to indicate their support for reforming the federal permitting process, though significant differences remain between the two approaches. The biggest barrier to inclusion in the debt limit may be a lack of time given some potentially complicated negotiations.

Extending the debt limit until the fourth quarter of next year (a few months longer than in the House proposal), combined with extraordinary measures should effectively push the next deadline into the new Congress and administration (early 2025)

3. Non-Leadership Agreement: It is possible that a last minute, break-glass, agreement could emerge from outside any leadership / administration discussions. An agreement could come from a bipartisan “gang” in the Senate, though there are no talks currently underway, or from a group like the House Problem Solvers Caucus. Last month, the Problem Solvers Caucus released the outline of a proposal, which is described in more detail below.

It remains a challenge to bring up for a vote a non-leadership negotiated agreement. Not to mention the potential difficulty in securing 218 House votes and 60 Senate votes.

### **Process:**

There is renewed attention on the possibility that the House could act on a debt limit increase utilizing a discharge petition to circumvent the Republican Leadership. Democratic Leader Hakeem Jeffries circulated a Dear Colleague [letter](#) to members indicating their intention to utilize this process. Leaving aside the question of getting the support of 218 members, there are numerous timing hurdles that make this exceptionally difficult, if not impossible.



Step 1: Once a rule is introduced to bring a bill to increase the debt limit up for a vote, the rule must ripen for seven legislative days. Even for a rule introduced this week, such as the one introduced by Representative McGovern today, that seven-day clock cannot begin until May 9<sup>th</sup>. Based on the current schedule, those seven days would end on May 17<sup>th</sup>.

Step 2: Gather 218 signatures on the discharge petition. Let's assume this is accomplished in one day.

Step 3: A petition with 218 signatures must layover for seven legislative days. Based on the current schedule that would end on June 6<sup>th</sup>.

Step 4: The Speaker would then schedule the rule within two legislative days or June 8<sup>th</sup>.

Step 5: Assuming the House passes the debt limit bill on June 8<sup>th</sup>, the Senate would still have to take up and pass the bill (you cannot use a discharge for a Senate-passed bill). Because the bill would be new to the Senate, they would have to go through the normal cloture process (file cloture, intervening day, and then 30 hours of post cloture debate) on both the motion to proceed and the underlying bill. Assuming the Senate cannot get unanimous consent to speed up this process, this would take four to five days.

This process puts passage of a debt limit increase – assuming you could get all the necessary support – on June 12<sup>th</sup> or 13<sup>th</sup> – past the expected X date.

### **Relevant Background Information:**

Prospects for a Clean Debt Limit: A clean increase in the debt ceiling is almost certain to fail in Congress.

- It isn't just the difficulty of passing the Republican House; it is far from certain that a clean debt limit increase could secure 60 votes in the Senate.
- In October 2021, Congress passed a clean bill to increase the debt limit by \$480 billion (an approximate two-month increase). While no Senate Republican voted for final passage, eleven provided the necessary votes for cloture. Three of those Senators are no longer in office. In addition, Senator Manchin (D-WV) has [stated](#) he believes Democrats should negotiate a deal rather than attempt a clean bill.

Problem Solvers Caucus: Members of the Bipartisan House Problem Solvers Caucus have been developing their own proposal to increase the debt limit. They are currently socializing a proposal that would:

- 1) Suspend the debt limit through December 31, 2023;



- 2) Create a BRAC-like Fiscal Commission that must report on recommendations to stabilize the debt and deficit by December 31, 2024. Congress would have to have an up or down vote on the recommendations by February 28, 2025;
- 3) Adopt spending limits for discretionary appropriations for FY 2024;
- 4) Enact bipartisan budget reforms:
  - a. Regular order for budget and appropriations process.
  - b. Comptroller General must issue an annual report on the fiscal state of the nation.
  - c. President must submit a mid-year report on the nation's budget;
- 5) If steps 2 through 4 are adopted by the end of the year, the debt limit is automatically increased to cover through February of 2025. If steps 2 through 4 are not adopted Congress would have to act on the debt limit again sometime next year.

**Bottom Line:**

It is impossible to overstate the negative consequences that would occur if the United States were to default on its debt. The emergence of an early June deadline is providing more clarity to possible paths to lifting the debt limit. Perhaps the most relevant fact about any resolution is that to become law, it will have to be bipartisan; such is the nature of divided government.





## MEMORANDUM

TO: Interested Chamber Members  
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DT: April 19, 2023  
RE: Debt Limit Update

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Congress returns this week from their in-district work period. The six weeks between now and Memorial Day will be a critical time to make progress toward an agreement to raise the statutory debt limit. We wanted to take this opportunity to share some of the things we are watching.

### What We Are Looking for Over the Next Six Weeks:

1. Clarity on the X date by which Congress and President will have to act.
  - In February, the Congressional Budget Office [estimated](#) that extraordinary measures would be exhausted between July and September.
  - April is generally the largest revenue month and will provide greater clarity on the Treasury's cash balances.
2. A return to negotiations between the President and Speaker McCarthy.
  - The President and the Speaker met once, on February 1<sup>st</sup> – over two months ago – on the debt limit.
  - Speaker McCarthy has since pressed to resume meetings while President Biden has insisted that House Republicans produce a budget before meeting.
  - While passing a proposal, even if only along party lines, will strengthen the negotiation position of House Republicans, the Chamber continues to believe that a final agreement will not result from public offers or votes. Any agreement will be the result of intense, closed-door negotiations – which could require months of talks.
3. Greater clarity on the scope of negotiations.
  - The scope of the negotiations will determine in part how difficult they are to conclude.
  - We are quickly reaching the point where the scope needs to be generally agreed upon on both sides. (More on what has been suggested below.)

### The Core Fundamentals:

The core fundamentals guiding the outcome of the debt limit really haven't changed:

1. A clean increase in the debt ceiling is almost certain to fail in Congress.
  - It isn't just the difficulty of passing the Republican House, but it is far from certain that a clean debt limit increase could secure 60 votes in the Senate.
  - In October 2021, Congress passed a clean bill to increase the debt limit by \$480 billion (an approximate two-month increase). While no Senate Republican voted for final



passage, eleven provided the necessary votes for cloture. Three of those Senators are no longer in office. In addition, Senator Manchin (D-WV) has [stated](#) he believes Democrats should negotiate a deal rather than attempt a clean bill.

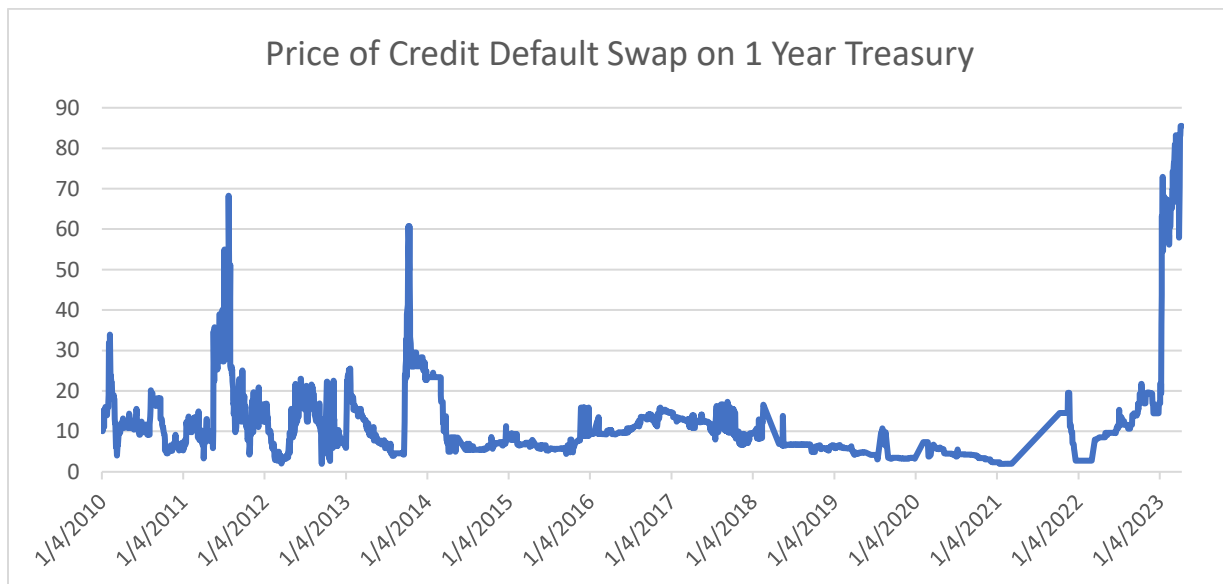
2. To become law, a debt limit increase must be bipartisan.
  - This is the reality of divided government.
3. Due to increasing polarization and greater divides between and within the two parties, it will be more difficult today to secure a broad bipartisan coalition than it was in 2011.
  - Despite all the drama, support for the 2011 Budget Control Act was broad and bipartisan.

House Vote		
	Yea	Nay
Republican	174	66
Democratic	95	95
Total	269	161

Senate Vote		
	Yea	Nay
Republican	28	19
Democratic	46	7
Total	74	26

**Market Reaction:**

Markets can provide an important signal as to the level of concern regarding what would be an unprecedented default by the federal government. One gauge of market signals is the price for credit default swaps on one-year Treasury bonds. Prices increase as we get closer to a debt limit X date, especially if a path to increasing the debt limit is uncertain. Notably, prices peaked just days before the X date in July 2011 and October 2013. This year, we have already exceeded the prior peaks months before the X date. This provides some indication that markets are more concerned this year.





## Existing Proposals:

McCarthy Public Offer: On March 28, Speaker McCarthy [wrote](#) President Biden outlining some options that could be attached to a debt limit increase. Specifically:

- “Reducing excessive non-defense government spending to pre-inflationary levels and limiting out-year growth, similar to what Senator Joe Manchin (D-WV) has proposed;
- Reclaiming unspent COVID funds that have sat dormant for over two years;
- Strengthening work requirements for those without dependents who can work, as was enacted under President Bill Clinton and which you voted for as a United States Senator; and
- Policies to grow our economy and keep Americans safe, including measures to lower energy costs, make America energy independent, and secure our border from the flow of deadly fentanyl that is killing 300 Americans per day.”

As [Politico](#) reported, not all Democrats were willing to reject these ideas out of hand, with permitting reform (part of energy) and reclaiming unspent COVID money being described as potential areas of agreement.

House GOP Bill: House Republicans are preparing a GOP-only bill for possible consideration. The bill would [reportedly](#):

- Lift the debt limit until May 2024;
- Either cap overall discretionary spending to FY 2022 levels or cap non-defense, non-veterans discretionary spending at \$584 billion. Limit growth in discretionary spending to 1% for the next decade;
- Rescind unspent COVID funds;
- Prohibit student loan forgiveness;
- Repeal certain green tax credits (unclear which ones);
- Impose work requirements for welfare programs;
- Include H.R. 1 – the Republican energy and permitting reform proposal; and
- Include the REINS Act to require Congressional approval of regulations.

While many of these proposals may be non-starters with the White House and Senate Democrats, the inclusion of discretionary caps is noteworthy for two main reasons. First, Republicans and Democrats will have to reach an agreement on top-line numbers for the FY 2024 appropriations process at some point anyway, and second, on multiple occasions, including in 2011, an agreement to increase the debt limit has also carried discretionary spending caps.

Problem Solvers Caucus: Members of the Bipartisan House Problem Solvers Caucus have been developing their own proposal to increase the debt limit. They are currently socializing a proposal that would:

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While it is unclear how broad support is for this approach at this time, the members of the Problem Solvers will be an essential voting block for any proposal that can become law.

#### **Bottom Line:**

It is impossible to overstate the negative consequences that would occur if the United States were to default on its debt. The coming weeks will provide greater clarity on the Treasury's cash balances, but as Congress returns from recess, it is a critical time to make progress toward an agreement to raise the statutory debt limit. Such an agreement will have to be bipartisan to become law, and any responsible approach will, like many previous debt limit increases, include policies to reduce future deficits.