



Written by [David Kelly](#) on May 5, 2023

“Public Debt Clause” Could End Debt Ceiling Crisis

In less than a month the United State is set to default on its debt if President Biden and Congress cannot agree to raise or suspend the statutory debt limit to keep the government solvent. Since January, the Treasury has used “[extraordinary measures](#)” to give the federal government time to resolve the debt crisis. These measures will end as early as June 1. However, have no fear, as there are other options that could be used to save the nation from default.

In March, Biden submitted his [budget plan](#) that would end the current debt crisis while adding to the growing national debt, which now sits at \$31.7 trillion. And, last week, the U.S. House of Representatives passed the “Limit, Save, Grow Act of 2023” ([H.R. 2811](#)) to raise the government’s debt ceiling and cut future spending.



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Since then, the president and his tax-and-spend Democratic allies in Congress have been in a standoff with the Republican-controlled House, and appear to have no issue with the prospect of a national default that could cause a worldwide economic crisis. Basically, both sides are waiting to see who flinches first, as Biden is refusing to negotiate and Republicans won’t raise the debt ceiling without spending cuts.

According to the [Treasury](#), “The debt limit does not authorize new spending commitments. It simply allows the government to finance existing legal obligations. Failing to increase the debt limit would have catastrophic economic consequences.”

“A failure to do that would be unprecedented,” Jerome Powell, chair of the U.S. Federal Reserve, [said](#) during a press conference Wednesday. “We’d be in uncharted territory ... and the consequences to the U.S. economy would be highly uncertain and could be quite averse.”

But according to an *Epoch Times* [article](#), the “possibility of default could be avoided if the president chose to simply ignore the debt ceiling and resume borrowing money to pay the legal debts Congress itself has authorized, some legal experts say.”

President Biden could ignore the debt ceiling by issuing new bonds in order to comply with Section 4 of the Fourteenth Amendment, which [states](#), “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.”

That amendment was ratified shortly after the War Between the States, when Congress was concerned that lawmakers from Southern states, once readmitted to the Union, would not honor federal debts incurred during the war.



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A Cornell Law School paper, [How to Choose the Least Unconstitutional Option: Lessons for the President \(and Others\) from the 2011 Debt Ceiling Standoff](#), shared that federal observers contend that, in the event Congress and the president fail to reach an agreement, the president would be authorized, or perhaps even constitutionally obligated, to simply ignore the debt ceiling. This proposed gambit was quickly dubbed the “nuclear option.”

The paper continued:

The nuclear option [has] its own problems, however. For one thing, it could backfire. As a hedge against the possibility that the government would later default on debt issued by a President acting without Congressional authorization, bond purchasers might demand very high rates of interest for the “radioactive” bonds, thus destabilizing rather than calming financial markets. But even if the President’s unilateral authorization of new debt would pacify the markets, it would apparently avoid a violation of Section 4 of the Fourteenth Amendment only by violating separation of powers. After all, Article I of the United States Constitution gives to Congress, not the President, the power “To borrow Money on the credit of the United States.”

The nuclear option was never invoked in 2011, as Congress and President Barack Obama finally reached an agreement to raise the debt ceiling. But if they had not reached that agreement, and Obama had ignored the debt ceiling, Congress and the president would have faced a constitutional crisis. And today it appears that Biden is faced with the same conundrum.

If Biden chooses to ignore the debt ceiling, a challenge to his action would end up in the Supreme Court. The court would most likely kick the debt ceiling back to Congress and the president to resolve invoking the political question [doctrine](#).

There are other options for resolving the debt ceiling crisis. For instance, the Treasury could legally issue “premium bonds” or mint a \$1 trillion platinum coin, as economist [Paul Krugman](#) recently suggested. But all that will do is kick the can down the road until the next crisis.

Whatever happens in the next several weeks to end this crisis, whether it’s raising the debt ceiling for the [79th time since 1960](#), a temporary agreement between Biden and Congress, or even the willful ignoring of the debt ceiling, the only true long-term solution is to cut all unconstitutional spending and limit the federal government to its proper function.



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