

THE BEGINNINGS OF THE ONE BIG BEAUTIFUL BILL ACT: PLACING THE 2017 TAX CUTS AND JOBS ACT IN HISTORICAL PERSPECTIVE

Amanda Borwegen[†] & Ajay K. Mehrotra^{††}

On July 4, 2025, President Donald J. Trump signed into law the One Big Beautiful Bill Act (OBBBA). This new law was built on the foundations of its immediate predecessor, the 2017 Tax Cuts and Jobs Act (TCJA). This Essay examines the historical roots and contemporary implications of these two laws. It argues that both acts reflect continuities and ruptures in the recent history of U.S. tax law and fiscal policymaking. On the one hand, the two laws are a continuation of decades-long trends in American tax policy—trends marked by persistent tax cutting, increasing partisan polarization, and a growing disregard for fiscal responsibility. Yet these two laws also depart from earlier episodes marked by bipartisan efforts to address fiscal challenges through compromise and revenue-conscious reform.

To highlight the continuities and ruptures, the Essay further analyzes three key historical analogs: (1) the Bush tax cuts of 2001 and 2003, (2) the 1990s Omnibus Budget Reconciliation Acts, and (3) the 1983 Greenspan Commission on Social Security Reform. While earlier tax laws established the partisan use of reconciliation and temporary tax relief, the TCJA and OBBBA expanded this model into permanent,

[†] J.D. 2025, Northwestern Pritzker School of Law; B.A. 2019, Washington & Jefferson College.

^{††} Stanford Clinton Sr. and Zylpha Kilbride Clinton Research Professor of Law, Northwestern Pritzker School of Law; Affiliated Professor of History, Northwestern University; and Research Professor, American Bar Foundation. An earlier version of this essay was presented at the 2025 American Association of Law School Conference. We thank the participants at that conference for their useful feedback, and to those colleagues and friends who reviewed and discussed drafts of this essay including Jennifer Bird-Pollan, Ari Glogower, Christopher Hanna, Andy Koppelman, Philip Postlewaite, Samy Abdelsalam, and Maggie Amen. We are grateful to Noah Taran for excellent research assistance, and to Jeena Patel and the staff of the *Cornell Law Review* for their assistance. All errors, of course, remain our own.

deficit-financed legislation. In contrast, the Omnibus Acts and Greenspan Commission exemplified bipartisan efforts to address fiscal challenges through compromise and revenue-conscious reform.

The goal of this Essay is not to explicate the detailed provisions of the two new laws. Rather, our objective is to provide a broad retrospective look at how we have arrived at this historic and extraordinary moment. The historical trends explored in this Essay suggest that we may be entering a new era of tax law and fiscal policymaking—one defined by ideological entrenchment and legislative expediency rather than bipartisan cooperation and fiscal responsibility. By placing the TCJA in historical perspective, we identify and analyze some of the early beginnings of the OBBBA and other historical analogs, with the hope of better understanding the new law and perhaps future tax and spending legislation.

INTRODUCTION

On July 4, 2025, amid a bombastic display of patriotism that included soaring military jets and a B2 bomber, President Donald J. Trump signed into law the One Big Beautiful Bill Act (OBBBA or 2025 Law). Supporters of the new law, including the president himself, hailed it as “a triumph of democracy” and an accelerating “rocket ship” for economic growth.¹ Meanwhile, critics focused on the new law’s potential distributional consequences, describing it as a plan that cuts “spending on lower-income people to fund tax cuts for the wealthy.”² At its core, the new law permanently extended many temporary provisions of the 2017 Tax Cuts and Jobs Act (TCJA or 2017 Law), including, perhaps most importantly, comprehensive tax cuts that were set to expire at the end of 2025.³

The new law was built on the foundation of its immediate predecessor. The 2025 Law made permanent the 2017 across-the-board tax cuts; it locked in a dramatic increase of the standard deduction; it permanently extended a popular

¹ Alex Leary, *Trump Signs ‘Big, Beautiful Bill’ into Law in July Fourth Ceremony*, WALL ST. J. (July 4, 2025, 6:48 PM), <https://www.wsj.com/politics/policy/trump-signs-big-beautiful-bill-into-law-302edba6?mod=Searchresults&pos=1&page=1> [<https://perma.cc/MV9C-UF6L>].

² *Id.*; Annie Karni & Reid J. Epstein, *In Trump’s Bill, Democrats See a Path to Win Back Voters*, N.Y. TIMES (July 3, 2025), <https://www.nytimes.com/2025/07/03/us/politics/democrats-trump-bill.html> [<https://perma.cc/R6VL-RPPE>].

³ One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025).

expanded child tax credit and a controversial deduction for qualified businesses; and it increased the annual estate and gift tax exemption. The new law also expanded tax benefits well beyond the TCJA. It fulfilled many of Trump's 2024 campaign promises by providing temporary and partial tax relief for tips and overtime income, as well as auto loan interest. Furthermore, the OBBBA temporarily raised the cap on State and Local Tax (SALT) deductions until December 31, 2029, and provided additional benefits for investors in qualified small businesses, among many other provisions.⁴

Unlike its predecessor, the 2025 Law also fundamentally altered federal spending and made many provisions permanent. The new law provided increased resources for defense spending, border security, and agricultural subsidies. It cut spending on health care and food stamps by elevating Medicaid and Supplemental Nutrition Assistance Program (SNAP) work requirements and eligibility restrictions; it phased out many clean energy and electronic vehicle (EV) tax credits; and it altered student loan programs to secure additional budget savings.⁵ Simultaneously, the new law, unlike its predecessor, made many changes permanent, with only a few requiring future extensions. Taken as a whole, the new law is estimated to increase the national deficit between \$2.8 and \$3.4 trillion over ten years, according to the Congressional Budget Office.⁶ In sum, the OBBBA is arguably one of the most sweeping and consequential pieces of domestic legislation in recent U.S. history.

Despite its significance, little is known about the hasty and opaque legislative process that led to the enactment of the OBBBA. From start to finish, the colossal and complex new law was enacted within roughly two months, with little public discussion and along strict party lines by razor-thin Republican majorities in both the U.S. House of Representatives and the Senate. In many ways, it is too early

⁴ *Id.*

⁵ *Id.*; see also *What's in the One Big Beautiful Bill Act?*, COMM. FOR A RESPONSIBLE FED. BUDGET (July 22, 2025), <https://www.crfb.org/blogs/whats-one-big-beautiful-bill-act> [<https://perma.cc/VD7A-LKTE>]. For greater details, see CONG. BUDGET OFF., ESTIMATED BUDGETARY EFFECTS OF PUBLIC LAW 119-21, TO PROVIDE FOR RECONCILIATION PURSUANT TO TITLE II OF H. CON. RES. 14, RELATIVE TO CBO'S JANUARY 2025 BASELINE (July 21, 2025), <https://www.cbo.gov/publication/61570> [<https://perma.cc/Q8DG-TNFV>].

⁶ CONG. BUDGET OFF., *supra* note 5; CONG. BUDGET OFF., H.R. 1, ONE BIG BEAUTIFUL BILL ACT (DYNAMIC ESTIMATE) (June 17, 2025), <https://www.cbo.gov/publication/61486> [<https://perma.cc/YDJ3-TNUT>].

to excavate the legislative and political history of the 2025 Law. Future scholars will have the benefit of time, hindsight, and perhaps access to unpublished archival materials and first-hand accounts to provide a fuller and objective report of the backroom horse-trading, and “Gucci Gulch” lobbying efforts, that shaped the final version of the OBBBA.⁷

Still, we can learn more about the core elements of the new law by exploring the long road to its predecessor, the 2017 TCJA, and by analyzing other historical analogs. Although the 2025 Law is, as its name suggests, massive in its scale and scope, many of its central provisions—certainly those that are likely to have the greatest fiscal impacts—have a deep genealogy. The tax cuts at the center of both the TCJA and the OBBBA have a lineage going back nearly five decades. Similarly, the 2025 Law is not the first time the federal government has altered social entitlement spending, though, as we shall see, an earlier effort at Social Security reform was more bipartisan and collaborative.⁸ By placing the TCJA in historical perspective, we identify and analyze some of the early beginnings of the 2025 law and other historical analogs, with the hope of better understanding the OBBBA and perhaps future tax and spending legislation.

We are not the first to explore the history of the 2017 TCJA. Although the vast majority of research on the TCJA has focused mainly on its legacy and implications,⁹ a few scholars have placed the 2017 Tax Law into a broader historical context. Some have charted “The Road to 2017” by documenting the “build-up of tax reform ideas in advance of 2017.”¹⁰ Others have placed the TCJA into the long durée of twentieth-century American tax reform, in the process of highlighting the temporary nature, distributional effects, and estimated

⁷ “Gucci Gulch” refers to the halls of the Capitol Building where legislation is written and lobbyists gather. JEFFREY H. BIRNBAUM & ALAN S. MURRAY, SHOWDOWN AT GUCCI GULCH: LAWMAKERS, LOBBYISTS, AND THE UNLIKELY TRIUMPH OF TAX REFORM (1987). For an early attempt at such a legislative history, see generally Tamara Keith, *Trump Got His Tax Bill over the Finish Line. Now He Has to Sell It to Voters*, NPR (July 11, 2025, 5:00 AM), <https://www.npr.org/2025/07/11/nx-s1-5453589/trump-spending-tax-bill-medicare-democrats-midterms> [<https://perma.cc/J8D2-J5A3>].

⁸ See *infra*, Part II.C.

⁹ See, e.g., the essays contained in Collection, *Reflections on the 2017 Tax Act*, 128 YALE L.J. 315 (2018), and in Symposium, *The Tax Cuts and Jobs Act of 2017*, 38 J. ECON. PERSP. 3 (2024).

¹⁰ William G. Gale, Jeffrey L. Hoopes & Kyle Pomerleau, *Sweeping Changes and an Uncertain Legacy: The Tax Cuts and Jobs Act of 2017*, 38 J. ECON. PERSP. 3, 4 (2024).

revenue costs of the 2017 Law.¹¹ Still others have contrasted the TCJA with earlier tax reform efforts, including the 1986 Tax Reform Act, to identify and contrast the many glaring differences.¹²

Our modest Essay complements this existing literature by analyzing the historical continuities and ruptures that have come to define the TCJA and, by extension, the OBBBA. Our goal is not to explicate the detailed provisions of the two laws; we leave that to other experts. Rather our objective is to provide a broad, and we hope helpful, retrospective look at how we have arrived at this historic and extraordinary moment.

Among the most important continuities between the past and today is the decades-long Republican preoccupation with tax cuts. With roots going back to the property tax revolts of the 1970s, the “modern antitax movement,” as tax law scholar Michael J. Graetz has shown, has become “the indispensable cornerstone of the Republican Party’s economic policy—no matter the economic circumstances or the government’s financial condition.”¹³ Both the TCJA and OBBBA continue that GOP tradition.

The dissimilarities between the recent laws and past tax legislation are equally significant. Unlike some earlier tax laws, the 2017 and 2025 Laws were enacted on a purely partisan basis, as seen with the George W. Bush (Bush II) tax cuts of the early 2000s.¹⁴ More importantly, the TCJA and OBBBA signal a departure from previous concerns about federal revenues. While the Bush II tax cuts began the process of discounting the importance of rising debt levels, those earlier tax cuts were enacted at a time of annual budget surpluses. The new laws are different. They are expected to produce steady budget shortfalls at a time when the national debt is already reaching historic and alarmingly high levels.¹⁵

To highlight the continuities and ruptures, this Essay further analyzes three key historical analogs. First, because of

¹¹ Jennifer Bird-Pollan, *Revising the Tax Law: The TCJA and Its Place in the History of Tax Reform*, 45 OHIO N.U. L. REV. 501 (2019).

¹² Harvey Galper, *The TCJA Has Replaced the 1986 Tax Act, But Is It Tax Reform?*, TAX POL’Y CTR. (Mar. 30, 2018), <https://taxpolicycenter.org/taxvox/tcja-has-replaced-1986-tax-act-it-tax-reform> [https://perma.cc/LSB7-RZ6T]; Joseph J. Thorndike, *Tax History: Tax Reform Failed After 1986 and It Will Fail Again*, 159 TAX NOTES 607 (2018).

¹³ MICHAEL J. GRAETZ, *THE POWER TO DESTROY: HOW THE ANTITAX MOVEMENT HIJACKED AMERICA* 18 (2024).

¹⁴ See *infra* Part II.A.

¹⁵ See *infra* Part II.A.

the importance of the Bush II tax cuts, we probe more deeply into this earlier precedent to document the similarities and differences. Our second historical analog focuses on prior uses of the legislative tool, reconciliation. Finally, our third historical analog focuses on the early 1980s National Commission on Social Security Reform, chaired by economist Alan Greenspan, which helped maintain the solvency of Social Security. This latter seminal reform provides an apt, but underappreciated, point of contrast for the entitlement changes adopted by the OBBBA. A crucial part of our contribution to the existing literature is evaluating this point of contrast. These earlier examples of tax cuts and entitlement reforms, we believe, provide important insights into both the TCJA and the OBBBA.

This Essay proceeds in three parts. In Part I, we chart the very long road to the TCJA and OBBBA. We begin with the 1970s and '80s origins of the GOP-led preoccupation with tax cuts; we then map the brief detour of fiscal responsibility in the 1990s; and conclude with the post-2000 return of the tax cut fervor. In Part II, we turn to our three historical analogs. We use the Bush II tax cuts to highlight how reconciliation has become the legislative tool of choice and how difficult it is to change tax policy once it becomes law. We use the 1990s Omnibus Budget Reconciliation Acts to illustrate the differences between the original purpose of reconciliation and its current use. And lastly, we discuss the Greenspan Commission to demonstrate that a bipartisan approach to entitlement reform is more durable and fiscally responsible. We then conclude this Essay with some observations about the present and possible future path of tax law and fiscal reforms.

I

THE VERY LONG ROAD TO THE TCJA AND THE OBBBA

The 2025 Law, with tax cut extensions at its core, is an integral part of a decades-long rightward shift in American tax politics. Since the 1970s property tax revolts, if not earlier, U.S. political discourse about tax law and fiscal policy has been moving increasingly towards an anti-tax and anti-statist posture.¹⁶ Although national Republicans have led this shift,

¹⁶ Graetz, *supra* note 13; *see also* ISAAC WILLIAM MARTIN, *THE PERMANENT TAX REVOLT: HOW THE PROPERTY TAX TRANSFORMED AMERICAN POLITICS* (2008); DAVID O. SEARS & JACK CITRIN, *TAX REVOLT: SOMETHING FOR NOTHING IN CALIFORNIA* (1982). For more on earlier anti-tax movements, *see generally* ISAAC WILLIAM MARTIN, *RICH PEOPLE'S MOVEMENTS: GRASSROOTS CAMPAIGNS TO UNTAX THE ONE*

liberal Democrats in recent years have also constrained the federal government's robust taxing powers, limiting any calls for tax hikes to only the highest earners.¹⁷ For much of the post-World War II period, both political parties seemed to accept relatively high statutory marginal tax rates, but that began to change with changing political attitudes in the 1970s.¹⁸ This rightward shift might have reached an apex, but certainly did not end, with the 1980s Ronald Reagan tax cuts.¹⁹ Indeed, the Reagan tax cuts have been identified by many current lawmakers and commentators as the inspiration for both the 2017 TCJA and the most recent extension and elaboration of that law.²⁰

Despite some fleeting bipartisan attempts in the 1990s to raise marginal income tax rates, the modern anti-tax zeal continued with the Bush II tax cuts of 2001 and 2003, which helped shape the outlines of the TCJA and the OBBBA.²¹ The Bush II tax cuts are some of the key historical analogs we explore in greater detail below.²² Like the TCJA, the Bush tax cuts were enacted as temporary measures on a purely partisan basis through the reconciliation process. When those changes were set to expire, Democratic lawmakers ultimately extended the Bush II tax cuts in the wake of the 2008 financial crisis and impending economic recession. While broader economic conditions influenced that earlier extension, these actions illustrated how both national political parties have become

PERCENT (2013); ROMAIN D. HURET, *AMERICAN TAX RESISTERS* (2014).

¹⁷ See *infra* Part II.A (discussing the Obama-era tax policy).

¹⁸ W. ELLIOT BROWNLEE, *FEDERAL TAXATION IN AMERICA: A HISTORY* (3D ED. CAMBRIDGE UNIV. PRESS 2016), 97-123.

¹⁹ MONICA PRASAD, *STARVING THE BEAST: RONALD REAGAN AND THE TAX CUT REVOLUTION* (2018); BRUCE BARTLETT, *REAGANOMICS: SUPPLY SIDE ECONOMICS IN ACTION* (1981).

²⁰ *How the New GOP Tax Reform Plan Compares to Reagan's*, FOX BUS. (Nov. 4, 2017, 4:28 PM), <https://www.foxbusiness.com/politics/how-the-new-gop-tax-reform-plan-compares-to-reagans> [https://perma.cc/7RTS-SEAT]; Amity Shales, *Fast-Forwarding Tax Cuts*, NAT. REV. (Mar. 28, 2025, 6:30 AM), <https://www.nationalreview.com/2025/03/fast-forwarding-tax-cuts/> [https://perma.cc/WLG6-4WGF]. For a comparison of the TCJA and the 1986 Tax Reform Act, see generally Thorndike, *supra* note 12; Ajay K. Mehrotra & Dominic Bayer, *The Promise and Limits of Fundamental Tax Reform: Contrasting the 1986 Tax Reform Act with the 2017 Tax Cuts and Jobs Act*, 53 UC DAVIS L. REV. ONLINE 93 (2019).

²¹ Emily Horton, *The Legacy of the 2001 and 2003 "Bush" Tax Cuts*, CTR. ON BUDGET AND POL'Y PRIORITIES (Oct. 23, 2017), <https://www.cbpp.org/sites/default/files/atoms/files/3-31-17tax.pdf> [https://perma.cc/L5UE-GPBR].

²² See *infra* Part II.A.

reluctant to impose tax increases, at least on the middle and lower classes.²³

A. From the 1970s Tax Revolts to the Reagan Era Tax Reforms

The property tax revolts of the 1970s were a watershed moment in the history of modern American conservatism.²⁴ The revolts, which led to California's 1978 adoption of Proposition 13 limiting property tax increases, helped usher in a new era of U.S. tax law and fiscal policy, not only across many states but also at the federal level. In the early 1970s, due to a variety of economic, social, and demographic factors, property values and hence property taxes began to surge in California and elsewhere. As a result of this perceived property tax crisis, many homeowners, especially those on a fixed income, faced growing financial pressures.²⁵ Conservative political activists seized this crisis as an opportunity. Led by avowed anti-government advocate, Howard Jarvis, they called for dramatic limits on property taxes. Although other more liberal and less radical options were debated, Jarvis's California initiative (Proposition 13) passed overwhelmingly on June 6, 1978.²⁶

Proposition 13 contained several provisions significantly constraining the Golden State's taxing powers.²⁷ It capped property tax rates at one percent of assessed property values, restricted annual increases to a maximum of two percent, and required a two-thirds majority in the state legislature for

²³ Joseph J. Thorndike, *Tax History: Democrats Have Been Losing Tax Fights for Decades—Will Next Year Be Different?*, TAX NOTES (Sep. 9, 2024), <https://www.taxnotes.com/tax-history-project/tax-history-democrats-have-been-losing-tax-fights-decades-will-next-year-be-different/2024/09/06/715s5> [<https://perma.cc/U7XN-JDA>]; Andrew Duehren, *Can Democrats Stop the 'Tax Doom Loop'?*, N.Y. TIMES, (Sep. 3, 2024), <https://www.nytimes.com/2024/09/03/us/politics/democrats-tax-policy.html> [<https://perma.cc/29FH-BFNR>].

²⁴ See generally DAVID FARBER, *THE RISE AND FALL OF MODERN AMERICAN CONSERVATISM: A SHORT HISTORY* (2010); LISA MCGIRR, *SUBURBAN WARRIORS: THE ORIGINS OF THE NEW AMERICAN RIGHT* (2015); MARTIN (2008), *supra* note 16.

²⁵ CLARENCE Y.H. LO, *SMALL PROPERTY VERSUS BIG GOVERNMENT: SOCIAL ORIGINS OF THE PROPERTY TAX REVOLT* (1990); MARTIN, *supra* note 16.

²⁶ MARTIN, *supra* note 16.

²⁷ CAL. CONST. art. XIII A; Patrick Gleason, *Decades-Old Laws Keeping Property Taxes in Check Are Under Attack*, FORBES (July 28, 2020, 9:58 AM), <https://www.forbes.com/sites/patrickgleason/2020/07/28/decades-old-laws-keeping-property-taxes-in-check-are-under-attack/> [<https://perma.cc/E4VL-A3L6>].

subsequent tax increases.²⁸ Soon, other states followed California's lead, with 46 states adopting similar measures on property tax limitations.²⁹ Unsurprisingly, such property tax limitations have had a profound impact on state and local revenues and social spending, essentially shrinking the public sector in these jurisdictions.³⁰ In sum, the 1970s tax revolts, as historical sociologist Issac William Martin explained, "transformed American politics by popularizing a new public policy—tax limitation—that helped to place tax cuts permanently on the policy agenda."³¹

The property tax revolts helped launch Ronald Reagan's presidential bid.³² In the process, the tax revolts and Reagan's presidency helped pave the road leading to certain aspects of the TCJA and OBBBA. As California Governor (1967-75), just prior to the enactment of Proposition 13, Reagan harnessed the anti-tax fervor that swept the nation in the late 1970s in his successful run for the White House.³³ His advocacy for tax cuts, limited government, and general fiscal conservatism led to his resounding 1980 presidential victory.³⁴ One of his first acts as president was to support and sign the *Economic Recovery Tax Act of 1981*, which dramatically slashed marginal income tax rates, lowering the top individual rate from 70% to 50%.³⁵ These tax cuts were part of a larger agenda of "supply-side" economics that propelled the myth that tax cuts could pay for themselves with increased economic growth.³⁶

²⁸ CAL. CONST. art. XIII A; Gleason, *supra* note 27.

²⁹ Gleason, *supra* note 27.

³⁰ See generally Wesley Tharpe, *Easing State Restraints On Local Taxing Power Can Strengthen Democracy, Promote Prosperity And Equity*, CTR. ON BUDGET & POLY PRIORITIES (Mar. 28, 2023) <https://www.cbpp.org/research/state-budget-and-tax/easing-state-restraints-on-local-taxing-power-can-strengthen> (discussing the revenue effects of states restraining local taxing power, including Prop. 13).

³¹ MARTIN, *supra* note 16, at 13.

³² H.W. BRANDS, *REAGAN: THE LIFE* (2015); RICK PERLSTEIN, *REAGANLAND: AMERICA'S RIGHT TURN, 1976–1980* (2020).

³³ See sources cited *supra* note 32.

³⁴ See sources cited *supra* note 32.

³⁵ Economic Recovery Tax Act of 1981, Pub. L. No. 97-34, 95 Stat. 172-182. For more on the significance of the 1981 law, see generally PRASAD *supra* note 19.

³⁶ PRASAD, *supra* note 19; GRAETZ, *supra* note 13. While previous tax cuts have had short-term positive growth effects, none of them have produced enough growth to offset revenue losses completely. See generally *Tax Cuts: Comparing Rhetoric with Reality*, CO-EQUAL (June 2025), https://cdn.prod.website-files.com/5cd036eb776bf651fcf12ee9/684af03759ff2bae5bbedf67_Tax%20Cuts%20Retrospective.pdf [<https://perma.cc/Q3QR-PHCR>].

While the Reagan administration is frequently remembered today for beginning the Republican attack on the highly progressive tax rate structure, revenue concerns remained an important part of 1980s tax reform—unlike today. As federal deficits began to climb, lawmakers enacted the 1982 *Tax Equity and Fiscal Responsibility Act*, which increased taxes and removed certain tax benefits to broaden the income tax base.³⁷ This was one of several Reagan-era tax increases that are often overlooked today.³⁸ At the time, both political parties were also concerned about the future solvency of Social Security.³⁹ In a 1983 landmark agreement, led by James Baker and Alan Greenspan, policymakers from both parties came together to broker a compromise position on funding Social Security.⁴⁰ As we shall see, this agreement is an important contrasting historical analog to recent legislation—one that shows how bipartisan agreement is possible.⁴¹

The combination of revenue concerns and the continued preoccupation with tax cuts led to the momentous *Tax Reform Act of 1986*, which became an inspiration—at least rhetorically—for nearly all future tax reform laws, including the TCJA.⁴² The '86 Act continued the tax-cutting trend, lowering the top individual income tax rate from 50% to 28%.⁴³ But the bipartisan law also eliminated numerous tax benefits, including the capital gains tax preference, thus leading to a

³⁷ Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97-248, 96 Stat. 324.

³⁸ BRUCE BARTLETT, *THE BENEFIT AND THE BURDEN: TAX REFORM—WHY WE NEED IT AND WHAT IT WILL TAKE* (2012); Justin Fox, *The Mostly Forgotten Tax Increases of 1982–1993*, BLOOMBERG (Dec. 15, 2017, 10:36 PM), <https://www.bloomberg.com/view/articles/2017-12-15/the-mostly-forgotten-tax-increases-of-1982-1993> [permalink needed].

³⁹ See *infra*, Part II.C.

⁴⁰ Rudolph G. Penner, *The Greenspan Commission and the Social Security Reforms of 1983*, URB. INST. (2014), <https://www.urban.org/sites/default/files/publication/65126/2000323-Myth-and-Reality-of-the-Safety-Net-The-1983-Social-Security-Reforms.pdf> [https://perma.cc/L755-CLST].

⁴¹ See *infra*, Part II.C. and accompanying notes.

⁴² Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. 2085. Changing economic conditions—rising inequality and growing deficits—have led some lawmakers to question whether the 1986 Act ought to be held up as a model. See generally Schumer Says Reform Should Maintain Individual Rates, Reduce Corporate Rate, TAX NOTES (Oct. 9, 2012), <https://www.taxnotes.com/research/federal/legislative-documents/congressional-news-releases/schumer-says-reform-should-maintain-individual-rates-reduce-corporate-rate/vmwq> [https://perma.cc/923S-QJMB].

⁴³ Tax Reform Act of 1986, *supra* note 42, at 2096.

“revenue-neutral” outcome.⁴⁴ Although many of the tax benefits later returned to the Code, including the capital gains tax preference, the ‘86 Act set an important precedent for future tax reform.⁴⁵ It demonstrated that proposals that sought to “broaden the base and lower rates” could gain support from both political parties—a lesson that seems to have been ignored in recent years.⁴⁶ The Reagan Era, in short, provided historic models for both future Republican-led tax cuts and concerns about growing budget deficits.

B. A Brief Detour into Fiscal Responsibility: The Bush and Clinton Tax Increases

The Reagan tax cuts were undoubtedly seminal events for anti-tax forces. Looming fiscal pressures, however, soon forced subsequent presidential administrations, on both the right (George H.W. Bush) and left (William J. Clinton), together with bipartisan congressional support, to propose modest income tax hikes. The long road to the TCJA and OBBBA was thus hardly a straight line. With budget deficits soaring, President Bush broke an important campaign pledge (“read my lips: no new taxes”) when he signed the *Omnibus Budget Reconciliation Act of 1990*, which enacted several tax increases, including raising the top marginal individual rate from 28% to 31%.⁴⁷ While some commentators viewed Bush’s tax increases as a courageous step towards fiscal responsibility, others believed it did little to address long-term budget issues and only cemented the conservative belief that tax increases of any kind were a political liability—a belief that was reinforced when Bush lost his re-election bid in 1992.⁴⁸

⁴⁴ See generally Tax Reform Act of 1986, *supra* note 42.

⁴⁵ The classic account of the 1986 Act remains. BIRNBAUM & MURRAY, *supra* note 7.

⁴⁶ Joseph J. Thorndike, *Tax History: Broaden the Base and Lower the Rates: What if It’s a Bad Idea?* TAX NOTES (Mar. 15, 2021), https://www.taxnotes.com/featured-analysis/tax-history-broaden-base-and-lower-rates-what-if-its-bad-idea/2021/03/12/3k5vk?utm_source=copilot.com [<https://perma.cc/X5J3-4S28>].

⁴⁷ Howard Gleckman, *Reading President Bush’s Lips*, TAX POL’Y CTR. (Dec. 5, 2018) <https://taxpolicycenter.org/taxvox/reading-president-bushs-lips> [<https://perma.cc/Y26X-XLFA>]; Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, 104 Stat. 1388.

⁴⁸ JOSEPH WHITE & AARON WILDAVSKY, THE DEFICIT AND THE PUBLIC INTEREST: THE SEARCH FOR RESPONSIBLE BUDGETING IN THE 1980S (1989); George L. Perry, *The Economy and the Election*, BROOKINGS (Feb. 27, 2012), <https://www.brookings.edu/articles/the-economy-and-the-election/> [<https://perma.cc/67K7-H63H>].

While the 1990 tax increases might have cost Bush re-election, the law also laid the foundation for more aggressive and bipartisan attempts at deficit reduction. The detour, in other words, was rocky but navigable. As annual budget deficits continued to add to soaring public debt levels, investors became increasingly nervous about the federal government's borrowing powers.⁴⁹ In 1992, the independent presidential candidate, Ross Perot, brought greater attention to rising debt levels.⁵⁰ The bond market, moreover, began sending signals of concern—signals that were heeded by the Clinton administration and congressional leaders.⁵¹ Indeed, so-called “bond vigilantes” had been calling for more fiscal discipline since the 1980s Reagan-induced tax cuts. By the time Clinton and congressional Democrats came into power, the vigilantes' calls had become amplified clamors for higher taxes and reduced government spending.⁵²

With the *Omnibus Budget Reconciliation Act of 1993*, national Democrats responded to the bond vigilantes. The new law dealt with both sides of the federal ledger. It enacted spending restraints, reforming what Clinton referred to as “welfare as we know it.”⁵³ And provided across-the-board tax hikes, including increasing the top marginal rate from 31% to 39.6%—heights not seen since before the Reagan-era tax cuts.⁵⁴ The Clinton tax increases were enacted without any Republican support in Congress, thus illustrating the growing partisan nature of tax policymaking. Buoyed by economic growth and information technology advances, the tax increases led to the first set of annual budget surpluses since the

⁴⁹ *U.S. Government Debt and Deficits: Do They Matter?*, BESSEMER TRUST (Oct. 31, 2024) <https://www.bessemertrust.com/insights/us-government-debt-and-deficits-do-they-matter>.

⁵⁰ Joseph J. Thorndike, *From ‘Sucking Sound’ to Strategic Seats: Perot’s Legacy and Musk’s Third-Party Ambitions*, TAX NOTES (July 28, 2025), <https://www.taxnotes.com/tax-history-project/sucking-sound-strategic-seats-perots-legacy-and-musks-third-party-ambitions/2025/07/25/7svmm> [<https://perma.cc/5M9U-78RP>].

⁵¹ GIL TROY, *THE AGE OF CLINTON: AMERICA IN THE 1990S* (2015); Michael J. Graetz, *Tax Policy at the Beginning of the Clinton Administration*, 10 YALE J. ON REG. 561 (1993).

⁵² See Marc Rubinstein, *Bond Vigilantes*, NET INT. (Apr. 12, 2025), <https://www.netinterest.co/p/bond-vigilantes> [<https://perma.cc/SEQ9-SUD7>].

⁵³ Francis X. Clines, *Clinton Signs Bill to Cut Welfare and Change State Role*, N.Y. TIMES (Aug. 23, 1996), <https://www.nytimes.com/1996/08/23/us/clinton-signs-bill-cutting-welfare-states-in-new-role.html> [<https://perma.cc/PNE9-TUL7>].

⁵⁴ Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312.

2026]

THE BEGINNINGS

13

1970s.⁵⁵

C. The Bush Tax Cuts and the Democratic Surrender

With the 2000 presidential election of George W. Bush, the zeal for tax cuts returned. During his presidential bid, Bush faced strong pressure from other conservative candidates, including Steve Forbes, who were pushing the Republicans' ongoing tax-cutting agenda. Forbes' candidacy likely pushed Bush to stress tax cuts further. As a result, the country's fiscal future was back on a path to the TCJA and OBBBA. Not only did the Bush tax cuts of 2001 and 2003 squander an inherited budget surplus, but perhaps more importantly, they relied on the temporary nature of tax cuts to navigate the legislative process. Together, the *Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)* and the *Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA)* once again reduced individual income tax rates across the board, including lowering the top rate back to 35%.⁵⁶ Thus, GOP leaders justified the tax breaks as a way to maintain small government and stimulate economic growth, two arguments that continue to be used to explain the purpose of the more recent legislation.

The most significant aspects of the Bush II tax cuts might have been their temporary nature, their partisan support, and their disregard for deficits. Faced with a Democratic Congress resistant to further tax cuts, Republican lawmakers passed the two Bush tax cuts mainly with Republican support.⁵⁷ Because both bills were passed using the legislative process of budget reconciliation, the laws required sunset provisions.⁵⁸ The enactment of temporary tax laws along party lines soon became an important precedent and a defining paradigm for future lawmakers.

⁵⁵ DENNIS S. IPPOLITO, DEFICITS, DEBT, AND THE NEW POLITICS OF TAX POLICY (2012); Seito Hayasaki, *The Unlikely Heroes of Progressive Taxation: CEOs' Support for Bill Clinton's Tax Increase Package in 1993*, 35 J. POL'Y HIST. 2 (2023).

⁵⁶ Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, 115 Stat. 38; Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. No. 108-27, 117 Stat. 752.

⁵⁷ THOMAS L. HUNGERFORD, CONG. RSCH. SERV., THE BUSH TAX CUTS AND THE ECONOMY (Dec. 10, 2010), <https://sgp.fas.org/crs/misc/R41393.pdf> [<https://perma.cc/896V-7VK3>].

⁵⁸ Richard Kogan & David Reich, *Introduction to Budget "Reconciliation,"* CON. BUDGET & POL'Y PRIORITIES (May 6, 2022), <https://www.cbpp.org/research/introduction-to-budget-reconciliation> [<https://perma.cc/87FL-ZYFQ>].

During the second round of tax cuts in 2002, Vice President Dick Cheney signaled how much the Republican Party had discarded any concern about possible future deficits. While earlier generations of Republican lawmakers had been staunch budget hawks, Cheney's position illustrated the party's transformation. Reflecting on the deficits produced by the first Reagan-era tax cuts, Cheney intoned that "Reagan proved deficits don't matter."⁵⁹ Cheney conveniently ignored the Reagan-era tax increases that showed at least some concern for deficits. Cheney's words became emblematic of how the Republican Party had come to prioritize tax cuts above all else—even at the cost of increasing the national debt.

Since the Bush II tax cuts were set to expire in 2010, the Obama administration and congressional Democrats faced a significant dilemma when they took office in 2008. On the one hand, they were eager to turn back the Bush tax cuts by increasing marginal income taxes on the wealthy (for individuals earning more than \$400,000 annually). On the other hand, they took office during the wake of a financial crisis, an impending economic recession, and the emergence of grass-roots opposition to government spending in the form of the Tea Party.⁶⁰ Obama and congressional Democrats thus settled on a compromise position: in 2009, President Obama initially extended the Bush tax cuts for all taxpayers amid deteriorating financial conditions, but by 2012, national lawmakers let the Bush tax cuts expire for top earners, returning the top rate to 39.6%, while maintaining lower rates for other income groups. The landmark Affordable Care Act, moreover, increased taxes for the wealthiest Americans.⁶¹ Thus, while the Obama administration might have created a speed bump in the long road toward tax cuts, its actions also solidified the notion that even liberal Democrats were reluctant to raise taxes on the middle class. As Graetz has explained, the

⁵⁹ Randall W. Forsyth, *Shutdowns Come and Go. Why Deficits Pose the Real and Present Danger*, BARRON'S (Sep. 30, 2023), <https://www.barrons.com/articles/shutdown-national-debt-gdp-deficits-3e72455d> [<https://perma.cc/5UCV-3A7N>]; *The Right Lesson to Draw from Ronald Reagan*, FIN. TIMES (Nov. 10, 2016), <https://www.ft.com/content/c74770b2-a743-11e6-8898-79a99e2a4de6> [<https://perma.cc/RK4W-DAAM>].

⁶⁰ Graetz, *supra* note 13. On the Tea Party, see generally THEDA SKOCPOL AND VANESSA WILLIAMSON, *THE TEA PARTY AND THE REMAKING OF REPUBLICAN CONSERVATISM* (2016).

⁶¹ Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010).

American left “surrendered” to anti-tax forces.⁶²

D. The Shortcut to the TCJA and OBBBA

While the Obama administration was trying to navigate perilous economic conditions, other lawmakers were thinking ahead about more comprehensive tax reform. Simplifying the tax code and lowering compliance costs had long been goals of both political parties. In 2011, Representative Dave Camp (R-MI) began outlining a new plan to simplify the tax system. As Chair of the House Ways & Means Committee, Camp introduced a bill containing many of the elements of his earlier plan.⁶³ Although Camp’s proposed legislation continued to stress the Republican calls for lower tax rates on individuals and business corporations, it also acknowledged the need to simplify the tax-paying process for ordinary Americans while remaining revenue-neutral.

By the time Trump took office in 2017, the Bush tax cuts and the ‘86 Act might have been distant memories. But for the Republican lawmakers, who controlled both houses of Congress, those early precedents and Camp’s simplification proposals were guiding lights for their attempts at “tax reform.” Indeed, many lawmakers evoked the ‘86 Act as the inspiration for their 2017 legislation. But that earlier law, with its revenue-neutral goals of “broadening the base and lowering rates,” was merely a rhetorical tool. In reality, it was the Bush II tax cuts, the Camp proposals, and a newly-released 2016 House plan—each in their own way—that influenced the TCJA and, by extension, the OBBBA. As we show below, the temporary and partisan nature of the Bush II Tax Cuts provided a key historical precedent for Congress both in 2017 and 2025. By contrast, the Camp proposals provided more substantive guidance for the TCJA, as other scholars have shown.⁶⁴ Furthermore, the House plan authored by Speaker Paul Ryan (R-WI) and Ways & Means Chairman Kevin Brady (R-TX) appeared to have an important, if underappreciated, impact on the TCJA and the OBBBA.

⁶² Graetz, *supra* note 13.

⁶³ Ways and Means Committee Chairman, *Camp Releases Tax Reform Plan to Strengthen the Economy and Make the Tax Code Simpler, Fairer and Flatter*, HOUSE COMM. ON WAYS & MEANS (Feb. 26, 2014), <https://waysandmeans.house.gov/2014/02/26/camp-releases-tax-reform-plan-to-strengthen-the-economy-and-make-the-tax-code-simpler-fairer-and-flatter/> [<https://perma.cc/VEE8-LLRN>].

⁶⁴ Gale, *supra* note 10.

Although the TCJA was passed along strict Republican party-line votes, there were aspects of the law that had some bipartisan roots, particularly in the context of business taxation. The Obama administration, for instance, released a business tax reform plan in 2016, based loosely on an earlier proposal, that sought to lower the top corporate tax rate and reform many aspects of U.S. international taxation.⁶⁵ Similar business tax changes were also discussed as part of a series of 2015 U.S. Senate Finance Committee working groups. This bipartisan convergence around business tax reform might explain why some of the 2017 changes to corporate taxation were made permanent in the TCJA, especially considering the United States had the “second highest corporate tax rate among similarly wealthy countries” at the time of the TCJA’s enactment.⁶⁶

Other aspects of the TCJA went through a more discordant and winding political path, especially within Republican circles. Initially, several conservative thinkers floated tax plans with a tone of economic populism aimed at taxing the rich. Indeed, as the TCJA was initially making its way through Congress, some Trump advisors were calling for higher taxes on the wealthiest Americans to dampen deficit effects, while many in the White House believed that maintaining the top marginal tax rate would be politically wise.⁶⁷ Similar rhetoric was also on display this past year.⁶⁸ But ultimately, such populist ideas were dashed, and the key elements of both the TCJA and the OBBBA returned to the Republican orthodoxy of tax cuts.⁶⁹

⁶⁵ THE WHITE HOUSE AND THE DEP’T TREASURY, *THE PRESIDENT’S FRAMEWORK FOR BUSINESS TAX REFORM: AN UPDATE* (2016).

⁶⁶ *Should the U.S. Change the Corporate Tax Rate in 2025?*, PETER G. PETERSON FOUND. (Feb. 25, 2025), <https://www.pgpf.org/article/should-the-u-s-change-the-corporate-tax-rate-in-2025/> [<https://perma.cc/YN77-HXHH>].

⁶⁷ Lauren Thomas, *Steve Bannon Is Reportedly Advocating for a Tax Hike on the Wealthy*, CNBC (July 3, 2017, 10:04 AM), <https://www.cnbc.com/2017/07/03/steve-bannon-is-reportedly-advocating-for-a-tax-hike-on-the-wealthy.html> [<https://perma.cc/9HAR-ZTFX>]; Damian Paletta & Mike DeBonis, *Republicans to Propose Keeping Top Tax Rate for Very Wealthy, Working to Win Over Moderates*, WASH. POST (Oct. 31, 2017), https://www.washingtonpost.com/business/economy/2017/10/31/2cd1deda-be5f-11e7-959c-fe2b598d8c00_story.html [<https://perma.cc/WAP8-FLWQ>].

⁶⁸ Alexander Bolton, *Collins Offers Amendment to Raise Tax Rates on Ultrawealthy Earners*, THE HILL (June 30, 2025, 10:48 AM), <https://thehill.com/homenews/senate/5376782-susan-collins-amendment-tax-rate-rural-hospitals/> [<https://perma.cc/5ZL9-MV3X>].

⁶⁹ Allan Smith, *Trump Reportedly Wanted to Raise the Top Income Tax Bracket to 44%, but Gary Cohn Talked Him Out of It*, BUS. INSIDER (Sep. 10, 2018, 11:36

The focus on tax cuts was evident in both the earlier Camp bill and in the Ryan-Brady plan, also known as “A Better Way” tax proposal. Like those two proposals, the TCJA enacted lower individual and corporate tax rates and adopted a territorial system of U.S. international taxation. But the greater influence that Camp and Ryan-Brady had on the TCJA, and perhaps the new law, was their focus on tax simplification. Although the TCJA did not adopt the changes to the bracket structure proposed by either Camp or Ryan-Brady, the significant increase in the standard deduction, and hence the dramatic reduction in itemized filers, was drawn from both plans. Likewise, the controversial limitation on the SALT deduction was also contained in the earlier congressional proposals.

The influence of earlier GOP proposals only went so far, however. The TCJA and the new law differ fundamentally from both the Camp and Ryan-Brady plans and previous Republican-led tax laws in one major way: generating revenue. Whereas many of the earlier proposals and laws were revenue-neutral, sticking to the decades-long tax reform commitment to “a broader base and lower rates,” the TCJA and the OBBBA have, for the most part, ignored revenue concerns. Indeed, the TCJA led to significant revenue losses in 2018 and 2019, before the global pandemic muddied the economic picture. Experts have estimated that total real revenue declined by nearly 8% or \$275 billion in 2018 and by similar amounts in the following fiscal year.⁷⁰ Although the 2025 law paired tax cut extensions and new tax relief with spending cuts, it is also predicted to increase the federal debt over time.

From a broad historical perspective, the TCJA and the new

AM), <https://www.businessinsider.com/woodward-trump-wanted-to-raise-top-tax-bracket-to-44-percent-2018-9> [<https://perma.cc/258B-G869>].

⁷⁰ Gale, *supra* note 10; *see also*, William G. Gale & Aaron Krupkin, *Did the Tax Cuts and Jobs Act Pay for Itself in 2018?*, BROOKINGS (Mar. 15, 2019), <https://www.brookings.edu/articles/did-the-tax-cuts-and-jobs-act-pay-for-itself-in-2018/> [<https://perma.cc/EH32-VUGS>]. The subsequent economic growth after the pandemic did lead to increased federal revenues, but the additional revenue can “be explained either by higher inflation or by a temporary one-time revenue surge that came in 2022,” which had little to do with the TCJA. The removal of the 2022 revenue surge brings actual revenue closer to projections, which means the TCJA’s tax cuts paid for less than one-third of themselves. Committee for a Responsible Federal Budget, *Has TCJA Paid For Itself?*, CRFB (Jan. 22, 2025), <https://www.crfb.org/blogs/has-tcja-paid-itself> [<https://perma.cc/J8NB-FNBY>]. *See generally* Joint Comm. on Tax’n, *Macroeconomic Analysis of the Tax Cut and Jobs Act as Ordered Reported by the Senate Committee on Finance on November 16, 2017*: JCX-61-17 (Nov. 30, 2017), <https://www.jct.gov/publications/2017/jcx-61-17/> [<https://perma.cc/H9VZ-QFZP>].

law thus contain elements that display both the decade-long commitment to tax cuts and the more recent disregard for revenue concerns and the national debt. Since at least the 1970s property tax revolt through the Reagan-era tax reforms, slashing marginal tax rates has been a centerpiece of U.S. tax law and fiscal policy. To be sure, the Reagan Era also brought with it occasional modest tax increases, and more importantly, bipartisan support for revenue-neutral tax reform. But it was the rate cuts that endured. Although there were fleeting moments in the 1990s when the tax-cutting agenda was in retreat, it did not take long before the obsession with tax cuts returned with the George W. Bush administration. Indeed, the early 2000s introduced a rupture in the historical trend. While the tax cuts remained central, concerns about revenue neutrality were dispensed with. Bipartisan cooperation, likewise, was abandoned, as the reconciliation process became the main avenue for purely partisan tax changes—changes that were initially temporary, enacted to comply with budgeting rules. The TCJA and the new law have inherited both of these historical trends: continuity with tax cuts but a new disregard for budget deficits.

II

PRECEDENT AND HISTORICAL ANALOGS

The Trump administration did not create the TCJA and the OBBBA from scratch; rather, Republicans developed these bills through decades of strategic policymaking. Placing these earlier politics in a historical context gives us an understanding of how modern tax politics became so focused on rate cutting, partisan lawmaking, and a disregard for federal revenue and the deficit. The Bush II Administration, with the EGTRRA and JGTRRA, established tax cuts by sidestepping bipartisan compromise with the use of reconciliation, which would continue to be used as an important blueprint for purely partisan politics. Bush and his advisors enacted temporary measures with reconciliation, but those “temporary measures” would prove to be hard for subsequent administrations to eliminate upon expiration. These laws did more than provide tax relief to citizens; they entrenched the idea that large, deficit-financed cuts can be an integral part of modern tax law and fiscal policy.

In this section, we evaluate three precedents and historical analogs. First, we discuss the Bush II tax cuts of 2001 and 2003, from which the Trump administration drew its

theoretical inspiration, if not its substantive details.⁷¹ Then we discuss two other analogs: the Omnibus Budget Reconciliation Acts and the Greenspan Commission to reform Social Security. These analogs contrast key elements of the TCJA and the OBBBA, and we hope they illuminate alternative paths to passing tax and spending legislation.

A. The Bush Tax Cuts of 2001 and 2003

President George W. Bush enacted the EGTRRA and the JGTRRA, providing significant tax reductions.⁷² These two acts offer a historical precedent for understanding the TCJA and the OBBBA. All four acts, passed during periods of Republican control of Washington, represent significant tax reductions driven by “supply-side” economics, and congressional use of reconciliation to bypass bipartisan support.

1. *Historical and Legislative Context*

The Clinton administration left office with the United States experiencing budget surpluses.⁷³ However, when George W. Bush took office in 2001, the United States’ economy began to slow.⁷⁴ Bush employed tax cuts as a stimulus for the economy, aiming to put more money in the hands of Americans to spend rather than accumulate a government surplus.⁷⁵ Bush believed that if Americans received a tax break, they would have more money to spend, save, and invest, which in

⁷¹ When we reference the inspiration from the Bush II tax cuts, we do not mean to suggest that the Trump administration took direct substantive details or that they looked at what happened during the Bush II tax cuts and tried to recreate those bills. Rather, we are suggesting that the large ideas contained in the 2001/2003 tax bills were reinforced with the TCJA and OBBBA. In drawing this connection, we hope to illuminate the consistency of the entrenched ideas discussed, not to suggest that one administration was following the other.

⁷² David Stout, *Bush Signs Tax Cut Bill, Asserting It Will Revive Economy*, N.Y. TIMES (May 28, 2003), <https://www.nytimes.com/2003/05/28/politics/bush-signs-tax-cut-bill-asserting-it-will-revive-economy.html> [https://perma.cc/BR8L-HRHU]; Dana Milbank, *Bush Signs Tax Bill into Law*, WASH. POST (June 7, 2001), <https://www.washingtonpost.com/archive/politics/2001/06/08/bush-signs-tax-bill-into-law/e22dc2b3-5c30-4800-bf83-b2f5126829ee/> [https://perma.cc/2XLR-GG4J]; see also William G. Gale & Peter R. Orszag, *Bush Administration Tax Policy: Introduction and Background*, TAX NOTES (Sep. 13, 2004), <https://taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/1000684-Bush-Administration-Tax-Policy.PDF> [https://perma.cc/4K4C-CSW4].

⁷³ See generally Stout, *supra* note 72.

⁷⁴ See generally Gale & Orszag, *supra* note 72.

⁷⁵ *Id.*

turn would speed the nation's recovery from the bursting of the dot-com bubble and the resulting economic downturn.⁷⁶ President Bush believed that this method would be more effective than other traditional recession measures.⁷⁷ Bush stated: "The surplus is not the government's money," rather, "[t]he surplus is the people's money."⁷⁸ This mindset of President Bush and Congress led to the enactment of the EGTRRA and the JGTRRA.⁷⁹ These acts collectively became known as the "Bush tax cuts."⁸⁰

The 2001 terrorist attacks on September 11th dramatically shifted the U.S. social and political climate. The nation entered a period of war, forcing more federal spending on defense and homeland security to protect the country, and the American people lived in fear and uncertainty.⁸¹ President Bush advocated for additional economic relief through supply-side economics, arguing that it would also stimulate corporate investment and job creation.⁸² Fortunately for the President, the public supported the proposed tax relief due to the prevailing economic anxiety and patriotic unity at the time.⁸³ Critics warned that the tax cuts would not be sustainable in the long run and would more likely jeopardize long-term fiscal stability. Yet despite the warnings from economists, the Bush administration continued to pursue tax cuts.⁸⁴

Congress passed the Bush tax cuts through budget

⁷⁶ Stout, *supra* note 72.

⁷⁷ See Gale & Orszag, *supra* note 72.

⁷⁸ Richard W. Stevenson, *The President's Budget: The Proposal; President Unveils \$1.96 Trillion Plan That Trims Taxes*, N.Y. TIMES (Mar. 1, 2001), <https://www.nytimes.com/2001/03/01/us/president-s-budget-proposal-president-unveils-1.96-trillion-plan-that-trims.html> [https://perma.cc/9YX7-FUD2].

⁷⁹ Gale & Orszag, *supra* note 72.

⁸⁰ Horton, *supra* note 21; Hungerford, *supra* note 57.

⁸¹ Richard Kogan, *Federal Spending, 2001 through 2008*, CTR. ON BUDGET & POLY PRIORITIES (Mar. 6, 2008), <https://www.cbpp.org/sites/default/files/archive/3-5-08bud.pdf> [https://perma.cc/CS4P-K4H9]; Hannah Hartig & Carroll Doherty, *Two Decades Later, the Enduring Legacy of 9/11*, PEW RESEARCH CTR. (Sep. 2, 2021), <https://www.pewresearch.org/politics/2021/09/02/two-decades-later-the-enduring-legacy-of-9-11/> [https://perma.cc/GL7X-KJEE].

⁸² *The Bush Record: President Bush Helped Americans Through Tax Relief*, WHITE HOUSE (archived May 18, 2006), <https://georgewbush-whitehouse.archives.gov/infocus/bushrecord/factsheets/taxrelief.html> [https://perma.cc/J2TK-Z8ZH].

⁸³ Hartig, *supra* note 81.

⁸⁴ Alan J. Auerbach & William G. Gale, *The Case Against Tax Cuts*, BROOKINGS (Mar. 1, 1999), <https://www.brookings.edu/articles/the-case-against-tax-cuts/> [https://perma.cc/QE9H-DG4L].

reconciliation, a powerful legislative tool established by the Congressional Budget Act of 1974.⁸⁵ By bypassing the Senate filibuster, reconciliation expedited the tax and spending legislation through Congress. Reconciliation also permits legislation to pass in the Senate with a simple majority instead of the standard sixty votes.⁸⁶ Using reconciliation to pass the tax cuts, however, meant that the provisions were subject to the Byrd Rule, which prohibits long-term deficit increases outside of a ten-year budget window.⁸⁷ Therefore, under the Byrd Rule, the Bush-era tax cuts could not extend beyond 2010.⁸⁸ The ability to pass legislation with a simple majority and no filibusters fosters the ability of one party to pass significant legislation without political compromise. This ability made reconciliation the legislative tool of choice for both parties, mainly because historically, legislative enactments through reconciliation have been extended past their expiration. Consequently, each party is able to push its own agenda without political negotiation.

2. Provisions and Economic Impacts

The first tax cut, EGTRRA, provided significant changes. It lowered individual marginal tax rates, introduced a new 10% bracket, increased the child tax credit, reduced estate taxes, and even eliminated the levy for only one year.⁸⁹ In 2003, the JGTRRA accelerated the implementation of the 2001 EGTRRA cuts.⁹⁰ It also reduced taxes on dividends and capital gains, increased the maximum dollar amount that may be expensed for small businesses, and expanded deductions for joint filers.⁹¹

As indicated above, proponents of the tax cuts argued that these cuts would encourage investment, consumption, and overall economic growth through “supply-side” economics.⁹²

⁸⁵ Gale & Orszag, *supra* note 72.

⁸⁶ Anita S. Krishnakumar, Note, *Reconciliation and the Fiscal Constitution: The Anatomy of the 1995-96 Budget “Train Wreck,”* 35 HARV. J. ON LEGIS. 589 (1998); Kogan, *supra* note 58.

⁸⁷ *Id.*

⁸⁸ Gale & Orszag, *supra* note 72.

⁸⁹ *Id.*; *How Do the Estate, Gift, and Generation-Skipping Transfer Taxes Work?*, TAX POLY CTR. (Jan. 2024), <https://taxpolicycenter.org/briefing-book/how-do-estate-gift-and-generation-skipping-transfer-taxes-work> [<https://perma.cc/3S8J-TJWS>].

⁹⁰ Gale & Orszag, *supra* note 72.

⁹¹ *Id.*

⁹² Jason Furman, *Treasury Dynamic Scoring Analysis Refutes Claims by*

Critics, however, contended that the tax cuts skewed toward the wealthy, and the middle class would not see much of the benefits.⁹³ Analysis by the Congressional Budget Office and Joint Committee on Taxation found that while all income groups received some benefit, the wealthiest Americans received a disproportionate share.⁹⁴ The top one percent of American households experienced a 6.7% increase in after-tax income, while the middle class saw a 2.8% increase, and the bottom twenty percent of households received only a 1.0% increase.⁹⁵ Furthermore, “the top 1 percent of households received average tax cuts of more than \$50,000 each year,” and a total of \$570,000 over the examined period of 2004 through 2012.⁹⁶

3. Long-term Fiscal Effects

Eventually, the Bush tax cuts became politically entrenched, and Congress’s hand has been forced ever since.⁹⁷ Reporter Richard Rubin observed that the persistence of these cuts long after their scheduled expiration reflects the practical difficulties of reversing tax policy once it has taken root in the economy and political policies.⁹⁸ Despite his initial opposition, President Obama extended the Bush tax cuts to avoid raising taxes during the aftermath of the 2008 financial crisis, when the American public was still struggling with the impacts of a deep recession.⁹⁹ Obama made most of the cuts permanent for

Supporters of the Tax Cuts, CTR. ON BUDGET & POLY PRIORITIES (Aug. 24, 2006), <https://www.cbpp.org/research/treasury-dynamic-scoring-analysis-refutes-claims-by-supporters-of-the-tax-cuts> [https://perma.cc/4QK9-WUBE]; John M. Berry, *Greenspan Supports a Tax Cut*, WASH. POST (Jan. 25, 2001), <https://www.washingtonpost.com/archive/politics/2001/01/26/greenspan-supports-a-tax-cut/72f4925a-96d5-4120-8e0a-264a3d1d7476/> [https://perma.cc/VK39-53D7]; *Fact Sheet: Tax Relief*, in *The Bush Record: Factsheets*, WHITE HOUSE (archived May 18, 2006), <https://georgewbush-whitehouse.archives.gov/infocus/bushrecord/factsheets/taxrelief.html> [https://perma.cc/V9BH-98VG].

⁹³ Horton, *supra* note 21.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ Richard Rubin, *Bush Tax Cuts Persist 14 Years Later, Bedeviling Obama’s Plans*, BLOOMBERG (Jan. 28, 2015, 3:09 PM), <https://www.bloomberg.com/news/articles/2015-01-28/bush-tax-cuts-persist-14-years-later-bedeviling-obama-s-plans> [https://perma.cc/VML7-NEZF].

⁹⁸ *Id.*

⁹⁹ Scott Horsley, *Amid Deficit, A Look Back At Bush’s Surplus, Tax Cuts*, NPR (June 7, 2011, 12:01 AM), <https://www.npr.org/2011/06/07/137009472/ten-years-of-bush-tax-cuts> [https://perma.cc/5B6Q-ZZCT]; Rubin, *supra* note 97.

the middle class in the *American Taxpayer Relief Act of 2012*, which solidified the long-term political and economic legacy of the Bush tax cuts.¹⁰⁰ The Bush tax cuts, combined with the increased federal spending, significantly contributed to rising deficits.¹⁰¹ The pros and cons of the Bush tax cuts remain in discussion, particularly when considering the structure and impact of the TCJA and the OBBBA.¹⁰²

4. TCJA Takeaway

President Trump continued the Republican trend reflected in the Bush Era. Lower corporate and individual tax rates, streamlined deductions, and a focus on supply-side incentives characterized the TCJA.¹⁰³ Similar to the Bush tax cuts, the TCJA largely preserved the overall framework of the tax code, although it came closest to fundamentally altering the code with Section 199A, which provides a 20% deduction for certain pass-through business tax entities.

¹⁰⁰ Chye-Ching Huang, *Budget Deal Makes Permanent 82 Percent of President Bush's Tax Cuts*, CTR. ON BUDGET & POL'Y PRIORITIES (Jan. 3, 2013), <https://www.cbpp.org/research/budget-deal-makes-permanent-82-percent-of-president-bushs-tax-cuts> [<https://perma.cc/9SDL-VDKW>]; Scott Greenberg, *Looking Back at the Bush Tax Cuts, Fifteen Years Later*, TAX FOUND. BLOG (June 7, 2016), <https://taxfoundation.org/blog/looking-back-bush-tax-cuts-fifteen-years-later/> [<https://perma.cc/73RA-RWKV>]; CONG. RSCH. SERV., THE "FISCAL CLIFF" AND THE AMERICAN TAXPAYER RELIEF ACT OF 2012 (Jan. 4, 2013), <https://www.congress.gov/crs-product/R42884> [<https://perma.cc/MPY3-3ABL>].

¹⁰¹ David Kamin and Isaac Shapiro, *Studies Shed New Light On Effects Of Administration's Tax Cuts*, CTR. ON BUDGET & POL'Y PRIORITIES (Sep. 13, 2004), <https://www.cbpp.org/research/studies-shed-new-light-on-effects-of-administrations-tax-cuts>.

¹⁰² With the benefit of observing political developments over the past decade in the United States, the throughline between the Bush, Obama, and Trump eras of tax policy is that "neither party has actively sought to reverse much of the enacted tax cuts." David Kamin, *Tax Reform After the One Big Beautiful Bill Act*, 189 TAX NOTES FED. 937, 939 (2025) (discussing the fiscal trajectory and regressive financing of the Trump-era tax legislation).

¹⁰³ Damian Paletta, *As Tax Plan Gained Steam, GOP Lost Focus on the Middle Class*, WASH. POST (Dec. 9, 2017), https://www.washingtonpost.com/business/economy/as-tax-plan-gained-steam-gop-lost-focus-on-the-middle-class/2017/12/09/27ed2d76-db69-11e7-b1a8-62589434a581_story.html [<https://perma.cc/B596-R4RN>]; Julie Hirschfeld Davis & Alan Rappeport, *Trump Proposes the Most Sweeping Tax Overhaul in Decades*, N.Y. TIMES (Sep. 27, 2017), <https://www.nytimes.com/2017/09/27/us/politics/trump-tax-cut-plan-middle-class-deficit.html> [<https://perma.cc/QG4T-7PSF>]; Neil Irwin & Alan Rappeport, *Donald Trump Adopts G.O.P. Tax Cuts, but Balks at Trade Pacts*, N.Y. TIMES (Aug. 8, 2016), <https://www.nytimes.com/2016/08/09/us/politics/donald-trump-economy-speech.html> [<https://perma.cc/FJU9-T5BB>].

Like the Bush cuts, the TCJA was passed through budget reconciliation.¹⁰⁴ The sunset provisions of the TCJA were designed for later political leverage, which was evident in the deliberations over the OBBBA. The TCJA made the corporate tax cut permanent, while subjecting the individual income tax cuts, temporary provisions, to the Byrd Rule.¹⁰⁵ The political calculation behind that choice compels future Congresses to extend the tax relief, as it is politically risky to raise taxes on the middle class but not on ultra-wealthy corporations. This choice creates a de facto permanent cut, as seen with the continuation of the Bush-era tax cuts by President Obama's extensions. The temporality creates a political and fiscal dilemma around tax cliffs, causing future lawmakers to act under political pressure to keep tax rates low.

The focus of both the Obama extensions and the TCJA was tax relief for middle-class households. President Obama extended lower individual rates for most Americans below a high-income threshold,¹⁰⁶ and the TCJA lowered rates across the board; however, the Trump administration focused on the significant benefits provided to middle-income earners.¹⁰⁷ After the passage of the TCJA, White House Press Secretary, Sarah Sanders, stated the "President's priorities have remained the same throughout this process: delivering tax cuts for middle income families, a simplified tax code, and lower rates for American businesses so they can grow, create jobs, raise wages for their workers, and dominate their global competition."¹⁰⁸

¹⁰⁴ *How Did the TCJA Affect the Federal Budget Outlook?*, TAX POL'Y CTR. (2025), <https://taxpolicycenter.org/briefing-book/how-did-tcja-affect-federal-budget-outlook#:~:text=The%20Tax%20Cuts%20and%20Jobs,before%20and%20shortly%20after%20enactment> [<https://perma.cc/LV2S-X2JU>].

¹⁰⁵ Heather Long, *The House Just Passed Its Big Tax Bill. Here's What Is in It.*, WASH. POST (Nov. 16, 2017), <https://www.washingtonpost.com/news/wonk/wp/2017/11/16/the-house-is-voting-on-its-tax-bill-thursday-heres-what-is-in-it/> [<https://perma.cc/H2Z5-YGWD>].

¹⁰⁶ See Steve Wamhoff & Matthew Gardner, *Federal Tax Cuts in the Bush, Obama, and Trump Years*, INST. ON TAX'N & ECON. POL'Y, Figure 2 (July 11, 2018), <https://itep.org/federal-tax-cuts-in-the-bush-obama-and-trump-years> [<https://perma.cc/PJD9-SQTY>].

¹⁰⁷ *Statement by the Press Secretary on the Passage of Tax Cut Legislation Through the House Ways and Means Committee*, WHITE HOUSE (Nov. 9, 2017), <https://trumpwhitehouse.archives.gov/briefings-statements/statement-press-secretary-passage-tax-cut-legislation-house-ways-means-committee/> [<https://perma.cc/MZ7V-57LU>].

¹⁰⁸ *Id.*; David Smith, *Sarah Sanders: True Trump Believer Steadies Ship After Spicer's Hapless Reign*, GUARDIAN (Oct. 30, 2017, 1:00 AM), <https://www.theguardian.com/us-news/2017/oct/30/sarah-huckabee->

The goal appeared to be emphasizing concern for the average American.¹⁰⁹ Selling the provision to the public as benefiting the average household, especially after a recession, forced Congress to pass the act because it appeared beneficial to the average person.¹¹⁰

The decision to market the tax cuts in this manner was a strategic choice. In fact, referring to the TCJA, House Ways and Means Chairman, Kevin Brady, said, “Today marks the beginning of the end of our nation’s broken tax code. The *Tax Cuts and Jobs Act* will deliver real tax relief to Americans across the country – especially low- and middle-income Americans who have been struggling for far too long to earn a raise and get ahead.”¹¹¹ Brady’s deliberate phrasing makes it difficult for lawmakers to vote against the bill.

Interestingly, although the Bush tax cuts passed through reconciliation, the Obama-era extensions passed through regular order.¹¹² Obama’s extensions passed through the normal legislative process with bipartisan votes, while the TCJA had to go through reconciliation to pass, and it passed exclusively along partisan lines.¹¹³ The TCJA also differs from

sanders-press-secretary-sean-spicer [https://perma.cc/QKY4-JFBR].

¹⁰⁹ Jenna Johnson, *Here Are 76 of Donald Trump’s Many Campaign Promises*, WASH. POST (Jan. 22, 2016), <https://www.washingtonpost.com/news/post-politics/wp/2016/01/22/here-are-76-of-donald-trumps-many-campaign-promises/> [https://perma.cc/2TLJ-Z6WW]; *First 100 days: Where President Trump Stands on Key Issues*, BBC NEWS (July 6, 2017), <https://www.bbc.com/news/election-us-2016-37468751> [https://perma.cc/ZYQ2-SEAZ].

¹¹⁰ Julia Kagan, *American Taxpayer Relief Act of 2012*, INVESTOPEDIA (Nov. 16, 2020), <https://www.investopedia.com/terms/a/american-taxpayer-relief-act-2012.asp> [https://perma.cc/5D6Y-Z8XY].

¹¹¹ Chairman Kevin Brady, *Statement: Chairman Brady Introduces the Tax Cut and Jobs Act*, HOUSE COMM. ON WAYS & MEANS, (Nov. 2, 2017), <https://waysandmeans.house.gov/2017/11/02/chairman-brady-introduces-tax-cuts-jobs-act/> [https://perma.cc/N2JK-LKTR].

¹¹² It is important to note that the Obama-era extensions are not related to the Affordable Care Act (Obamacare), which did pass through reconciliation. In this part, we are just referring to the American Taxpayer Relief Act, which made most of the Bush II tax cuts permanent.

¹¹³ See Clerk of the U.S. House of Representatives, *Roll Call 659 | Bill Number: H. R. 8* (Jan. 1, 2013), <https://clerk.house.gov/Votes/2012659?BillNum=H.R.8> [https://perma.cc/BWH9-A35L] (the *American Taxpayer Relief Act* passed the House with 257 votes: 85 from Republicans and 172 from Democrats); U.S. Senate, *Roll Call Vote 112th Congress - 2nd Session*, (Jan. 1, 2013), https://www.senate.gov/legislative/LIS/roll_call_votes/vote1122/vote_112_2_0_0251.htm [https://perma.cc/W9WN-KCYD] (the *American Taxpayer Relief Act* passed the Senate with 89 votes from both parties and required “3/5” majority, which means it did not pass through reconciliation); Clerk of the U.S. House of Representatives, *Roll Call 699 | Bill Number: H. R. 1*, (Dec. 20, 2017),

Obama's extensions because President Obama merely extended the existing Bush tax cuts with minor adjustments. In contrast, the TCJA introduced new provisions to achieve the Republicans' tax goals, including a significant reduction in the corporate tax rate.¹¹⁴

Nonetheless, Obama's extensions mostly continued the tax-cutting policies and set the stage for the TCJA. The extensions provided a bridge from President Bush's policies to those of President Trump. Both the Bush and Trump administrations promised long-term economic growth but delivered only modest gains, while substantially ballooning the national debt.¹¹⁵ At the end of the Clinton administration in 2001, the U.S. was on track to accumulate \$2.3 trillion in savings by 2011; however, the national debt increased to \$10.4 trillion by 2011, resulting in a \$12.7 trillion change from the prediction.¹¹⁶ The Obama administration contributed \$7.7 trillion to the national debt during its two terms,¹¹⁷ and the Trump administration contributed \$7.8 trillion to the national debt during its first term.¹¹⁸ Thus, the mounting deficit has been a result of the policies of both political parties.

B. Omnibus Budget Reconciliation Acts

The Omnibus Budget Reconciliation Acts (OBRAs) were a

<https://clerk.house.gov/Votes/2017699> [<https://perma.cc/2JSM-SWLC>] (the TCJA passed in the House with 224 votes from Republicans and 0 votes from the Democratic Party); U.S. Senate, *Roll Call Vote 115th Congress - 1st Session*, (Dec. 2, 2017),

https://www.senate.gov/legislative/LIS/roll_call_votes/vote1151/vote_115_1_0303.htm#position [<https://perma.cc/QZZ5-78WE>] (the TCJA passed the Senate with 51 votes from Republicans and only required "1/2" majority).

¹¹⁴ Johnson, *supra* note 109; BBC, *supra* note 109; Long, *supra* note 105.

¹¹⁵ Gale, *supra* 10, at 9, 25.

¹¹⁶ *Infographic: U.S. National Debt*, WHITE HOUSE (July 26, 2011), <https://obamawhitehouse.archives.gov/infographics/us-national-debt> [<https://perma.cc/DWR5-UT57>].

¹¹⁷ See Committee for a Responsible Federal Budget (CRFB), *Has President Obama Doubled the National Debt?*, CRFB (July 25, 2016), <https://www.crfb.org/blogs/has-president-obama-doubled-national-debt> [<https://perma.cc/XR8Z-3BA6>] (using the "more economically meaningful figure of debt held by the public" \$6.3 trillion doubled to \$14 trillion). Also note, the 2001/2003 tax cuts were extended by Obama, which contributed to the worsening debt situation. *Id.*

¹¹⁸ President Trump's contributions to the national debt are skewed a bit because of the COVID-19 global pandemic and recession, which were unanticipated. Committee for a Responsible Federal Budget (CRFB), *How Much Did President Trump Add to the Debt?* (Jan. 10, 2024), <https://www.crfb.org/blogs/how-much-did-president-trump-add-debt> [<https://perma.cc/YDW2-TYQV>].

series of federal laws enacted in 1981, 1990, and 1993 to address growing concerns about budget deficits. The OBRAs in 1990 and 1993 were the last significant tax increases in recent American history. They stand in sharp contrast to the TCJA. Presidents George H.W. Bush and Bill Clinton focused on raising revenue, restoring market confidence, and increasing the government's fiscal credibility.

1. *Historical and Legislative Context*

By utilizing OBRAs, policymakers could consolidate multiple fiscal changes into a single legislative package.¹¹⁹ Passing legislation through reconciliation gained prominence in the 1980s and 1990s as a method of addressing growing deficits and other budgetary concerns.¹²⁰ Policymakers grappled with rising federal deficits, shifts in economic ideology, and increasing pressure to control government spending.

Starting in the 1970s and continuing through the early 1980s, the United States faced a period of stagflation, an unusual combination of stagnant economic growth and high inflation.¹²¹ President Reagan, elected in 1980 in hopes of reversing the economic malaise of the late 1970s, promoted tax cuts, deregulation, and reduced government spending.¹²² The 1981 OBRA cut social spending in an effort to decrease the deficit, but it also implemented major tax cuts.¹²³

The 1990 OBRA was politically controversial because, under President George H. W. Bush, it included tax increases that contradicted his campaign pledge not to raise taxes.¹²⁴ The

¹¹⁹ Krishnakumar, *supra* note 86, at 600–02; Kogan & Reich, *supra* note 58.

¹²⁰ *Id.*

¹²¹ Stagflation is “persistent inflation combined with stagnant consumer demand and relatively high unemployment.” *Stagflation*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/stagflation> [<https://perma.cc/FR9W-UMH4>] (last visited Nov. 4, 2025).

¹²² Ronald Reagan, *Address to the Nation on the Economy* (Feb. 5, 1981), REAGAN PRESIDENTIAL LIBR. AND MUSEUM, <https://www.reaganlibrary.gov/archives/speech/address-nation-economy-february-1981> [<https://perma.cc/CG2X-T695>].

¹²³ See generally Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35 (detailing the provisions of the OBRA of 1981).

¹²⁴ President Bush repeatedly stated in his 1988 campaign, “read my lips, no new taxes.” *Remember, Remember, the Omnibus Budget Reconciliation Act of 1990*, COM. FOR A RESPONSIBLE FED. BUDGET (Nov. 6, 2013), <https://www.crfb.org/blogs/remember-remember-omnibus-budget-reconciliation-act-1990> [<https://perma.cc/J2CG-A2EU>]; See generally Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508 (detailing the provisions of the OBRA of 1990); Gleckman, *supra* note 47.

1993 OBRA, which passed without a single Republican vote, raised the top marginal rate and cut government spending, with the goal of controlling the national deficit.¹²⁵ Although it was politically risky, the tax increases together with a booming economy, contributed to the budget surpluses of the late 1990s, suggesting that it was a strong economic policy.¹²⁶

2. TCJA Takeaway

The passage of the TCJA echoed the reconciliation-driven model. Like its historical analogs, the TCJA and the OBBBA both used the budget process to circumvent unified political opposition in Congress, reflecting the increasing reliance on reconciliation for partisan fiscal legislation, particularly in the early days of a new administration.¹²⁷ This shift marks a departure from the early use of OBRAs, which, although partisan at times, still operated within a framework of broader fiscal compromise aimed at reducing the deficit. In contrast, the TCJA prioritized economic stimulus through tax relief, with less concern for resulting revenue losses.

In contrast to the OBRAs, the TCJA significantly increased the federal deficit. The Congressional Budget Office estimated that the TCJA would add approximately \$1.5 trillion to the national debt over a decade.¹²⁸ Also different from OBRAs, the TCJA was passed during a time of relative economic stability. Many supporters of the TCJA argued that the revenue losses

¹²⁵ See generally Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66 (detailing the provisions of the OBRA of 1993); Clerk of the U.S. House of Representatives, *Roll Call 406 | Bill Number: H. R. 2264*, (Aug. 5, 1993), <https://clerk.house.gov/Votes/1993406> [<https://perma.cc/XA6N-4R5U>]; Senate, *Roll Call Vote 103rd Congress - 1st Session*, (June 25, 1993), https://www.senate.gov/legislative/LIS/roll_call_votes/vote1031/vote_103_1_00190.htm [<https://perma.cc/T5J6-KZFK>].

¹²⁶ The amount taxes should have been raised is debated with President Clinton expressing a bit of doubt about how much he raised them. See Charles Kadlec, *The Dangerous Myth About the Bill Clinton Tax Increase*, FORBES (July 16, 2012), <https://www.forbes.com/sites/charleskadlec/2012/07/16/the-dangerous-myth-about-the-bill-clinton-tax-increase/> [<https://perma.cc/GW26-9TKG>].

¹²⁷ U.S. Senate, *Party Division*, <https://www.senate.gov/history/partydiv.htm> [<https://perma.cc/8HE5-JRG9>]; Damian Paletta, *As Tax Plan Gained Steam, GOP Lost Focus on the Middle Class*, WASH. POST (Dec. 9, 2017), https://www.washingtonpost.com/business/economy/as-tax-plan-gained-steam-gop-lost-focus-on-the-middle-class/2017/12/09/27ed2d76-db69-11e7-b1a8-62589434a581_story.html [<https://perma.cc/VN2D-HNLQ>].

¹²⁸ *How Did the TCJA Affect the Federal Budget Outlook?*, TAX POL'Y CTR. (Jan. 2024), <https://taxpolicycenter.org/briefing-book/how-did-tcja-affect-federal-budget-outlook> [<https://perma.cc/R43C-TE8P>].

2026]

THE BEGINNINGS

29

from the tax cuts would be offset by subsequent economic growth; however, the TCJA lacked any credible offset mechanism.¹²⁹ Independent analysts, such as the Joint Committee on Taxation, warned that the economic growth would only be expected to offset “between 7% and 31%” of the revenue lost from the tax cut.¹³⁰ The disregard for the deficit highlights a larger focus on economic policy that is driven solely by partisan political interests. Policies are being designed for reelection instead of economic stability.

OBRAs utilized tax increases to stabilize markets and reduce the national debt. The TCJA ignored market pressure, betting on continued economic growth to offset the deficit-financed tax relief. Ultimately, the TCJA failed to decrease the national debt, despite President Trump’s statement that he is “the king of debt” and that he would not allow the United States to go “deeper into the red.”¹³¹

C. The 1981 Greenspan Commission on Social Security

The Greenspan Commission offers a very different type of precedent. It involved bipartisan negotiation and an attempt at long-term reform. This process differs significantly from the legislative maneuvering of reconciliation, which, as of recently, often bypasses political negotiation between the parties. The Greenspan Commission offers insight into how to achieve durable reform and the political necessities to sustain it. More importantly, it highlights how bipartisan agreement on social spending can be achieved, a point that the government will eventually have to revisit.

1. *Historical and Legislative Context*

Social Security in the 1980s faced a serious short-term financing shortfall, as projections indicated that the trust fund would be depleted by mid-1983.¹³² In response, President Reagan and Congress established the National Commission on Social Security Reform in 1981, composed of eight Republicans

¹²⁹ Gale, et al., *supra* note 10, at 8.

¹³⁰ *Id.* at 11–12.

¹³¹ Allan Sloan & Cezary Podkul, *Donald Trump Built a National Debt So Big (Even Before the Pandemic) That It’ll Weigh Down the Economy for Years*, PROPUBLICA (Jan. 14, 2021, 5:00 AM), <https://www.propublica.org/article/national-debt-trump> [<https://perma.cc/2MAF-PG6J>].

¹³² See *Report of the National Commission on Social Security Reform*, 46 SOC. SEC. BULL. 3 (1983), <https://www.ssa.gov/policy/docs/ssb/v46n2/v46n2p3.pdf> [<https://perma.cc/4Q37-3G9B>].

and seven Democrats.¹³³ The Commission met nine times, but did not hold public hearings due to the time constraint and the urgency of its task.¹³⁴

President Reagan had just taken office in January of 1981, and his administration embodied a strong pro-market ideology that emphasized tax cuts, reduced government spending, and deregulation.¹³⁵ Therefore, increasing taxes ran counter to the administration's economic policies and was not an option. Democrats controlled the House of Representatives, and Republicans controlled the Senate.¹³⁶ Neither party wanted to take responsibility for politically controversial policies such as entitlement reform. Democratic House Speaker, Tip O'Neill, went so far as to refer to Social Security reform as "the third rail of American politics," suggesting that any politician who touched it risked ending their political career.¹³⁷ Reagan worked closely with O'Neill and others to create a bipartisan commission to allow both parties to share responsibility for the politically painful decisions¹³⁸

In addition to the political struggles, there were also social and economic challenges. The United States was in a recession in the early 1980s. Social Security taxes worsened unemployment; the "Congressional Budget Office projected that the Social Security tax increase[] . . . reduced employment by 500,000 jobs."¹³⁹ The recession affected payroll tax revenues, exacerbating the Social Security crisis even further.¹⁴⁰ Projections showed that people would live longer, which increased the long-term liabilities of Social Security.¹⁴¹ With the depletion of the Social Security fund looming in the near future, public confidence in Social Security waned.¹⁴² Many people feared that a system they paid into might not be

¹³³ *Id.* at 3.

¹³⁴ *Id.*

¹³⁵ Reagan, *supra* note 122.

¹³⁶ *97th Congress (1981–1983)*, THE CONG. PROJECT, <https://www.thecongressproject.com/97th-congress> [https://perma.cc/UMS3-CNTV] (last visited Nov. 16, 2025).

¹³⁷ Rick Shenkman, *When Did Social Security Become the Third Rail of American Politics?*, HIST. NEWS NETWORK (Mar. 6, 2005), <https://www.historynewsnetwork.org/article/when-did-social-security-become-the-third-rail-of-> [https://perma.cc/9ZE9-4NWC].

¹³⁸ Social Security Bulletin, *supra* note 132.

¹³⁹ *Id.* at 24.

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 23.

¹⁴² *Id.*

there for them when they retired, fueling the urgency for reform. Reagan tasked the Commission with evaluating the system's financial condition and proposing reforms to restore solvency. Its creation reflected bipartisan recognition of the program's centrality to American economic security.¹⁴³

2. Provisions and Economic Impacts

The Greenspan Commission's 1983 report led to major bipartisan reforms to the Social Security system. It worked primarily through behind-the-scenes negotiations.¹⁴⁴ The Greenspan Commission issued a report analyzing the issues with the system and provided recommendations. It recommended a phased increase in the full retirement age from 65 to 67, the inclusion of federal employees in the Social Security system, and implementing gradual increases in payroll taxes.¹⁴⁵ The Commission's report "became the basis for the 1983 Social Security Amendments."¹⁴⁶

3. Long-term Fiscal Effects and the TCJA

The Greenspan Commission serves as a model for bipartisan problem-solving by combining technical expertise with political compromise to achieve a durable reform package.¹⁴⁷ The Commission emphasized shared sacrifice, so both parties were invested in the outcome of the recommendations of the Greenspan Commission, which helped boost the long-term function and viability of the Social Security fund.¹⁴⁸ Today, the United States continues to face challenges related to the depletion of the Social Security fund as well as other entitlement spending.¹⁴⁹

The TCJA and the OBBBA starkly contrast with the

¹⁴³ *Id.*

¹⁴⁴ *See generally* CONG. RSCH. SERV., SOCIAL SECURITY AMENDMENTS OF 1983, P. L. NO. 98-21 (detailing the provisions of Social Security Amendments of 1983).

¹⁴⁵ *Id.*; *See* SOC. SEC. ADMIN., GREENSPAN COMMISSION, HISTORY U.S. SOCIAL SECURITY ADMINISTRATION, <http://www.ssa.gov/history/reports/gspan8.html> [<https://perma.cc/M2PA-KYR7>].

¹⁴⁶ NAT'L COMM'N ON SOCIAL SECURITY REFORM, REPORT OF THE NATIONAL COMMISSION ON SOCIAL SECURITY REFORM (Jan. 1983), <https://www.ssa.gov/history/reports/gspan.html> [<https://perma.cc/8A8U-B6XJ>].

¹⁴⁷ Social Security Bulletin, *supra* note 132, at 3-14.

¹⁴⁸ *Id.* at 16.

¹⁴⁹ *See generally* COMM. FOR A RESPONSIBLE FED. BUDGET, ANALYSIS OF THE 2025 SOCIAL SECURITY TRUSTEES' REPORT (June 18, 2025), <https://www.crfb.org/papers/analysis-2025-social-security-trustees-report> [<https://perma.cc/Z7HQ-ZQHV>].

Greenspan Commission's reforms. Unlike the Greenspan Commission's bipartisan approach, modern entitlement reform efforts have often lacked cross-party consensus.¹⁵⁰ Additionally, the TCJA emphasized short-term growth via tax reductions without addressing long-term entitlement programs. But then, the OBBBA passed with provisions that aim to cut social spending, such as restrictions on Medicaid and cuts to SNAP.¹⁵¹ Similar to the Greenspan Commission moving quickly due to the immediate insolvency, the TCJA moved through Congress quickly; however, it differs from the Greenspan Commission because it involved less bipartisan consultation and ultimately, no Democratic votes.¹⁵² The OBBBA also moved through Congress very quickly, and not much is known about the legislative process that led to the passing of the bill. The TCJA and the OBBBA remain politically divisive, which may not have been the case if bipartisan support had been prioritized.

The contrast between the Greenspan Commission and the TCJA and the OBBBA shows that a rushed, one-party approach lacks the legitimacy and durability of broader consensus models, regardless of any short-term partisan success. The modern approach lacks fiscal sustainability and could have harsh impacts on vulnerable populations because the changes in social policy are not gradual, like they were under the Greenspan Commission. Additionally, the Greenspan Commission fostered greater public confidence and trust because leaders of both political parties worked together to come up with a solution. Lawmakers will likely need to return to a bipartisan approach eventually to maintain some level of political stability in the United States; otherwise, distrust in the government may continue to rise. Furthermore, the TCJA and the OBBBA could have benefited from a bipartisan commission to help compile balanced reforms that would be more distributive and stabilize the budget.

The Greenspan Commission emphasized solvency and long-term sustainability, goals that are rarely emphasized in recent tax legislation. By contrast, the TCJA and the OBBBA passed a short-term stimulus effort through tax cuts, with no

¹⁵⁰ *Supra* Part II.A.iv.

¹⁵¹ Brandon Drenon & Nadine Yousif, *What Are the Key Items in Trump's Sprawling Budget Bill?*, BBC (July 4, 2025), <https://www.bbc.com/news/articles/c0eqpz2319jo> [https://perma.cc/3WJL-ZR2Y].

¹⁵² *Supra* Part II.A.iv.

effective offset mechanisms. The Greenspan Commission's model of shared responsibility and gradual adjustments offers a powerful counterpoint to the more recent model of rapid legislation with deficit-financed tax cuts.

CONCLUSION

Perhaps the most important takeaway from our Essay is that the TCJA and the OBBBA have roots far beyond the 2010s. The acts stem from the tax-cutting obsession that started with the property tax revolts in the 1970s. The Republican Party seized the political capital gained by lowering taxes, and they have typically maintained that policy stance. Indeed, despite occasional opposition, even Democratic lawmakers have been unable to break from this policy. There have been brief periods of tax increases, most notably during the George H.W. Bush and Clinton administrations, but these periods were fleeting gestures at fiscal responsibility. The Bush tax increase and his failed reelection, in fact, further solidified the GOP resistance to tax hikes. The TCJA and the OBBBA are the heirs to the political and economic ideology that prioritizes tax cuts.

Furthermore, the TCJA and the OBBBA echo the tone set by the Bush II tax cuts. Those earlier laws illustrate how reconciliation can be leveraged to enact large tax cuts on a partisan basis, and that is what the recent acts have done. However, the two most recent acts differ from the Bush II tax cuts in one significant way: they disregard the federal deficit. From the Bush II tax cuts to the TCJA and the OBBBA, tax law and fiscal policies have evolved from temporary, partly offsetting measures to enduring, deficit-financed reductions with minimal concern for long-term budgetary impacts. The Bush II tax cuts were enacted during a period of relative economic stability and budget surpluses. By contrast, the TCJA and the OBBBA appear to have little regard for broader economic conditions. While recent increases in tariff revenues have provided needed federal revenue, the Trump administration continues to prioritize income tax cuts, even at the expense of revenue stability and increasing the national deficit.

Our historical analysis shows that there are also earlier acts that demonstrate a contrast with the two most recent laws. For example, the 1990s OBRAs show that the TCJA and the OBBBA have deviated from the historical use of the reconciliation process. And in even sharper contrast, the

Greenspan Commission used bipartisan negotiation to create long-term plans for the solvency of Social Security. The OBBBA has created barriers to social programming, but it did so through the reconciliation process, which could have a negative impact on vulnerable populations and increase the national deficit.

The TCJA and the OBBBA mark both a continuation of longstanding tax-cutting trends and a rupture, leading potentially to a new political era, defined by partisan tax policymaking and fiscal neglect. It is unclear how the OBBBA will affect the political atmosphere, but history has shown that it is possible to have bipartisan, revenue-conscious policies and enactments. Policymakers just have to choose to prioritize fiscal sustainability over immediate political rewards.