

The economic case for expanding the scope of reconciliation

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The problem: Congress is gridlocked in large part because of the Senate filibuster. Even bills that enjoy broad public support—for example, proposals to raise the federal minimum wage—are unable to pass through Congress.

What can be done about it: The most direct way to break gridlock in the U.S. Senate would be to abolish the filibuster. Failing that, the second-best option would be to expand the scope of reconciliation to allow a broader range of nonbudgetary measures to pass through Congress.

Republicans have only a razor-thin majority in the U.S. House of Representatives, while Democrats have a 51–49 majority in the U.S. Senate. Under these circumstances, it should in theory be possible to pass broadly popular legislation through the 118th Congress.

In practice, however, the Senate filibuster will continue to block policymakers from making progress with such legislation. Sixty votes are required to break and move past the filibuster. The filibuster’s expanded use in recent decades has made it radically more difficult for even significant Senate majorities to move legislation.

One tool of Senate procedure—the budget reconciliation process—provides a limited end run around the filibuster. The reconciliation process allows a certain subset of legislation to pass with a simple majority.

One feature of the reconciliation process—the so-called Byrd Rule—limits its scope to budget-related measures. However, the criteria for what types

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of bills should or should not be allowed to proceed under the Byrd Rule is highly subjective.

The most direct way to restore majority rule and break gridlock in the U.S. Senate is to abolish the filibuster. However, short of that, one could still allow a simple majority to pass a broader range of legislation than it currently can by expanding the scope of what is allowed to proceed under the expedited rules of reconciliation. While this is a suboptimal path, it would be far better than the status quo.

In this report, we argue that the criteria currently interpreted as dictating what legislation can proceed under the auspices of reconciliation are arbitrary, incoherent, and outright damaging. Given this, the carve-out from the filibuster's reach offered to (some) fiscal measures in the Senate under the current rules of reconciliation has no particular logic and protects far too few potentially popular legislative proposals from Senate gridlock.

Consequently, the Senate should either abolish the filibuster for the vast majority of legislation, or, second best, greatly expand the scope of reconciliation to allow many pieces of legislation to pass under its auspices that would have in earlier periods been ruled out of reconciliation's scope.

Our argument rests on the following points:

- **There is a perception that federal budget changes have larger impacts on the economy than other legislation.** The history of the budget reconciliation process and the Byrd Rule strongly suggests that they were instituted in response to this perception.
- **But this perception is incorrect.** Many legislative changes that older conventional wisdom would have argued were outside the bounds of budget reconciliation have profound effects in shaping the trajectory and distribution of economic growth. Given this, there is no reason *even on narrow economic grounds* to privilege budget-related rules over other rules that affect economic outcomes.
- **The Byrd Rule's explicit bias toward deficit reduction has not proved useful even for the narrow goal of reducing deficits.** Narrow Republican majorities have been able to game the rule to allow large, sustained regressive tax cuts to pass in the past 20 years, which have increased budget deficits substantially.
- **The goal of always biasing policy toward deficit reduction is itself misguided.** Sometimes deficits should be made smaller to foster economic growth, but

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sometimes they should be made larger. For most of the past three decades, the U.S. economy has faced chronic shortfalls of aggregate demand relative to productive capacity. (These shortfalls are sometimes labeled “secular stagnation.”) This means that larger deficits would have been useful over that time. The past two years have seen evidence of a demand shortfall fade away, but it is possible that the longer-run trend of secular stagnation will reassert itself before too long.

- To achieve smaller deficits while also providing a counter to chronic shortfalls in demand, **it makes sense to allow a broader range of measures**—including nonbudgetary measures that would boost aggregate demand—**to pass under the auspices of the Byrd Rule.**
- The most obvious drawback to expanding the scope of reconciliation is that it compacts much of an entire year’s legislative agenda into a single vehicle. This potentially short-circuits a thoughtful policymaking process around each individual plank of a reconciliation bill and could lead to poorly crafted bills. Crucially, however, **the drawbacks of the reconciliation process have minimal impact on policies that are straightforward, like increases in the federal minimum wage or labor law reform.**

This report is organized as follows: First, we provide a short history of the budget reconciliation process and the Byrd Rule. Second, we critically examine the reconciliation process’s privileging of fiscal-related legislation. Third, we critically examine the Byrd Rule’s bias toward deficit reduction. Fourth, we identify a counterargument against expanding the scope of the reconciliation process, and we examine this criticism’s applicability to using reconciliation to pass a federal minimum wage increase or fundamental labor law reform. We conclude that reconciliation, while suboptimal, is nevertheless a useful tool for breaking gridlock to pass legislation that is straightforward and has popular support.

The budget reconciliation process and the Byrd Rule

Today’s budget reconciliation process is the result of the Congressional Budget Act (CBA) of 1974 and the subsequent adoption of the “Byrd Rule” in 1985.¹ Before 1974, the filibuster could be applied to budget bills in the U.S. Senate. The Congressional Budget Act of 1974 made significant changes to the federal budgeting process, most intended to shift power for making and enforcing budgetary decisions away from the executive branch and toward Congress. One key impediment to Congress asserting more influence in the budget-making and enforcement process was a minority’s ability to filibuster budget-related bills and hence cause legislative gridlock.

Between 1974 and 1985, the availability of a new fast-track procedure to pass bills that could not be filibustered eroded the supermajoritarian norms of the Senate. In response, a prominent defender of these norms—Sen. Robert Byrd (D-W.Va.)—introduced the “Byrd Rule,” putting limits on what could be included in budget reconciliation bills.

The most important provision of the Byrd Rule for today’s political debates was the one that disallowed “extraneous” legislation from being included in budget reconciliation bills. One key Byrd Rule definition states that legislation “is considered to be extraneous if it...produces a change in outlays or revenues which is merely incidental to the non-budgetary components of the provision” (CRS 2022, 5).

This is the part of the Byrd Rule that defenders of the current conventional wisdom regarding its reach say disallows a federal minimum wage increase or labor law reform to pass under its auspices. This interpretation should be rejected, as it often leads to incoherent outcomes. For example, the current interpretation of the Byrd Rule’s “extraneous” exclusion rules out some bills that have *larger* fiscal effects than previous bills passed under reconciliation. For example, Zipperer, Cooper, and Bivens (2021) surveyed evidence showing that raising the federal minimum wage to \$15 by 2025 would likely reduce public expenditures by roughly \$10 billion annually. This is several times the size of the fiscal effect of a provision allowed to pass under reconciliation in 2006—opening up the Arctic National Wildlife Refuge (ANWR), which was forecast to boost federal revenues by about \$2.5 billion over a three-year period (CBO 2005).² Hence, even on its own terms of privileging legislation with significant fiscal effects, the Byrd Rule is inconsistently applied.

Beyond this, the prohibition on economic measures with only “extraneous” effects on fiscal policy highlights that past policymakers thought that fiscal measures were the most important way congressional action affects the economy. However, this is incorrect.

In addition, the explicit target of the Byrd Rule’s “extraneous” tests was deficit reduction, but imparting a bias toward deficit reduction in the congressional budget process is unwise. Finally, despite this bias toward deficit reduction embedded in the Byrd Rule, Republican majorities have managed to sidestep the rule multiple times in the past to enact large tax cuts.

There is no convincing *economic* rationale for privileging budgetary bills in the legislative process

By most accounts, a precipitating event leading to the CBA of 1974 was the Nixon administration’s refusal to spend money that had been appropriated by Congress. For example, the Nixon administration refused to disburse funds from the Environmental Protection Agency (EPA) that Congress had appropriated for distribution to states to invest in clean water efforts. This impoundment of funds in defiance of Congress was indeed an abuse of executive power and one that was properly rectified by congressional action.³

But Congress noticed and reacted to this impoundment only because revenue and spending flows are more *visible* to them than other economic influences that are under the joint control of Congress and the executive branch. It is not obvious, however, that *more*

visible means *more important*. The Nixon impoundment of funds that attracted the ire of Congress was related to legislation aimed at boosting environmental quality. Yet there are other ways besides outright impoundment of appropriated funds through which the executive branch can frustrate the intent of Congress to improve environmental quality. For example, it has been widely agreed upon by historians of environmental policy that the Reagan administration's EPA gutted the effectiveness of environmental protections through lax enforcement and the redistribution of resources within agencies to activities that slowed enforcement of regulations.⁴ This begs the question: Why should a fast-track legislative remedy be available for executive branch *fiscal* actions that impede the improvement of environmental quality but not for *regulatory* actions?

There is a common perception that tax and budget policy is the most important policy tool available to Congress to achieve their goals. If this were true, then privileging tax and budget policy through the reconciliation process would make some sense. But this is not true. The U.S. economy, and the economic security of typical U.S. families, is profoundly shaped by policies passed by Congress that do not see their first-order effects run through changes in the federal budget. Once the full scope of these policies' effects is recognized, the case for privileging one subset of economic policies (those that deal with taxes and spending) over others stops making sense.

This is perhaps most easily illustrated by looking at a very broad measure of rising inequality in the U.S. economy in recent decades: the ratio of median to average household incomes. Using data from the Congressional Budget Office (CBO 2022), Banerjee and Bivens (2022a) show that the share of post-tax-and-transfer income claimed by the middle 60% of households fell by over 6 percentage points between 1979 and 2018.⁵ Yet tax rates *fell* while transfer rates *rose* for these households over this time, and at a faster rate than for average incomes.

So why did inequality rise if the federal budget and tax system became more equalizing over this time? Because market incomes became far more unequal and this rising inequality of market-based incomes swamped any equalizing effect of fiscal redistribution. The share of *pre-tax-and-transfer* income claimed by the middle 60% fell by nearly 9 percentage points over the same time period. What happened in the market mattered far more for economic outcomes than what happened to the federal budget and taxes for the majority of middle-class families.

What does congressional action have to do with the evolution of market income over this time? Bivens and Mishel (2021) show that a number of *specific policy decisions* can explain most of the rise in market inequality over this time. Key among these are the declining inflation-adjusted value of the minimum wage and the failure to enforce the right of U.S. workers to form unions and bargain collectively. The decline in unionization by itself likely lowered median hourly wages by almost 8% between 1979 and 2017. Given that labor earnings make up the overwhelming majority of market income accruing to the median household, the decline of unions can account for a large portion of the decline in median income relative to average.

In turn, the decline of unionization in the U.S. economy can be accounted for by policy

decisions, either of commission (passing anti-union “right to work” laws at the state level) or of omission (failing to protect the right of private-sector workers to organize unions in the face of growing employer hostility).

Bivens and Mishel (2021) also highlight the role of macroeconomic policy in driving the rise of inequality in recent years. Importantly, this macroeconomic policy has been driven by the decisions of the Federal Reserve. The Federal Reserve Board of Governors is confirmed by the Senate, and congressional committees have oversight of the Fed.

Finally, Banerjee and Bivens (2022a) highlight evidence that the sharp rise in pre-tax-and-transfer inequality has by itself had profound effects on both the pace of overall economic growth and the fiscal stance of the federal government. As rising inequality concentrates more of the nation’s total income in households at the top of the income distribution with higher savings rates, this will—all else equal—slow growth in aggregate demand. If no countervailing support to demand growth springs forth, this will translate into a binding constraint on overall economic growth. Banerjee and Bivens (2022a) find that rising inequality since 1979 was by 2019 reducing aggregate demand growth by up to 2% of gross domestic product (GDP) annually. For most of the years post-2000, this almost surely translated directly into significantly reduced growth overall.

In short, Congress has shaped many crucial policies that have driven economic outcomes in recent years even outside the area of tax and budget policy. In fact, changes in market incomes over recent decades have driven income trends far more than changes in taxes and transfers. Given this reality, the idea that Congress needs a privileged way to fast-track tax and budget policies while other policies languish makes very little sense. The modern U.S. economy needs a Congress able to legislate across all relevant policy areas.

The intended Byrd Rule bias toward fiscal contraction is misguided but could be partially alleviated by allowing more policies to pass through the reconciliation process

It is widely agreed upon by historians of the budget reconciliation process that both the CBA of 1974 and the Byrd Rule were driven largely by hopes that they would aid the process of deficit reduction. Most concretely, the Byrd Rule disallows any legislation that adds to long-run increases in federal budget deficits (with “long run” traditionally defined as outside the 10-year budget window traditionally used for scoring legislation). This intended bias toward deficit reduction reflected a conventional wisdom that public debt restraint was nearly always and everywhere an economic good (except perhaps during outright recessions). But, in fact, since the permanent codification of the Byrd Rule in 1990, the economic case for needing painful deficit reduction has been substantially weakened, yet the bias in the Byrd Rule toward deficit reduction remains.

The data signature that would indicate that deficits are harming economic growth is supposed to be rising interest rates. Yet extraordinarily weak economic growth between 2000 and 2019 led to very large rises in public debt but continued *declines* in interest rates, making the imperative for painful deficit reduction (even during times of economic growth) much less pressing.⁶

This confluence of weak growth and low interest rates was driven by a larger factor—a chronic shortfall of aggregate demand relative to the economy’s productive capacity. This demand shortfall—sometimes labeled “secular stagnation”—was the primary constraint on economic growth for the two decades before the COVID-19 recession.

The recovery from the COVID-19 recession has seen a reversal of many of the data signatures of secular stagnation—interest rates have risen as the Fed has sought to contain the largest outbreak of inflation in nearly 40 years. However, it does not follow automatically from this episode of high inflation and higher interest rates that secular stagnation is decisively over, for a couple of reasons. For one, secular stagnation was always a background condition of the economy that could be overcome with enough policy force. The problem was insufficient spending, and any policy that boosted spending (like deficit-financed federal spending) could overcome this problem.⁷

For another, the COVID-19 recovery saw a sharp decline in the economy’s productive capacity as labor force participation declined and rolling supply chain disruptions snarled the ability to manufacture and produce goods. This decline in supply helped “solve” the gap between aggregate demand and the economy’s productive capacity. But these supply declines are highly likely to be temporary. In the U.S., labor force participation has steadily climbed back to near pre-COVID trends, and supply chains (at least before the recent COVID-19 outbreak in China) have been healing rapidly.

Whether one thinks that the reprieve from the condition of secular stagnation in 2021 and 2022 was the result of extraordinarily rapid demand growth (spurred by large fiscal policy interventions) or the result of shocks from the COVID-19 pandemic and the Russia-Ukraine war, the reprieve seems likely to be temporary. Nothing fundamental occurred to change the underlying condition (for example, a rollback of the post-1979 rise in inequality was not achieved), so secular stagnation is likely to persist as the economy returns to more normal conditions going forward. In a few years, the Byrd Rule bias toward fiscal contraction is likely to be as un-useful as it was in the two decades before the COVID-19 shock.

The Byrd Rule in practice has restrained spending increases, not tax cuts

It has often been argued—and not just by anti-government ideologues—that the more politically difficult part of deficit reduction is spending restraint.⁸ Yet the recovery following the Great Recession of 2008 was the most austere on record for public spending—both at

the federal and subfederal levels. This spending austerity was deeply damaging to the recovery from that recession, yet it persisted well into the recovery, largely relenting only by 2017.

In short, recent decades have not seen a steady upward ratchet in spending programs that have led to larger budget deficits. Instead, the trend has been toward spending that is too austere given the needs of the economy.

This problem is exacerbated by Byrd Rule provisions that ostensibly allow only deficit-neutral or deficit-reducing policies to pass under its auspices.

Yet while the Byrd Rule has been used to restrain spending in the name of deficit reduction, it has failed to stop Republican majorities from passing large regressive tax cuts that add considerably to deficits. Three times in the past two decades narrow Republican Senate majorities were able to flagrantly game loopholes in the Byrd Rule to pass large tax cuts.

These tax cuts had major fiscal implications, but they did little to solve the chronic shortfall of aggregate demand holding back growth. That's largely because higher-income households that see disproportionate gains from these tax cuts have a high propensity to save rather than spend additional disposable income.⁹

The failure of the Byrd Rule to stop these large regressive tax cuts shows just how asymmetric the rule has been in putting pressure on deficit reduction, strongly favoring downward pressure on spending while not stemming revenue losses.

All in all, to the degree that the Byrd Rule has provided much enforcement at all of deficit reduction measures, it has been on the spending side.¹⁰ That has meant that it has proved maximally damaging during times when the economy is demand constrained.

Some reconciliation process downsides could be avoided if the process allowed a broader range of policies to pass

Above we identified two key problems with the Byrd Rule status quo. First, nonbudgetary policy changes have enormous effects on economic well-being and need to be addressed at least as urgently as budgetary changes—and yet they can't be addressed under the current interpretation of the rule. Second, the Byrd Rule bias toward deficit reduction nudges fiscal policy to be more contractionary even as chronic demand shortfalls have made such contraction damaging in recent decades.

These problems would be alleviated by allowing a broader scope of policy changes to pass through the budget reconciliation process. For one, expanding the scope of legislation allowed under reconciliation would allow needed nonfiscal policy changes to

escape filibuster-imposed gridlock. For another, many proposed nonfiscal changes would boost economywide spending and solve the problem of deficient demand.

Two high-profile policy changes that the incoming Biden administration has announced support for would be of particular help: a significant increase in the federal minimum wage and reform of labor law to secure workers' rights to join unions and bargain collectively.

Both of these policy changes would result in a significant redistribution of income downward, reversing some of the previous decades' rise in inequality. In the long run, the combined effect of these two interventions on average income growth for households in the bottom half of the income distribution could be as large as any single *fiscal* policy change enacted since Medicare and Medicaid were created in the mid-1960s.¹¹ Given this, it is hard to understand why Congress has maintained a privileged legislative process for purely fiscal measures when nonfiscal measures can have such a profound effect on living standards.

This downward redistribution of income would also go far in alleviating the chronic shortfalls of demand that have characterized the last quarter century in the U.S. economy. Banerjee and Bivens (2022a), for example, have shown that rising inequality that boosted the income share of higher-income (and hence higher-saving) households has exerted a huge drag on demand growth since the late 1980s. Bivens and Mishel (2021) have shown that this large upward redistribution has been driven overwhelmingly by policy changes that affected the labor market. In short, policy changes that boosted the bargaining power of the bottom 90% of the labor market and led to faster broad-based wage growth would likely raise aggregate demand measurably. This would make the Byrd Rule's bias toward fiscal contraction less damaging.

Even under narrow budgeting-based views of the Byrd Rule, higher minimum wages and fundamental labor law reform have significant fiscal effects

Part of what makes the Byrd Rule's barring of "extraneous" provisions so arbitrary is that many policy changes that do not see their first-order effects run directly through revenue or spending still end up having quite large fiscal impacts. In fact, the fiscal impacts of both a higher minimum wage and fundamental labor law reform are nearly guaranteed to be substantially larger than allegedly more direct "fiscal" measures that have been passed under reconciliation.

For example, Zipperer, Cooper, and Bivens (2021) highlight a range of evidence showing that, all else equal, higher federal minimum wages lead to reductions in public expenditures. For a federal minimum wage of \$15, these public expenditure reductions

would be significant—on the order of \$10 billion annually or more. The mechanism that links higher minimum wages to reduced public expenditures is fairly direct: Higher labor incomes would push some workers and their families over the threshold for receipt of certain public assistance program benefits or would reduce the size of tax credits they receive, such as the Earned Income Tax Credit (EITC) or the Child Tax Credit (CTC).

The fiscal effects of fundamental labor law reform are equally clear. One example of this type of fundamental labor law reform is the prohibition on state “right to work” (RTW) laws contained in the Protecting the Right to Organize (PRO) Act. There is ample evidence that RTW laws lead to reductions in unionization rates at the state level. Ellwood and Fine (1987) estimate that adoption of RTW laws in a state results in a permanent reduction in the share of the workforce that is represented by a union in that state of up to 3 percentage points. Given that more than 40% of the U.S. workforce in 2019 lived in RTW states, this implies a reduction in the overall unionization rate of 1.2%, or about 3 million workers not in unions due to the influence of RTW laws. Fortin, Lemieux, and Lloyd (2021) find similar effects in an event-study analysis of more recent movements of states into right-to-work status: Within five years of a state’s change in status, the share of workers in the state who are unionized falls by roughly 3 percentage points.

Sojourner and Pacas (2018) have found that unionized workers pay \$2,800 more in taxes annually than nonunionized workers and that they receive \$350 less annually in transfer payments. Multiplying the 3 million workers deprived of union coverage through the direct influence of RTW laws by the \$2,800 in additional taxes paid by unionized workers implies that tax receipts are more than \$8 billion lower due to the influence of RTW statutes. Meanwhile, public transfer payments are \$1 billion higher. If the PRO Act provisions to bar the use of RTW laws reverse these causal effects, there would be a large and direct fiscal impact.

Moreover, there is plenty of reason to believe that the PRO Act’s fiscal effects could be far larger than this. For example, the Ellwood and Fine (1987) estimates could well be an understatement of the long-run effect of RTW laws. As a raw average, unionization rates in RTW states are 50% lower than rates in non-RTW states. It is true that not *all* of this difference is the causal effect of RTW laws, but analyses looking at short periods of time or specific margins of adjustment might understate the true extent of this causal relationship. Ellwood and Fine, for example, note that their estimate could be an understatement because it looks only at the effect of RTW on new union organizing. But if the free-rider problems associated with the introduction of RTW laws encourage more rapid deunionization of previously unionized workplaces, or if RTW laws make it more likely that new businesses opening in the state will be nonunion, then the RTW effect will be larger.

More importantly, the PRO Act does more to potentially boost unionization rates than simply roll back RTW laws. It provides tougher penalties for a range of employer behaviors routinely undertaken to thwart union-organizing efforts.¹² Given growing employer hostility toward unions and the effectiveness of employer actions in thwarting unionization efforts, it seems clear that the PRO Act could boost the share of workers represented by a union in the U.S. labor market significantly over the long run.

If, for example, the PRO Act resulted in an increase of 5% in the share of the U.S. workforce represented by a union, and the fiscal effects estimated by Sojourner and Pacas (2018) held, this would imply a boost to tax revenues of over \$40 billion annually, along with a reduction in transfer expenditures of nearly \$5 billion. These effects are larger than the vast majority of items allowed through the reconciliation process.

Broadening reconciliation, while suboptimal, works well for many issues

It's worth repeating that the best way to restore majority rule to the U.S. Senate is to abolish the filibuster. Broadening the range of bills allowable under the reconciliation fast-track process is just a second-best option to that. But if the politics of the moment allow only second-best solutions, they should be undertaken, as they are clearly preferable to the status quo.

The most convincing counterargument to using reconciliation for an expanded array of potential legislation is that the process is already so crowded that it degrades the policymaking process, leading to poor policy design that is overlooked until too late. There is a grain of truth to this. Reconciliation can be used only once per year (generally), so this puts enormous pressure on policymakers to crowd as many different pieces of legislation into the single reconciliation bill as possible. Because these different (and often complex) pieces of legislation go all at once into the same policy debate and follow the same timeline, an extended policy process—in which expert consultation and debate over each provision can happen—is short-circuited.

An obvious recent example of this involved what is commonly known as the Tax Cuts and Jobs Act (TCJA) from 2017. The reconciliation process was used to push through a permanent reduction in corporate income tax rates as well as dozens of temporary changes in other parts of the federal tax code. Among many other technical corrections made after its passage, one provision of the TCJA—the “retail glitch”—had to be fixed as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act in 2021.¹³ The retail glitch unintentionally raised effective tax rates on a wide range of businesses by extending the time period over which durable assets could be depreciated in the tax code.

It is fair to weigh the benefits of allowing more responsive government against the costs of giving insufficient attention to complex policy changes. But the status quo does not just give *insufficient* space for debating many potentially desirable policy changes, it gives them effectively no space at all.

Further, there are a whole host of policy changes that are extremely well understood, that have been subject to great expert scrutiny, and that are broadly popular—yet they cannot get past a Senate filibuster. Two obvious ones are an increase in the federal minimum wage and labor law reform like the Protecting the Right to Organize (PRO) Act. The minimum wage increase in particular may be the most studied and debated federal policy change ever.¹⁴ The idea that great uncertainties exist in how it will affect the economy or

how it might be implemented seems hard to credit.

On labor law reform, the effect of the PRO Act's planks is straightforward. The PRO Act will make it easier for workers to form unions. Whether the *outcome* of more workers being able to form unions is a good thing for the U.S. economy is a fair subject for debate, but that does not make the PRO Act particularly complex. Nobody, for example, supports greater unionization in the U.S. economy but is against the PRO Act on the grounds that it's so complex that it might through unintended consequences actually reduce unionization.

In short, both changes to the federal minimum wage and measures to boost the unionization rate in the U.S. economy are straightforward policies that should be allowed to move forward through an expansion of the reconciliation process. These policies would have profoundly progressive impacts on the U.S. economy and are at least as relevant to working peoples' lives as the vast majority of bills that have been ushered through reconciliation in recent decades.

Conclusion and policy recommendations

Again: Abolishing the filibuster would be the simplest and most effective way to allow popular legislation to have a chance of actually moving through the U.S. Senate. However, given the limited time window for this Congress and the Biden administration to make progress on an effective economic policy agenda, and given the political resistance of some senators to abolishing the filibuster on principle, policymakers should consider all other options realistically available to them.

As they finalize the rules and procedures for the 118th Congress, Senate Democratic leadership should expand the scope of reconciliation. The economic assumptions used in the past for adopting the Byrd Rule are not borne out in reality. The status quo limitations on the types of policies considered under reconciliation need not continue to artificially constrain the Senate. The Senate should be enabled to pass much needed economic legislation with the support of a simple majority.

Notes

1. CRS 2022 is a good overall primer on the budget reconciliation process and the Byrd Rule.
2. See Cannan 2013 for a discussion of the use of reconciliation to pass ANWR.
3. This interpretation that the 1974 CBA legislation reestablished congressional control over federal budgets in the face of legislative impoundment is apparent on the Congressional Budget Office website today (<https://www.cbo.gov/about/history>).
4. See Fredrickson et al. 2018 for this history of EPA enforcement being thwarted by executive actions.

5. Author's analysis based on Banerjee and Bivens 2022a.
6. On the sharp fall in interest rates and the relationship to fiscal policy, see Furman and Summers 2020.
7. On the likelihood that the forces generating the chronic shortfall of demand might return in coming years, see Banerjee and Bivens 2022b.
8. Probably the clearest statement of this outlook comes from former Federal Reserve Chair Alan Greenspan's testimony before the Senate Budget Committee in 2001. In that testimony, Chair Greenspan discussed projected budget surpluses that he thought to be too large. To deal with these projected budget surpluses, he recommended: "In general, as I have testified previously, if long-term fiscal stability is the criterion, it is far better, in my judgment, that the surpluses be lowered by tax reductions than by spending increases...history illustrates the difficulty of keeping spending in check.... Moreover, the greater the drain of resources from the private sector, arguably, the lower the growth potential of the economy" (Greenspan 2001).
9. On the high fiscal cost but small economic effect of regressive tax cuts, see Bivens and Fieldhouse 2012.
10. See Cannan 2013 for a legislative history of the Affordable Care Act (ACA). The reconciliation process was eventually utilized in the process of legislating the ACA. Because the Byrd Rule requires that fiscal measures not increase the deficit, and because there was a politically driven limit imposed on how much revenue could be raised for the ACA, the reconciliation process and the Byrd Rule became a binding constraint on how much spending could be included in the ACA.
11. Cooper, Mokhiber, and Zipperer (2021), for example, found that an increase in the federal minimum wage to \$15 by 2025, for example, would likely have raised wages for affected workers by over \$100 billion in 2025.
12. See McNicholas et al. 2019 for documentation of employer hostility to union-organizing drives and how straightforward policy changes could lead to more successful unionization efforts.
13. See CRS 2021 on the retail glitch as well as a host of other technical corrections that needed to be made after passage of the TCJA.
14. See Dube 2019 for evidence that the effects of minimum wages have been thoroughly studied.

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