Senate Budget Committee Republican Staff
BUDGET BULLETIN
A Weekly Bulletin produced when the Senate is in session.
Don Nickles, Chairman
Hazen Marshall - Staff Director
202/224-6988 http://www.senate.gov/~budget/republican

108th Congress, 1st Session: No. 9 May 12, 2003

INFORMED BUDGETEER

WHAT'S UP WITH THE DEBT LIMIT?

- The Secretary of Treasury has written the Congress three times to ask for an increase in the debt ceiling: on December 24, 2002; on February 19, 2003; and on April 4, 2003.

- Recall that the statutory level of "debt subject to limit" can be reached either by increased Treasury borrowing from the public necessitated by deficit spending, increased borrowing by the federal government from its own funds (because certain federal funds – such as Social Security or federal retirement funds – are required by law to be invested in Treasury securities), or a combination of both. (See useful, related discussion in previous *Bulletins*: Budget Quiz on debt limit on April 22, 2002 and "Debt Issuance Suspension Period" on June 10, 2002.)

- Because Congress had not increased the limit by February 19, 2003, Treasury was unable to both continue borrowing from the public to pay its bills and fully invest (and has still not fully invested) the Government Securities Investment Fund ("G-Fund") of the Federal Employees Retirement System, without breeching the debt limit.

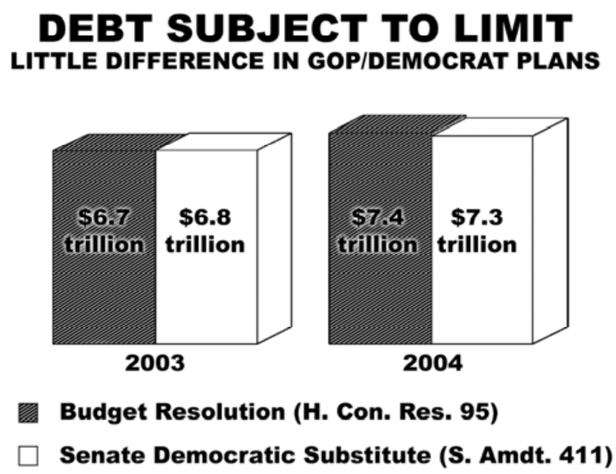
- Further, when Congress had not increased the limit by April 4, 2003, Treasury needed to borrow more and so was unable to fully invest the portion of the Civil Service Retirement and Disability Fund (CSRDF) not immediately required to pay beneficiaries (the surplus of collections over payments). On that date, Treasury also declared a "debt issuance suspension period" during which time CSRDF investments are suspended and a portion of existing investments are redeemed, in order to stay below the debt limit. Both the G-Fund and CSRDF will be made whole, as required by law, when a debt limit increase bill is finally passed and signed by the President.

- The House has already acted. Pursuant to House Rule XXVII (aka the Gephardt rule), as a result of the adoption by the House and the Senate of the conference report on H. Con. Res. 95 (the 2004 Budget Resolution), H. J. Res. 51 was engrossed and deemed to have passed the House on April 11, 2003.

- H. J. Res. 51 would increase the statutory debt limit (by $984 billion) to $7.384 trillion. This is the level assumed in the 2004 Budget Resolution as sufficient to fund the government through September 2004.

- The Senate has not yet acted to increase the debt limit. However, at the end of the debate on the Wartime Supplemental on April 3, 2003, Senators Reid and Stevens entered into a colloquy where Senator Reid stated, "we do assure the Senator from Alaska that when a freestanding bill to increase the debt limit is brought to the floor, we will work with him to see to it that the bill is passed in a timely and orderly way, without any unnecessary delay. The Senator has our commitment on that."

- The *Bulletin* wonders why anyone would argue for any further delay. As the chart below shows, the substitute 2004 budget resolution offered by Senate Democrats (S. Amdt. 411) included a debt limit level for fiscal 2004 that was just slightly below the level contained in H.Con.Res. 95. Both sides essentially agree on what the level should be -- the Senate should move expeditiously to raise the debt ceiling.



RECONCILIATION REFRESHER

- It's time to review the reconciliation rules of the road, as well as a few new twists and turns. This week, the Senate will consider a reconciliation bill that would provide tax relief (with related outlay effects) as instructed by the 2004 Budget Resolution (H. Con. Res. 95). When the Senate begins floor consideration of the bill, debate will be governed by sections 201 and 202 of the budget resolution and the procedures set out in sections 305, 310, and 313 of the Congressional Budget Act of 1974.

- Because the budget resolution included instructions for only one committee in the Senate, the bill will not be reported out of the Budget Committee (as would have been the case with an omnibus bill that combined the reconciliation recommendations of multiple committees), but rather will be (reported by Finance and) placed on the Senate Calendar. Reconciliation bills are privileged for consideration. The motion to proceed to the bill is not debatable.

- Section 201(b) of the budget resolution sets out the reconciliation instruction for the Finance Committee: not more than $522.5 billion in revenue reductions and $27.5 billion in outlay increases over the 2003-2013 period. A comparable instruction is included for the Ways and Means Committee in the House.

- In the Senate, however, consideration of the reported reconciliation bill will be governed by the language of section 202 of the budget resolution. Section 202 limits initial consideration of the bill in the Senate to $322.5 billion in revenue reductions and $27.5 billion in outlay increases with a 60-vote point of order. Note that section 202 only affects consideration of the reported bill and does not apply to the conference report.

- While there has been a great deal of debate regarding the subject, the Senate Parliamentarian has determined that the provisions of section 310(c) of the Congressional Budget Act are applicable not only to the reconciliation instruction in section 201(b) of the budget resolution, but also to the procedural limitation in section 202 of the resolution.

- Section 310(c) allows a committee that received both a revenue and an outlay reconciliation instruction to vary them by up to 20% of the total (in this case, $350 billion x 20% = $70 billion). The opportunity to make use of this 20% is known as "fungibility." It is available to a committee so long as the bill's total still complies with its reconciliation instruction. Section

310(c) of the Budget Act allows the Chairman of the Budget Committee to then adjust the levels in the budget resolution to reflect the reporting committee's work product once fungibility has been employed.

- The reconciliation bill reported by the Finance Committee will use fungibility, and the Chairman of the Budget Committee will file appropriately revised budget resolution levels and allocations. Therefore, the bill will be free of Budget Act points of order under sections 302 and 311 when it is brought before the Senate.
- Under the Budget Act, debate on the bill is limited to 20 hours, but (as with the budget resolution), Senators may continue to offer amendments and make motions after time for debate has expired. Such amendments and motions will be disposed of without debate unless unanimous consent is obtained.
- During the 20 hours, first-degree amendments are debatable for two hours and second-degree amendments and debatable motions and appeals are debatable for one hour. All time limitations are equally divided and controlled by the Majority Leader and the Minority Leader or their designees.
- As is the case with all legislation considered in the Senate, the tax reconciliation bill and any amendments offered thereto must conform with the parameters of the budget resolution and the prohibition (in section 306 of the Budget Act) regarding matters within the jurisdiction of the Budget Committee.
- That means that the bill and any amendments must comply with the reconciliation instructions, the revenue aggregates, and the Finance Committee's allocation. If not, they will be subject to Budget Act points of order (section 311 with respect to the revenue aggregates and section 302 with respect to the committee's allocation).
- In addition, reconciliation legislation (and any amendments thereto and the conference report) must also conform with several other sections of the Budget Act: (i) the **germaneness** requirement (section 305(b)) that applies to amendments only, (ii) the prohibition regarding changes to **Social Security** (section 310(g)), and (iii) the **Byrd Rule** (section 313).
- Savvy budgeteers will remember that the Byrd Rule prohibits the inclusion of "extraneous matter" in reconciliation legislation. Unlike other most other points of order in the Senate that apply to the entire bill, the Byrd Rule applies instead to "provisions" and as such may be used to excise language from within the bill and the conference report.
- Section 313(b)(1)(E) of the Byrd Rule requires that there be no net change in spending or revenues in the years beyond the reconciliation instructions. Provisions that have budgetary effects outside that window are considered "extraneous." What this means is that the tax cuts and spending increases in the reconciliation bill must sunset after FY 2013; otherwise those provisions will be vulnerable to a 60-vote point of order.
- All three of these points of order require the affirmative vote of 60 Senators in order to prevail on a motion to waive or to appeal a ruling of the Chair.
- Once the Senate passes the bill, it will move to conference (the House passed its version of reconciliation on May 9) after Senate conferees are appointed. But the Budget Act does not specifically address the amount of time that may be spent on the various motions required to get a reconciliation bill to conference and to appoint conferees.
- The Senate Parliamentarian has advised, however, that since the Budget Act envisions limited debate on reconciliation, a limit of 10 hours for disposing of the motions would be appropriate. In the past these motions and the naming of conferees have generally been disposed of by unanimous consent without debate.
- Because this is a revenue bill, the vehicle in conference must be a House revenue bill. Otherwise there is the potential of a "blue slip" from the House. "Blue slip" is the term used to describe the situation where a simple House resolution accompanies a message from the House of Representatives regarding a Senate-passed bill. In such cases, the House declines to consider that particular measure on the grounds that it infringes upon the House's constitutional prerogative to originate all revenue legislation (Article I, Section 7).

BUDGET RESOLUTION RE-CAP

While the *Bulletin* has been away, there was a two-week congressional recess, and before that, conference on the congressional budget resolution for 2004. As the resolution hurtled toward passage, the *Bulletin* missed the opportunity to summarize its contents. Here follows some of the milestones of the 2004 resolution.

Senate Budget Committee hearings held this year -------------------- 7

Amendments considered in Committee mark-up ------------------- 32

Amendments considered on the Floor -------------------------------- 81

Total spending in FY2004 Budget ---------------------------------- 2.27
(in trillions of dollars)

Total assumed revenue over 10 years ------------------------------ 26.7
(in trillions of dollars)

Total assumed tax cuts over 10 years ------------------------------ 1.22
(in trillions of dollars)

Limit on discretionary spending in FY2004 Budget -------------- 784
(in billions of dollars)

Limit on advanced appropriations for 2005 ----------------------- 23.2
(in billions of dollars)

Days the Budget Resolution was considered on the Senate Floor - 7
(+1 day to consider the Conference Report)

Days of vote-a-rama -- 3

Days since last budget resolution was passed --------------------- 702