IMPOVERISHMENT BY TAXATION

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Viewed in the aggregate, the U.S. fiscal system is progressive, reduces inequality, and cuts poverty. The system improves on market outcomes by transferring income from rich to poor. Yet this bird's eye view rings hollow on the ground, where millions of taxpayers across the United States are made poor or poorer by paying their state and federal taxes. In truth, while the U.S. fiscal system may be broadly equalizing and poverty reducing, for many struggling households, it is impoverishing.

This Article offers a new way to measure taxation of low-income households in the United States, presenting a concept called fiscal impoverishment. Taxpayers are fiscally impoverished when they are made poor or poorer by paying state and federal taxes, after accounting for certain antipoverty public benefits they are likely to receive. Distinct from the aggregate and anonymous measures by which we typically assess our tax and transfer system, fiscal impoverishment is dynamic and individualized. It highlights individual human dignity and implicates the economic responsibilities of the state vis-à-vis low-income taxpayers.

In addition to introducing the concept, the Article illustrates how fiscal impoverishment occurs throughout the United States and recommends adopting impoverishment analysis to guide tax reform at all levels of government. Using stylized households, it presents possible net tax burdens at various income levels across all fifty states. In combination with U.S. Treasury and Census data, this work reveals that fiscal impoverishment is significant—affecting millions of households—and highly variable—based on a patchwork of federal and state tax and transfer programs. Patterns of impoverishment track familiar safety-net fault lines based on family structure, employment, immigration status, and geographic location. The Article finishes with specific reforms and a framework for rethinking taxation of poor households.

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INTRODUCTION

The U.S. fiscal system is broadly progressive and reduces poverty and inequality.[1] These well-accepted goals of progressivity, inequality reduction, and poverty alleviation tell a certain story: The tax and transfer system improves on market outcomes by redistributing resources from rich to poor. The addition of state and local taxes complicates the narrative a bit,[2] but a general trend of progressivism and poverty alleviation remains essentially true.[3]

And yet, this story rings hollow to the millions of low-income people across the United States who contribute to public coffers despite being unable to satisfy their own basic needs.[4] These households might pay sales taxes, payroll taxes, and perhaps even state or federal income taxes while receiving little cash support to offset the levies.[5] The result is that these households are left poor or poorer after taxes and transfers. Thus, while the U.S. fiscal system may be equalizing and poverty reducing for the population as a whole, for many individual low-income households, it is impoverishing.

Scholarship on taxation and poverty in the United States is niche but robust.[6] Researchers note, in particular, the heavy and regressive burdens that

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[1] Cong. Budget Off., The Distribution of Household Income, 2016 at 9 (2019), https://www.cbo.gov/system/files/2019-07/55413-CBO-distribution-of-household-income-2016.pdf [https://perma.cc/2PFP-WY93] (showing broadly progressive taxes); id. at 3 (showing a reduction in income inequality after taxes and transfers); Max Roser & Esteban Ortiz-Ospina, Income Inequality, OurWorldInData (Oct. 2016) https://ourworldindata.org/income-inequality [https://perma.cc/DZV2-8JZY] (presenting data on income inequality before and after redistribution); Income Distribution and Poverty, OECD.Stat, https://stats.oecd.org/index.aspx?queryid=66598 [https://perma.cc/manage/create?folder=4078] (selecting United States from drop-down menu, showing a 2016 pre-tax and transfer poverty rate of 27% and post-tax and transfer poverty rate of 18%).

[2] See Chye-Ching Huang & Nathaniel Frentz, Center on Budget & Pol'y Priorities, What Do OECD Data Really Show About U.S. Taxes and Reducing Inequality? 8 (2014), https://www.cbpp.org/sites/default/files/atoms/files/5-12-14tax.pdf [https://perma.cc/DTJ8-YUUC] (explaining that inclusion of data on regressive state sales taxes reduces the progressivity of state and federal income tax systems).

[3] Frank Sammartino & Norton Francis, Tax Pol'y Center: Urb. Inst. & Brookings Inst., Federal-State Income Tax Progressivity 1 (2016), https://www.urban.org/sites/default/files/publication/82051/2000847-federal-state-income-tax-progressivity_0.pdf [https://perma.cc/A3TX-YTAN] (finding that federal and state income tax systems are broadly progressive).

[4] See infra Part III.B for a description of these households and an estimate of the scope of impoverishment in the United States.

[5] Part III.A, infra, describes the specific taxes and benefits programs that most affect low-income households.

[6] See infra Part I.B for a survey of this work. Perhaps the best-known examples focus on the Earned Income Tax Credit (EITC). See, e.g., Anne Alstott, The Earned Income Tax

federal payroll taxes and state and local sales taxes impose.[7] Despite this important work, and in contrast to the well-accepted criteria noted above, there is not a systematic measure of taxation of low-income households that succinctly captures the hardship caused by such costs.

This Article proposes such a measure, and in doing so makes three contributions to the literature on redistribution, fiscal policy, and the U.S. social safety net. First, it offers a formalized measure of taxation of low-income households, presenting a concept called "fiscal impoverishment."[8] The word "fiscal" here is used in the public-finance sense—as in "fiscal policy"—rather than the broader meaning that encompasses all things financial.[9] Fiscal impoverishment means that certain individuals are pushed into poverty or further into poverty by paying taxes, even after accounting for certain antipoverty public benefits they are likely to receive.[10] In other words,

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Credit and the Limitations of Tax-Based Welfare Reform, 108 Harv. L. Rev. 533, 534-35 (1995) (arguing that debates about the EITC overemphasize work effects while overlooking constraints of tax-based program administration); Lawrence Zelenak, Tax or Welfare - the Administration of the Earned Income Tax Credit, 52 UCLA L. Rev. 1867, 1873 (2005)(comparing EITC enforcement with that of welfare); Michelle Lyon Drumbl, Tax Credits for the Working Poor: A Call for Reform 3-4 (2019)(offering an account of the history of the EITC and suggestions for its design).

[7] See Katherine S. Newman & Rourke L. O'Brien, Taxing the Poor: Doing Damage to the Truly Disadvantaged (2011)(documenting the effects of states' reliance on regressive tax structures, especially in the American South); Vanessa Williamson, Read My Lips: Why Americans Are Proud to Pay Taxes 52 (2017)(noting that "Americans underestimate their payroll taxes" and "fail to recognize the cost of the sales tax for poor people"); Francine Lipman, State and Local Tax Takeaways, in Holes in the Safety Net: Federalism and Poverty 110 (Ezra Rosser ed., 2019)("[S]tate and local tax systems are notably regressive."); Inst. on Tax'n and Econ. Pol'y, Who Pays? A Distributional Analysis of the Tax System in All 50 States 3 (2018, 6th ed.) ("The vast majority of state tax systems are regressive . . . .").

[8] The concept has appeared in economic development literature but has not been adopted widely. See, e.g., Sean Higgins & Nora Lustig, Can a Poverty-Reducing and Progressive Tax and Transfer System Hurt the Poor?, 122 J. Dev. Econ. 63, 64 (2015) (introducing the concept of fiscal impoverishment); World Bank, Ethiopia Poverty Assessment 2014, at 67-68 (2015),https://openknowledge.worldbank.org/handle/10986/21323 [https://perma.cc/B6R9-5TCD] ("Poor households pay taxes, . . . and the transfers and benefits they receive do not compensate all households for the taxes they have paid."); Nizar Jouini, Nora Lustig, Ahmed Moummi & Abebe Shimeles, Fiscal Policy, Income Redistribution, and Poverty Reduction: Evidence from Tunisia, 64 Rev. Income & Wealth S225, S239 (2018) (describing impoverishment in Tunisia in part due to the high burden of taxation on the bottom 40% of the population).

[9] Fiscal, Merriam-Webster.com Dictionary, https://www.merriam-webster.com/dictionary/fiscal [https://perma.cc/E8KG-FDVP] (providing both definitions).

[10] Fiscal impoverishment takes into account public benefits that bear on basic needs, including certain antipoverty cash and near-cash programs. Cash benefits include refundable tax credits like the earned income tax credit (EITC) and child tax credit as well as other cash support programs such as Social Security and Temporary Aid to Needy Families (TANF). Near-cash benefits include in-kind benefits that increase a household's purchasing power for

certain poor and near-poor individuals bear a net positive tax cost. For some living just above the poverty line, the net tax cost is large enough to push them into poverty. For those already living below the poverty line, this net tax cost pushes them further into poverty.[11] Importantly, this Article does not take a position on the proper way to measure poverty other than to assert that arriving at some threshold is possible and necessary.[12]

It is worth mentioning a limiting principle of this analysis up front: Fiscal impoverishment does not take into account the value of *every* public good that people living in poverty receive. Likely no one would appear fiscally impoverished if every conceivable public good were included on the benefit side of the ledger. Doing so would also entirely miss the point of the exercise. Fiscal impoverishment seeks to capture the worsened deprivation that those living in poverty experience when they bear net positive tax costs.

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essential goods, like food or housing vouchers. The largest such program is the Supplemental Nutrition Assistance Program (SNAP), also called food stamps. See Part III.A.2 for further details about such transfer programs.

[11] The concept of fiscal impoverishment may be said to privilege market incomes by using before-tax income as the measurement baseline. Such an argument might posit that market income without government (and, by extension, without taxes) is a meaningless measure. See Liam Murphy & Thomas Nagel, The Myth of Ownership 8 (2002) (suggesting that evaluations of tax fairness must take into account the system of property rights that taxes make possible). Moreover, without government and taxes, low-income households would be far worse off. Therefore, framing the problem as one of taxing people into poverty is misleading because it overemphasizes the importance of market distributions of income rather than, for example, achieving an ideal distribution of post-tax and transfer income. Id. at 128 ("[J]ustice in taxation is a matter of securing certain outcomes.").

This Article presumes that market incomes do matter, for at least two reasons. First, many people believe that market incomes matter, and this belief drives actions and outcomes. Voters, politicians, and so forth, all make important decisions based on a valorization of market distributions. Meaningful tax policy discussions must therefore engage with such a belief. Second, while certainly there is no affirmative right to government support, a person does have certain rights in entitlements and property that one already has, even if that property is created by the government. See, e.g., Goldberg v. Kelley, 397 U.S. 254, 254 (1970) (holding that the Social Security Act creates a statutory entitlement to assistance and requiring due process rights for the later denial of such assistance); Charles Reich, The New Property, 73 Yale L.J. 733, 739-45 (1964) (describing how government action creates property rights in entitlements, licenses, and so forth); David A. Super, A New New Property, 113 Colum. L. Rev. 1773, 1872 (2013) (arguing that, under Professor Reich's framework, "the wholesale elimination of an individual's only means of affording life's essentials" may implicate the Takings Clause); Susannah Camic Tahk, The New Welfare Rights, 83 Brooklyn L. Rev 875, 882, 899 (2018) (stating that recipients of cash public benefits have some property rights in those benefits). Even if one believes that the government creates market incomes, people may still have the right to defend that income, even from the very government that enabled it. Thus, while philosophical challenges to the prioritization of market incomes may exist, market incomes still matter both psychologically and legally.

[12] See infra, text accompanying notes 59-66 and Part III.C.2, for further discussion of challenges associated with using and constructing a poverty threshold.

To offset this harm, a public good must directly ameliorate material deprivation by providing cash, food, housing support, or other basic needs. Certainly, someone living in poverty benefits from roads, military protection, parks, and other government spending. Nonetheless she is still considered poor and remains severely deprived even after her use of these public goods. For this reason, fiscal impoverishment analysis maintains a narrow focus on safety-net and antipoverty benefits that bear on basic needs.

The standard redistributive goals of progressivity, inequality reduction, and poverty alleviation fail to account for fiscal impoverishment.[13] The Article refers to these three goals as the "standard criteria." Their blindness to impoverishment occurs because they are based on aggregate, anonymous measures that cannot track changes in specific households' financial situations over time.[14] In contrast, fiscal impoverishment is a dynamic and individualized concept that captures the intertemporal trajectory of specific households from before taxes and transfers to after. It therefore offers a complementary alternative to the aggregate measures that have dominated the distributive justice discourse and analysis for so long.[15]

The Article also explains why fiscal impoverishment merits attention. For one thing, fiscal impoverishment violates individual human dignity by exposing people to deprivation, degradation, and social exclusion, among other harms.[16] Guarding human dignity requires tracking harms to all

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[13] See infra Part II.B for further explanation.

[14] See infra notes 74-79 and accompanying text for an explanation of the meaning and implication of "aggregate" and "anonymous" measures.

[15] In tracking individual households' financial changes, fiscal impoverishment aligns with the equitable growth movement's calls for disaggregated economic growth metrics. See Heather Boushey, New Measurement for a New Economy, Wash. Ctr. for Equitable Growth (Feb. 18, 2020), https://equitablegrowth.org/new-measurement-for-a-new-economy [https://perma.cc/BK8R-RDH6] (advocating GDP 2.0, which measures economic growth broken down into different income groups).

[16] The importance of human dignity to legal and social rights is a topic that has filled many volumes, most recently in the context of same-sex marriage. See, e.g., Leslie Meltzer Henry, The Jurisprudence of Dignity, 160 U. Pa. L. Rev. 169, 171 (2011) (describing efforts to advance a "legal notion of dignity"); Noah B. Lindell, The Dignity Canon, 27 Cornell J.L. & Pub. Pol'y 415, 420 (2017) (stating that although dignity is not a constitutional right, it is a constitutional value); Danielle Keats Citron, Sexual Privacy, 128 Yale L.J. 1870, 1885-86 (2019) (describing human dignity as integral to autonomy and privacy); Maite D. Oronoz Rodríguez, Gender Equality and the Rule of Law, 95 N.Y.U. L. Rev. 1599, 1601 (2020) (describing Justice Brennan's "doctrine of equality based upon the premise of human dignity as a cornerstone of our social values"). There is not space here for a full, nuanced discussion of the value of human dignity. It is a topic that others have ably tackled elsewhere, perhaps most notably Immanuel Kant, in, among other works, Groundwork of the Metaphysics of Morals 33 (Jonathan Bennett trans., 2017) (1785) https://www.earlymoderntexts.com/assets/pdfs/kant1785.pdf [https://perma.cc/LX5P-F4ZP]; see also Christopher McCrudden, Human Dignity and Judicial Interpretation of

individuals, which aggregate redistribution metrics cannot do, but fiscal impoverishment analysis can. Moreover, governments have both internally defined poverty-alleviation goals and a foundational duty to not harm their citizens and residents.[17] Fiscal impoverishment makes satisfying those responsibilities impossible. It is thus a particularly grave harm for the *government* to make poor people poorer, over and above the social harms attributable to persistent poverty or inequality. In raising such concerns, and distinct from the aggregate and anonymous standard criteria, fiscal impoverishment foregrounds individual human dignity and implicates the economic responsibilities of the state vis-à-vis low-income taxpayers.

The Article's second contribution is to illustrate how fiscal impoverishment occurs and to sketch its scope throughout the United States. To do so, it estimates net tax burdens for several stylized low-income households across all fifty states and the District of Columbia. For example, a childless worker in California earning poverty-level wages in 2019 would have paid approximately $2,300 in federal, state, and local taxes, pushing his after-tax income well below the poverty threshold.[18] This work reveals that fiscal impoverishment is significant and highly variable. It affects millions of households, with costs distributed via a patchwork of federal and state tax and safety-net programs.[19]

The distribution of fiscal impoverishment's harm is not random or haphazard. Rather, the patterns reflect longstanding pathologies in U.S. safety-net programs, namely, the lack of support for individuals without children, nonworking households, families with extended-kinship and non-kinship care arrangements, and immigrants.[20] The distribution almost

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Human Rights, 19 Eur. J. Int'l L. 655, 659 (2008) (associating the concept of dignity "most famously" with Kant, but cautioning non-Kantian scholars against entering such "contested territory").

[17] See infra Part II.C.2.

[18] See infra Part III.B.2, Example 3.

[19] See infra Part III.B for details about how fiscal impoverishment is distributed throughout the United States.

[20] I have explored refundable tax credits' exclusion of childless, nonworking, and immigrant households in prior work. Ariel Jurow Kleiman, Low-End Regressivity, 72 Tax L. Rev. 1, 17-24 (2019) (explaining why gaps in the tax-administered safety net lead to regressive tax rates at the bottom of the income distribution); Ariel Stevenson, Improving the U.S. Guest Worker System Through Tax and Social Welfare Reform, 17 Harv. Latino L. Rev. 147, 154-61 (2014) (describing the disparate tax treatment of migrant workers, both documented and undocumented, in the United States). See also Michael Katz, The Undeserving Poor: America's Enduring Confrontation with Poverty 146 (2d ed. 2013) (describing the "nonemployed poor" as the "preeminent undeserving poor"); Kristina Cooke, David Rhode & Ryan McNeil, The Undeserving Poor, The Atlantic (Dec. 20, 2012), https://www.theatlantic.com/business/archive/2012/12/the-undeserving-poor/266507 [https://perma.cc/W732-QX7A] (describing the continuing decline in safety-net support for able-bodied adults without dependents (ABAWDs)).

certainly reflects racial disparities as well, since Black and Latinx families are more likely than others to be denied the refundable tax credits that protect most working families from fiscal impoverishment.[21] Even within these disadvantaged groups, the degree of fiscal impoverishment differs greatly from state to state, reflecting the federal nature of our tax and transfer system.[22]

The existence of fiscal impoverishment should not surprise us. Other legal systems also extract resources from struggling households—chief examples being the criminal justice and child support systems.[23] Similar to fiscal impoverishment, these government extractions often track familiar fault lines of race and citizenship status.[24] As merely one example, criminal court and carceral fees exert significant costs on low-income individuals and bear little relationship to public-safety goals.[25] In following these well-worn patterns, fiscal impoverishment can be situated within a broader context of government predation of vulnerable American households.[26]

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[21] See Jacob Goldin & Katherine Michelmore, Who Benefits from the Child Tax Credit? 2-3 (Nat'l Bureau of Econ. Rsch., Working Paper No. 27940, 2020), https://www.nber.org/papers/w27940 [https://perma.cc/99NE-WVF4].

[22] See, e.g., Ezra Rosser, Introduction, in Holes in the Safety Net: Federalism and Poverty 5-7 (Ezra Rosser ed., 2019) (detailing devolution of welfare spending to the states via block grants and administrative flexibility); David A. Super, States' Evolving Role in the Supplemental Nutritional Assistance Program, in Holes in the Safety Net: Federalism and Poverty, supra, at 173-76 (detailing states' power over the administration of food stamps); Nicole Huberfeld, Federalism in Health Care Reform, in Holes in the Safety Net: Federalism and Poverty, supra, at 197 (exploring the role of federalism in shaping health care provision in the United States).

[23] See Sara S. Greene, A Theory of Poverty: Legal Immobility, 96 Wash. U. L. Rev. 753, 767-86 (2019) (describing a state and local legal landscape that prevents upward economic mobility and traps households in poverty); Rebecca May & Maguerite Roulet, Ctr. Fam. Pol'y & Prac., A Look at Arrests of Low-Income Fathers for Child Support Nonpayment 5-7 (2005) (discussing the disparate effects of child-support enforcement by income), http://cpr-mn.org/Documents/noncompliance.pdf [https://perma.cc/AY2W-VGW6].

[24] See Ariel Jurow Kleiman, Nonmarket Criminal Justice Fees, 72 Hastings L. Rev. 517, 536-46 (2021) (explaining how and why criminal justice fees exploit vulnerable payors); Greene, supra note 23, at 758 n.17 (noting that legal processes have a disproportionate effect on African American residents).

[25] See Alexes Harris, A Pound of Flesh: Monetary Sanctions as Punishment for the Poor 27–46 (2016) (describing criminal monetary sanctions); Beth A. Colgan, Reviving the Excessive Fines Clause, 102 Calif. L. Rev. 277, 286–90 (2014) (same); Eisha Jain, Capitalizing on Criminal Justice, 67 Duke L.J. 1381, 1404–07 (2018) (same).

[26] See Bernadette Atuahene, Predatory Cities, 108 Cal. L. Rev. 107, 109 (2020) (defining predatory cities as "urban areas where public officials systematically take property from residents and transfer it to public coffers, intentionally or unintentionally violating domestic laws or basic human rights").

After illustrating how fiscal impoverishment occurs, the Article's third and final contribution is to explore what it means for U.S. tax and transfer systems, offering recommendations for policymakers, reformers, and anti-poverty advocates. The Article's primary recommendation is that impoverishment analysis should be formalized and broadly adopted to guide policy reform alongside traditional, aggregate metrics. The Article also briefly outlines possible tax policy reforms to reduce fiscal impoverishment caused by income taxes, sales taxes, and property taxes.

The Article also considers how an awareness of fiscal impoverishment should guide evaluation of broad reform proposals. In particular, it considers the adoption of broad-based, regressive tax instruments—such as a federal value-added tax (VAT)—in order to fund expanded redistribution.[27] The Article urges caution among those who advocate adopting regressive taxes for progressive ends. Increasing regressive taxes in the United States may worsen fiscal impoverishment even despite increased progressive spending, especially given U.S. policymakers' tendency to deny support to certain groups.[28] While such broad-based reforms are eminently worthwhile, policymakers should take care not to harm vulnerable households when adopting them. Tracking fiscal impoverishment would help them in this task. The Article finishes by briefly considering the complicated question of politics.

The Article proceeds as follows. Part I begins by describing the standard criteria by which we assess redistributive policies, including progressivity, inequality reduction, and poverty reduction. It also briefly surveys scholarship on taxes and poverty, which offers an alternative perspective to that presented by the standard criteria, yet lacks a formalized approach to describing fiscal burdens. Part II introduces the concept of fiscal impoverishment, explains why the standard criteria overlook it, and justifies

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[27] See Sita N. Slavov & Alan Viard, Taxes, Transfers, Progressivity, and Redistribution: Part 2, Tax Notes, Sept. 26, 2016, at 1886 (advocating regressive taxes to facilitate redistribution); Michael Lind, The Liberal Case for Regressive Taxation: Why Progressives Should Not Oppose a Value-Added Tax, Salon (Aug. 10, 2010, 11:01 AM), https://www.salon.com/2010/08/10/liberal_case_regressive_taxation [https://perma.cc/62BZ-2YAG] (advocating regressive taxes, like the value-added tax, to fund increased social spending); Leonard E. Burman, Tax Pol'y Ctr., A Universal EITC: Sharing the Gains from Economic Growth, Encouraging Work, and Supporting Families 12 (2019), https://www.taxpolicycenter.org/publications/universal-eitc-sharing-gains-economic-growth-encouraging-work-and-supporting-families/full [https://perma.cc/F7B3-NLRZ] (advocating a VAT in order to fund EITC expansion). But see Linda Sugin, Don't Give Up on Taxes, Tax Notes, Dec. 22, 2014, at 1373 (arguing that we should continue to prioritize progressive taxes).

[28] See Katz, supra note 20, at 8-9 (discussing the denial of public benefits to the "undeserving poor," which includes nonworking single mothers, certain immigrants, and young black men).

the need for a formal measure of net tax burdens on poor households. Part III illustrates how fiscal impoverishment occurs in the United States. Part IV offers policy considerations, giving particular attention to the adoption of broad-based regressive taxes to fund progressive spending. It also considers the political and rhetorical stakes of an explicit anti-impoverishment strategy.

I. THE STANDARD TAX POLICY CRITERIA

A. *The Standard Criteria: Progressive, Inequality Reducing, Poverty Cutting*

Few would quibble with the claim that progressivity matters to assessing how fairly a tax and transfer system distributes resources.[29] Inequality-reduction and poverty-reduction are closely related goals.[30] Scholars, economists, and government agencies rehash and recut the data, staking out novel claims about the extent to which our system does or does not pass muster under these goals,[31] but most accept the worthiness of the goals themselves. This Article will shorthand the three aims of progressivity, inequality reduction, and poverty reduction as the "standard criteria."

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[29] See Walter J. Blum & Harry Kalven, Jr., The Uneasy Case for Progressive Taxation, 19 U. Chi. L. Rev. 417, 417 (1952) ("Progressive taxation is now regarded as one of the central ideas of modern democratic capitalism and is widely accepted as a secure policy commitment which does not require serious examination."); Lily L. Batchelder, Fred T. Goldberg Jr. & Peter R. Orszag, Efficiency and Tax Incentives: The Case for Refundable Tax Credits, 59 Stan. L. Rev. 23, 42 (2006) (explaining that there is "little debate" that distributional fairness in the tax system "requires a progressive tax system"); Manoj Viswanathan, Retheorizing Progressive Taxation, Tax L. Rev. (forthcoming 2022) (manuscript at 3) (available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3465029) ("Progressivity assessments of tax provisions play an undeniably central role in both the detailed analytics of policy-making and the rhetorical arguments commonly used in public discourse.").

[30] See, e.g., Eric M. Zolt, Inequality in America: Challenges for Tax and Spending Policies, 66 Tax L. Rev. 641, 642 (listing "reducing inequality [and] reducing poverty" as concerns to prioritize when designing tax and spending policies); Ari Glogower, Taxing Inequality, 93 N.Y.U. L. Rev. 1421, 1423-25 (2018) (explaining the harms of economic inequality and positing that tax policies should seek to combat inequality); David Kamin, Reducing Poverty, Not Inequality: What Changes in the Tax System Can Achieve, 66 Tax L. Rev. 593, 593-94 (2013) (arguing that we should prioritize poverty reduction over inequality reduction when designing tax policies).

[31] Compare, e.g., OECD, Growing Unequal? Income Distribution and Poverty in OECD Countries (2008), http://www.oecd.org/els/soc/growingunequalincomedistributionandpovertyinoecdcountries.htm [https://perma.cc/2FPH-VZ8M] (describing the United States' tax system as the most progressive among developed countries), with Huang & Frentz, supra note 2, at 1 (critiquing certain characterizations of the OECD report's conclusions, noting that the U.S. does less to reduce inequality compared to peer nations).

Myriad philosophical frameworks, and good sense, support the pursuit of the standard criteria.[32] Perhaps most prominently, welfarist theories of justice, which prioritize aggregate wellbeing,[33] often support progressive redistribution on the grounds that it increases total wellbeing.[34] Beyond welfarism, progressive taxes enable equal sacrifice, which improves perceptions of fairness of the tax system.[35] Reducing the poverty rate lessens the suffering of large swaths of society, which many support for moral, philosophical, or emotional reasons.[36] Although perhaps slightly more controversial, reducing inequality is seen as broadly desirable, either per se or to achieve various positive outcomes.[37] By most mainstream accounts, pursuing some or all of these goals is vital to the fair functioning of a tax and transfer system.[38]

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[32] See Jurow Kleiman, supra note 20, at 7-10 (describing both welfarist and nonwelfarist distributive justice theories underlying progressive redistribution).

[33] See Louis Kaplow & Steven Shavell, Fairness Versus Welfare 4 (2002) (defining welfare economics as "the method of policy assessment that depends solely on individuals' well-being").

[34] See, e.g., James Mirrlees, An Exploration in the Theory of Optimum Income Taxation, 38 Rev. Econ. Stud. 175, 176, 208 (1971) (including redistribution to low-income households in a welfarist tax model); Peter Diamond & Emmanuel Saez, The Case for a Progressive Tax: From Basic Research to Policy Recommendations, 25 J. Econ. Persp. 165, 165 (2011) ("[O]ptimal tax analyses maximize social welfare . . . ."); Joseph Bankman & Thomas Griffith, Social Welfare and the Rate Structure: A New Look at Progressive Taxation, 75 Cal. L. Rev. 1905, 1915 (1987) ("Welfarist theories of distributive justice . . . judge the goodness of social states solely by the welfare or utility enjoyed by the individuals in those states.").

[35] Nancy C. Staudt, The Hidden Costs of the Progressivity Debate, 50 Vand. L. Rev. 919, 940-41 (1997); Viswanathan, supra note 29, at 8.

[36] See, e.g., Peter Singer, Famine, Affluence, Morality, 1 Phil. & Pub. Aff. 229, 230-31 (1972) (starting from the premise that poverty is bad and should be rectified); Friedrich A. Hayek, The Constitution of Liberty 285 (1960) ("In the Western world, some provision for those threatened by the extremes of indigence or starvation due to circumstances beyond their control has long been accepted as a duty of the community."); Milton Friedman, Capitalism and Freedom 191 (1962) (accepting the idea that poverty should be alleviated).

[37] See Ronald Dworkin, What Is Equality? Part 2: Equality of Resources, 10 Phil. & Pub. Aff. 283, 285-86 (1981) (discussing the preference for fairness); Daniel Markovits, How Much Redistribution Should There Be?, 112 Yale L.J. 2291, 2294-98 (2003) (discussing the responsibility-tracking view of egalitarianism); Glogower, supra note 30, at 1441-42 (listing various harms of inequality, including undermining democratic governance, hindering economic mobility, and precluding equality of opportunity); Kamin, supra note 30, at 598 ("The first basic tenet underlying the Article is that inequality in itself is undesirable. This view is widely, though certainly not universally, held.").

[38] Even free-market adherents support the goal of poverty alleviation under certain conditions. See, e.g., Friedman, supra note 36, at 191 (supporting government intervention to alleviate poverty on market-failure grounds because "we might all of us be willing to contribute to the relief of poverty, provided everyone else did").

The U.S. tax and transfer system fares relatively well under the standard criteria. The system is broadly progressive[39] and reduces inequality.[40] Looking at one measure of inequality, in 2019 the Gini coefficient in the United States was 0.51 before taxes and transfers compared to 0.40 after taxes and transfers.[41] Moreover, safety-net transfers significantly reduce the poverty rate.[42] According to 2016 data, public benefits reduced the poverty rate in the United States from 27% to 18%.[43] While policymakers could certainly do more to reduce poverty and inequality, these are achievements worth celebrating.

And yet, the standard criteria miss something important.

B. *Accounting for Taxes on Low-Income Households*

Notwithstanding the positive outcomes described in the previous section, poverty scholars and experts concerned about taxes on poor households devote significant energy to measuring such taxes and their consequences.[44] This literature complicates an understanding of the U.S. fiscal system that emerges from analysis under the standard criteria alone.

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[39] See Cong. Budget Office, supra note 1, at 9 (illustrating the distribution of average federal tax rates). But see Jurow Kleiman, supra note 20, at 3-4 (arguing that regressive elements of the federal tax system reduce progressivity among households at the bottom of the income distribution).

Notably, the progressivity of the federal tax system has declined since the 1960s, particularly among tax rates at the top of the income distribution. See Thomas Piketty & Emmanuel Saez, How Progressive Is the U.S. Federal Tax System? A Historical and International Perspective 12 (Nat'l Bureau of Econ. Rsch., Working Paper No. 12404, 2006), https://www.nber.org/system/files/working_papers/w12404/w12404.pdf [https://perma.cc/Q8NX-2EPG].

[40] Income Distribution Database: by measure, OECD.Stat, https://stats.oecd.org/Index.aspx?DataSetCode=IDD [https://perma.cc/39PA-PN99].

[41] Id. (compare figures for the United States by selecting "by country – INEQUALITY" from the left-hand menu, then selecting "United States" from the "Country" drop-down menu, and comparing figures for "Gini (market income, before taxes and transfers)" with "Gini (disposable income, post taxes and transfers)"). Of course, the United States could do better, and many other countries have. See id. However, that is not the point being made here.

[42] Ctr. on Budget & Pol'y Priorities, Nationwide, Safety Net Lifts Roughly 46 Million People Above Poverty Line and Provides Health Coverage to 43 Percent of Children 1 (2016), https://www.cbpp.org/sites/default/files/atoms/files/7-22-16pov-factsheets-us.pdf [https://perma.cc/8WDM-KTG2] (calculating that safety-net programs reduced the U.S. poverty rate from 28.9% to 13.8%); OECD, supra note 1.

[43] *Id*. (using a poverty line equal to 50% of the population's median household income).

[44] As a brief survey of such work, which surely omits many important contributions due to space constraints, see Newman & O'Brien, supra note 7, at 86-124 (estimating tax burdens on low-income families and showing a correlation between regressive taxes and poverty-related social and health problems); Williamson, supra note 7, at 46-78 (describing sales and

It is important to note at the outset that the federal tax system provides significant support to poor families through refundable tax credits.[45] The federal earned income tax credit (EITC) and child tax credit provide cash transfers to low-income working families, drastically reducing tax burdens on recipients.[46] Many states offer their own EITCs as well, often piggybacking on the federal credit.[47] More than just reducing taxes, these credits reduce the poverty rate and have been found to improve infant and maternal health, boost educational outcomes, increase work effort, and even increase earnings in the next generation, among other positive outcomes.[48]

Nonetheless, benefit gaps and significant tax burdens remain, as scholars and researchers regularly note. Much research in this area focuses on state and local taxes, which are more regressive than federal taxes and sometimes lack offsetting transfers to low-income payors.[49] One influential report repeatedly notes the significant burden that state and local taxes

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payroll taxes paid by low-income households); Greene, supra note 23, at 768-71 (describing state tax policies that burden low-income households and situating these policies within a broader legal framework that perpetuates poverty); Susan Pace Hamill, The Vast Injustice Perpetuated by State and Local Tax Policy, 37 Hofstra L. Rev. 117, 117 (2008) (arguing that state and local tax policies are oppressive to low-income people and evaluating state and local taxes under Judeo-Christian values); Seth Hartig, Curtis Skinner & Mercedes Ekono, Nat'l Ctr. for Children in Poverty, Taxing the Poor: State Income Tax Policies Make a Big Difference to Working Families 4-6 (2014) (describing state income tax policies affecting low-income taxpayers in each state); Francine Lipman, The Taxation of Undocumented Immigrants: Separate, Unequal, and Without Representation, 9 Harv. Latino L. Rev. 1, 18-45 (2006) (describing unequal tax treatment of undocumented immigrant households).

[45] See Susannah Camic Tahk, The Tax War on Poverty, 56 Ariz. L. Rev. 791, 796-805, 807-10 (2014) (describing the more recent policy of housing federal antipoverty spending in the tax code and describing federal refundable tax credits); Ctr. on Budget & Pol'y Priorities, State Earned Income Tax Credits 1 (2020), https://www.cbpp.org/sites/default/files/atoms/files/policybasics-seitc.pdf [https://perma.cc/X9XU-8LE5] (stating that thirty states, Washington D.C., and Puerto Rico have adopted state EITCs to boost family income).

[46] I.R.C. § 32 (providing a tax credit for earned income); id. § 24 (providing a tax credit to families with children); Chuck Marr, Chye-Ching Huang, Arloc Sherman & Brandon DeBot, Ctr. on Budget & Pol'y Priorities, EITC and Child Tax Credit Promote Work, Reduce Poverty, and Support Children's Development, Research Finds 3 (2015), https://www.cbpp.org/sites/default/files/atoms/files/6-26-12tax.pdf [https://perma.cc/LH7Y-SLYL].

[47] CBPP, supra note 45, at 1 (providing that twenty-nine states, the District of Columbia, and Puerto Rico have enacted subfederal earned income tax credits).

[48] Marr, Huang, Sherman & DeBot, supra note 46, at 1-3.

[49] See Frank Sammartino & Norton Francis, Tax Pol'y Ctr., Federal-State Income Tax Progressivity 1-2 (2016), https://www.urban.org/research/publication/federal-state-income-tax-progressivity [https://perma.cc/8CMJ-25E2] (noting that state income tax systems are less progressive than the federal income tax, and that state sales taxes may be regressive); id. at 4 (describing the distribution of state tax credits targeting low-income households); ITEP, supra note 7, at 3 ("The vast majority of state tax systems are regressive . . . .").

impose on low-income households in all fifty states and the District of Columbia.[50] Other research confirms these findings,[51] and extends a similar critique to federal excise[52] and payroll taxes.[53]

Beyond tallying the cost of specific taxes, literature on the taxation of poor Americans is vast and varied. One strain of scholarship focuses on gaps in refundable tax credits that disadvantage certain subsets of low-income taxpayers.[54] Another addresses the effect of federal tax policies on issues intrinsically tied to poverty, such as housing access or health policy.[55]

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[50] ITEP, supra note 7; see also About Who Pays, ITEP, https://itep.org/about-who-pays [https://perma.cc/U8CZ-G2BG] ("[The Report's] major finding is that, on average, state and local tax systems require the poorest taxpayers to pay the highest effective tax rates").

[51] See, e.g., Newman & O'Brien, supra note 7, at 87-93 (documenting state and local tax burdens on poor households); Hartig, Skinner & Ekono, supra note 44, at 3 (describing the burden of state income tax policies on poor taxpayers); Greene, supra note 23, at 768-71 (describing state and local taxes that burden poor households); Lipman, supra note 7, at 110 ("[S]tate and local tax systems are notably regressive.").

[52] See Tax Pol'y Ctr., Who Bears the Burden of Federal Excise Taxes?, in Tax Policy Center Briefing Book (2020), https://www.taxpolicycenter.org/briefing-book/who-bears-burden-federal-excise-taxes [https://perma.cc/Y3NN-98ST] ("[F]ederal excises are regressive.").

Excise taxes are consumption taxes that apply to a narrow subset of goods or services, such as alcohol, gasoline, and tobacco. Tax Pol'y Ctr., What Are the Major Federal Excise Taxes and How Much Money Do They Raise?, in Tax Policy Center Briefing Book (2020), https://www.taxpolicycenter.org/briefing-book/what-are-major-federal-excise-taxes-and-how-much-money-do-they-raise [https://perma.cc/W8B5-45AZ] [hereinafter "Major Federal Excise Taxes"].

[53] See Williamson, supra note 7, at 56-64 (describing payroll and sales taxes, both of which impose significant burdens on low-income taxpayers); Tax Pol'y Ctr., How Does the Federal Tax System Affect Low-Income Households, in Tax Policy Center Briefing Book (2020), https://www.taxpolicycenter.org/briefing-book/how-does-federal-tax-system-affect-low-income-households [https://perma.cc/CK8G-D4F7] ("The largest tax burden for households in the bottom income quintile (the bottom fifth) tends to come from the payroll tax."); Chuck Marr & Yixuan Huang, Ctr. on Budget & Pol'y Priorities, Childless Adults Are Lone Group Taxed into Poverty 1 (2020), https://www.cbpp.org/sites/default/files/atoms/files/3-2-16tax.pdf [https://perma.cc/TT6H-LGWM] (reporting that over 5 million adults between the ages of 19-67 are pushed into poverty or deeper into poverty in part due to payroll taxes).

[54] See, e.g., Anne L. Alstott, Why the EITC Doesn't Make Work Pay, 73 L. & Contemp. Probs. 285, 288 (2010) (arguing that the EITC, by focusing benefits on fully employed workers, fails to adequately support low-wage workers); Noah D. Zatz, Supporting Workers by Accounting for Care, 5 Harv. L. & Pol'y Rev. 45, 47 (2011) (addressing the exclusion of informal child-care providers from the EITC); Marr, Huang, Sherman & Brandon, supra note 46, at 1 (advocating expansion of childless EITC benefits); Francine J. Lipman, The "ILLEGAL" Tax, 11 Conn. Pub. Int. L.J. 93, 100-01 (2011) (detailing the higher tax burdens that undocumented immigrants face); Stevenson, supra note 20, at 154-62 (describing unequal tax burdens that migrant workers face, whether documented or undocumented).

[55] See, e.g., Terri L. Brooks, Billions Saved in Taxes while Millions Underserved--What has Happened to Charitable Hospitals?, 8 Hous. Bus. & Tax L.J. 391, 421-22 (2008) (arguing

Intersectional issues related to race, gender, and disability draw continued and increasing attention as well.[56] Related research addresses the impact of criminal justice fines and fees, including traffic penalties, on the fiscal and social wellbeing of low-income payors.[57] Through these diverse entry points, poverty-focused tax scholars describe a fiscal system that neglects and burdens many vulnerable American households.

This brief background discussion has sought to show that the U.S. tax and transfer system looks relatively strong under our standard criteria for assessing tax fairness, and rightly so. The system is broadly progressive, poverty reducing, and equality enhancing. Yet, taxes imposed on poor taxpayers are frustratingly invisible under these standard criteria, despite experts' keen awareness of them. As the next Part argues, research on taxation and poverty would benefit from a systematic approach to describing and measuring the taxation of poor households.

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that hospitals with tax-exempt status should be more charitable to the uninsured); Javon T. Henry, Low Income Housing Tax Credits and the Dangers of Privatization, 16 Pitt. Tax Rev. 247, 251 (2019) (proposing that states should apply for the Low-Income Housing Tax Credits to create more publicly owned housing); Michelle D. Layser, How Federal Tax Law Rewards Housing Segregation, 93 Ind. L.J. 915, 919 (2018) (exploring how federal tax policies reward economic and racial segregation); Blaine Saito, Collaborative Governance and the Low-Income Housing Tax Credit, 39 Va. Tax Rev. 451, 490-93 (2020) (exploring how the Low-Income Housing Tax Credit can better support low-income housing efforts).

[56] See e.g., Dorothy A. Brown, Race and Class Matters in Tax Policy, 107 Colum. L. Rev. 790, 797-98 (2007) (arguing that government assistance through the tax system is "raced"); Nancy C. Staudt, Taxing Housework, 84 Geo. L.J. 1571, 1592-99 (1996) (exploring ramifications of the exclusion of imputed income in the form of informal housework); Theodore P. Seto & Sande L. Buhai, Tax and Disability: Ability to Pay and the Taxation of Difference, 154 U. Pa. L. Rev. 1053, 1105-38 (2006) (exploring the tax treatment of people with disabilities); Karen B. Brown, Not Color- or Gender-Neutral: New Tax Treatment of Employment Discrimination Damages, 7 S. Cal. Rev. L. & Women's Stud. 223, 227-29 (1998) (arguing that the taxation of employment discrimination awards disparately burdens women, people of color, and others who are more likely to file workplace discrimination claims); Caroline Bruckner, Doubling Down on a Billion Dollar Blind Spot: Women Business Owners and Tax Reform, 9 Am. Univ. Bus. L. Rev. 1, 6-7 (2020) (finding that business tax incentives disfavor businesses more likely to be owned by women).

[57] See, e.g., Harris, supra note 25, at 65-73 (discussing the consequences and burdens of criminal justice debt for those who cannot pay); Colgan, supra note 25, at 286–90 ("The costs of administering the court system--from arrests to prosecution and sentencing--are increasingly borne by the indigent, who make up the vast majority of criminal defendants."); Jain, supra note 25, at 1385 ("The costs, meanwhile, are disproportionately experienced by the poor and people of color, who are the most likely both to be arrested and to experience disproportionate penalties as the result of a criminal record.").

II. INTRODUCING FISCAL IMPOVERISHMENT

A. *Defining Fiscal Impoverishment*

A fiscal system can be progressive and can reduce poverty and inequality in the aggregate, and yet still harm a significant number of people by pushing them below or further below the poverty line. This phenomenon is called fiscal impoverishment.[58] Put slightly differently, fiscal impoverishment means that some low-income people pay net positive taxes, with their tax cost exceeding the value of the antipoverty public benefits they receive. For some living just above the poverty line, the net tax cost is large enough to push them into poverty. For those already below the poverty line, this net cost pushes them further into poverty.

The simplicity of the concept belies the complexity of measuring it with specificity. Doing so requires defining an acceptable poverty threshold, which is a fraught endeavor by every account.[59] Briefly put, poverty is a state of deprivation in which a person cannot meet her basic needs.[60] It can manifest in diverse deficits including hunger, unstable housing, social isolation, stigma, stress, and other suffering.[61] Measuring the income threshold at which such deprivation occurs is complicated by differences in geographic cost-of-living, income sources, nutritional needs, health and disability circumstances, and so forth.[62] Nonetheless, any productive discussion of antipoverty policies must accept that *some* poverty threshold will adequately capture the line between an acceptable and unacceptable standard of living.[63]

To avoid getting mired in a complex debate, this Article does not take a position on the proper way to measure poverty, other than to assert that

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[58] See Higgins & Lustig, supra note 8, at 64 (describing fiscal impoverishment as a system in which "some of the poor pay more in taxes than they receive in transfers").

[59] See John Iceland, Poverty in America: A Handbook 22-38 (3rd ed. 2013) (discussing absolute, relative, and quasi-relative poverty measures and their limitations); see also Amartya Sen, Poverty: An Ordinal Approach to Measurement 44 Econometrica 219, 219 (1976) (explaining that most poverty measures are insensitive to distributions of income); Cong. Rsch. Serv., R41187, Poverty Measurement in the United States: History, Current Practice, and Proposed Changes 1 (2010), https://www.everycrsreport.com/reports/R41187.html[https://perma.cc/A3DH-AG3W] (outlining efforts to develop and adopt a new measure of poverty).

[60] See Peter H. Shuck, One Nation Undecided: Clear Thinking About Five Hard Issues That Divide Us 33 (2017) ("Poverty . . . is best understood as a state of deprivation or suffering.").

[61] Id.

[62] Further, poverty is an inherently relative concept. See Alstott, supra note 54, at 289-91 (describing and adopting a relative poverty measure).

[63] I address the possible dubiousness of this assumption infra, Part III.C.2.

arriving at some threshold is possible and necessary. For simplicity, where a threshold is required, the Article uses the U.S. Census Bureau's Poverty Thresholds,[64] while acknowledging that alternative measures are likely superior, albeit more complex.[65] An ideal poverty threshold would capture a level of wellbeing above which one experiences a generally acceptable standard of living. Further, while this Article uses household income to measure wellbeing, consumption or some other observable attribute might be more holistic and precise. Consumption, for instance, accounts for support from family as well as household savings.[66]

It is worth acknowledging two limiting principles that help determine which public benefits to include and which to exclude from fiscal impoverishment calculations. First, fiscal impoverishment captures deprivation in the current period, that is, a household's ability to meet basic needs *today*. A concern with immediate deprivation counsels toward using a shorter accounting period, which means ignoring the value of past and future benefits. This Article uses an annual accounting period to align with income tax filing, but others, for instance, monthly, could be justified as well. The use of a longer accounting period that incorporates benefits received in the more distant past or future—such as past public education or future Social Security retirement benefits[67]—would only obscure current-period deprivation.[68] Additionally, a person living in poverty may discount the value

[64] Poverty Thresholds, U.S. Census Bureau, https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html [https://perma.cc/3UAB-32SX]. Census poverty thresholds are determined by estimating the cost of a minimum food diet and multiplying that amount by three to account for other expenses, such as housing, clothing, and so forth. See Gordon M. Fisher, The Development and History of Poverty Thresholds, 55 Soc. Sec. Bull., Winter 1992, at 4-5, https://www.ssa.gov/policy/docs/ssb/v55n4/v55n4p3.pdf [https://perma.cc/M5Z2-A8LW] (detailing development of the multiplier methodology used to derive poverty thresholds).

[65] For instance, the U.S. Census Bureau's Supplemental Poverty Measure (SPM) improves on the standard poverty line by correcting for geographic cost-of-living differences, among other adjustments. Liana Fox, U.S. Census Bureau, The Supplemental Poverty Measure, 14-15 (2018), https://www.census.gov/content/dam/Census/library/publications/2018/demo/p60-265.pdf [https://perma.cc/P9ZH-9XVS].

[66] See Bruce D. Meyer & James X. Sullivan, Annual Report on U.S. Consumption Poverty: 2016 at 2 (2017), https://www.aei.org/wp-content/uploads/2017/09/meyer_sullivan_consumption_poverty_report_2016.pdf [https://perma.cc/AJ5N-TKVR] (explaining why consumption offers a superior measure of wellbeing compared to income).

[67] While education can be a valuable tool of poverty reduction and an important progressive transfer, whether someone received a free education does not help her to buy food or shelter in the current period. The same logic holds true for future Social Security retirement benefits. See infra notes 120-122 and accompanying text for further discussion.

[68] See ITEP, supra note 50 ("[L]onger time horizons obscure the impact of taxes at

of future benefits at a high rate for various reasons, leading to a low (even zero) present value of future benefits.[69] For these reasons, this Article does not include the value of public benefits received in past or future years.

Second, fiscal impoverishment does not account for *all* benefits that people receive from government.[70] Rather, it is narrowly focused on public benefits that bear on basic needs and corporeal deprivation. Not only would including all public goods make the analysis intractable but doing so would also miss the point of the exercise. Fiscal impoverishment seeks to capture the worsened deprivation that those living in poverty experience when they pay net positive taxes. To offset this harm, a public good must relieve material deprivation by providing cash, food, shelter, or other basic needs. Although someone living in poverty benefits from roads, military protection, parks, and so forth, he remains severely deprived even *after* considering his use of these public goods. That is, he is not pulled out of poverty because he has access to a beautiful public park. Thus, this discussion maintains a narrow focus on cash transfers and other safety-net benefits that bear on recipients' basic needs.

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critical moments in taxpayers' lives, such as when they are new to the labor force or are recently unemployed and struggling to make ends meet."). Others have advocated the use of longer time horizons to measure taxpayers' contributions and benefits received, up to a full lifetime. See, e.g. Alan J. Auerbach, Laurence J. Kotlikoff & Darryl R. Koehler, U.S. Inequality and Fiscal Progressivity: An Intragenerational Accounting (Nat'l Bureau of Econ. Rsch., Working Paper No. 22032, 2016), https://www.nber.org/papers/w22032 [https://perma.cc/W39X-F7VX] (measuring inequality based on lifetime spending).

[69] See Leandro Carvalho, Stephan Meier & Stephanie W. Wang, Poverty and Economic Decision-Making: Evidence from Changes in Financial Resources at Payday, 106 Am. Econ. Rev. 260, 269-272 (2016) (discussing the debate over discount rates among low-income individuals); Julia Lynn Coronado, Don Fullerton & Thomas Glass, The Progressivity of Social Security 24-25 (Nat'l Bureau of Econ. Rsch., Working Paper No. 7520, 2000), https://www.nber.org/system/files/working_papers/w7520/w7520.pdf [https://perma.cc/FMK5-7E4K] (finding that the Social Security system is overall regressive after adjusting for the possibility of higher discount rates, among other things).

[70] Such broad analysis is related to the benefits principle of taxation, the idea that taxes paid should correspond to the value of public goods received. N. Gregory Mankiw, Principles of Economics 246-47 (6th ed. 2012). The benefits principle is particularly unhelpful in informing how government should tax low-income households in a redistributive system, since it would require that welfare recipients pay for the value of any transfers they receive. Of course, if they did so, the two payments would offset each other. See Joseph M. Dodge, Theories of Tax Justice: Ruminations on the Benefit, Partnership, and Ability-to-Pay Principles 58 Tax L. Rev. 399, 399 (2005) (noting the "incoherency of maintaining the benefit principle in a welfare state").

B. *The Standard Criteria Overlook Fiscal Impoverishment*

This section will explore how a tax and transfer system can be progressive, equalizing, and poverty-reducing and yet still impoverish a significant number of individuals.[71] In short, the standard criteria overlook fiscal impoverishment because they are based on aggregate, anonymous measures that observe the distribution of households' incomes or tax rates across broad swaths of the population. These measures fail to account for the fiscal harm that the state visits upon particular households.

Consider Table 1, which shows the distribution of incomes, taxes, and transfers in a five-person economy. Assume that the poverty threshold is $10 for a one-person household, and that this threshold denotes a condition of serious deprivation below which a person cannot meet her basic needs.

TABLE 1: PROGRESSIVE, EQUALIZING, AND IMPOVERISHING

	Pre-Tax/ Transfer Income	*Average Tax Rate*[72]	*Tax*	*Transfer*	*Post-Tax/ Transfer Income*
A	$3	0%	$0	$2	$5
B	$10	5%	$0.50	$0	$9.50
C	$30	10%	$3	$0	$27
D	$80	20%	$16	$0	$64
E	$160	25%	$40	$0	$120

The system in Table 1 is everywhere progressive, with tax rates that increase as income increases. It also improves equality by various easy-to-calculate measures. For instance, it improves the 20:20 ratio from 53 to 24, and the Hoover Index from 45% to 42%.[73] Yet B is impoverished, paying 5%

[71] Higgins & Lustig, supra note 8, at 64.

[72] The tax rate figures in Tables 1 and 2 ignore the effect of transfers. A's tax rate is actually -66% if the transfer is included.

[73] The 20:20 ratio compares the income of the richest 20% of a population to that of the poorest 20%. See Helena Afonso, Marcelo LaFleur & Diana Alarcón, U.N. Dev. Strategy and Pol'y Analysis Unit, Inequality Measurement: Development Issues No. 2, at 2 (2015), https://www.un.org/en/development/desa/policy/wess/wess_dev_issues/dsp_policy_02.pdf [https://perma.cc/3T8Q-HTPR] (describing various inequality measures). Here, 160/3 ≈ 53, and 120/5 = 24.

The Hoover index provides the proportion of all income that must be transferred in order to achieve perfect equality in a given population. Id. In the pre-tax distribution, $126.80 must be distributed to achieve perfect equality, which is approximately 45% of the total income of her income in taxes and dropping below the poverty threshold. Thus, neither progressivity nor inequality reduction precludes fiscal impoverishment.

The same is true of poverty reduction. A tax and transfer system can reduce the poverty rate by shrinking the portion of the population living below the poverty line, yet still impoverish some. Consider Table 2.

TABLE 2: POVERTY REDUCING AND IMPOVERISHING

	Pre-Tax/ Transfer Income	*Average Tax Rate*	*Tax*	*Transfer*	*Post-Tax/ Transfer Income*
A	$6	0%	$0	$5	$11
B	$7	0%	$0	$4	$11
C	$11	10%	$1.10	$0	$9.90
D	$50	15%	$7.50	$0	$42.50
E	$100	20%	$20	$0	$80

Before taxes and transfers, the poverty rate in Table 2 is 40%, with both A and B falling below the $10 poverty threshold. After taxes and transfers, A and B have been brought above the poverty line, but C has been pushed below it, resulting in a new poverty rate of 20%. The transfer system has cut the poverty rate in half. And yet, C's tax burden has pushed him into a state of deprivation.

The metrics underlying the standard criteria—progressivity, inequality, and the poverty rate—cannot capture fiscal impoverishment because they are anonymous, aggregate measures. Anonymity means that these measures do not follow specific households from one time period to the next. That is, they ignore changes in specific households' financial circumstances from before to after taxes and transfers.[74] Because of this anonymity, these measures fail to notice if households swap positions or if some households are poorer after paying taxes.[75] With the underlying metrics

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of $283. In the post-tax and transfer distribution, $93.80 must be distributed, which is approximately 42% of the total income of $225.50.

[74] See Higgins & Lustig, supra note 8, at 65 (anonymity measures "compare the pre- and post-fisc income distributions without paying attention to the specific pre-fisc to post-fisc trajectory of particular individuals' incomes").

[75] This blindness to changes in households' incomes from one time to another relates closely to the equal treatment condition in the welfarist reasoning that often scaffolds the standard criteria. See Kaplow & Shavell, supra note 33, at 25 n.16. Equal treatment means

being blind to these changes, the criteria themselves are correspondingly unable to account for fiscal impoverishment.

Aggregation matters as well, albeit somewhat less so. Aggregation means that each measure observes the relative position or tax treatment of large groups of the population: progressivity typically looks to tax rates on income quintiles or deciles;[76] inequality similarly compares relative income or wealth between income tranches;[77] and poverty rates observe the proportion of all individuals below a certain threshold.[78] If such metrics were to instead observe tax rates or relative incomes among disaggregated subgroups of the population—for instance, childless households or BIPOC families—the progressive story that the standard criteria relate would become significantly more complicated.[79]

In contrast to these aggregate and anonymous measures, calculating fiscal impoverishment calls for disaggregation of fiscal data based on household characteristics and tracks changes in households' incomes from before to after taxes and transfers. The observed downward movement encapsulates the harm of fiscal impoverishment: the fact that government action pushes some poor people into or deeper into a state of deprivation. The nature and normative implications of this harm are explored further in the next section.

This Article does not reject the standard criteria. These canonical goals ensure a humane fiscal system. The societies depicted in Tables 1 and 2 are more equal, and the society depicted in Table 2 is significantly less poor, because of progressive redistribution. These outcomes are unambiguously positive. And yet, the standard criteria miss something important. As the next Section explains, we need a new measure, one that observes changes in households' incomes over time and foregrounds individual human dignity as well as the role of government in the lives of low-incomes households.

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that all households in a welfare calculation are treated equally, so that if one household's welfare increases and another household's welfare decreases by the same amount, the total welfare remains the same before and after the change. A household's relative position from one time to another is irrelevant.

[76] See, e.g., Cong. Budget Office, supra note 1, at 9 (providing 2016 tax rates by income quintile, with greater detail only for wealthier quintiles).

[77] See id. at 13 (comparing incomes between income quintiles); Afonso supra note 73 (describing several inequality measures).

[78] See, e.g., OECD, supra note 1 (measuring the U.S. poverty rate).

[79] The imperative to disaggregate fiscal measures echoes a broader movement for expanded metrics of fiscal outcomes, including accounts from critical gender and race scholarship and equitable growth efforts. See, e.g., Jeremy Bearer-Friend, Should the IRS Know Your Race? The Challenge of Colorblind Tax Data, 73 Tax L. Rev. 1, 60-64 (2019) (exploring opportunities for increased collection of tax data by race in order to evaluate tax policies' racially disparate effects); Boushey, supra note 15 (advocating GDP 2.0, which measures economic growth broken down into different income groups).

C. *Why Consider Fiscal Impoverishment?*

The need to measure and target fiscal impoverishment may not be obvious. Perhaps we need not concern ourselves when two people swap positions above and below the poverty line, especially if the elevated person is a child and the other a childless adult. Perhaps progressivity, inequality reduction, and poverty reduction are sufficient objectives. Table 2, above, helps explain this position. The system depicted there drastically reduces the rate and depth of poverty—which are challenging and laudable achievements. Under such conditions, perhaps also measuring and targeting fiscal impoverishment would be baroque, frivolous, or even counterproductive.

This Article argues otherwise. As this section will explain, human dignity is a fundamental social and legal value, and one that the standard criteria fail to sufficiently encompass. Guarding human dignity means protecting all persons from degradation and exclusion, as well as safeguarding individuals' power to control their own lives. Doing so requires tracking individuals' movements into or out of poverty, which fiscal impoverishment analysis allows. Additionally, governments have both internally defined poverty-reduction goals as well as a foundational duty to not harm citizens and residents. Fiscal impoverishment makes satisfying these responsibilities impossible.

1. Human Dignity

Dignity is an inherent human quality that makes one worthy of respect and is possessed equally by all people.[80] Although a highly contested concept,[81] different approaches share certain commonalities. It is often associated with free will, control over one's body, and the freedom to determine and pursue one's own destiny.[82] Impoverishment's dignitary harm rests in its erosion of a person's freedom, as well as damage to a person's social, emotional, and physical wellbeing.[83]

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[80] See Kant, supra note 16, at 33 (explaining the inherent nature of dignity and its origin in morality); Martha C. Nussbaum, Upheavals of Thought: The Intelligence of Emotions 405-06 (2012) (discussing compassion and dignity); Arthur M. Okun, Equality and Efficiency: The Big Tradeoff 16 (1975) (noting that an "assurance of dignity for every member of society" requires a minimum standard of living and access to essentials).

[81] See Aharon Barak, Human Dignity: The Constitutional Value and the Constitutional Right 8-9 (Daniel Kayros trans., 2015) (describing criticisms of the concept of human dignity for being "elusive," "devoid of all content," "equivocal," and "vague").

[82] See id. at 26-31 (describing human dignity as understood by Immanuel Kant, Ronald Dworkin, and Jeremy Waldron).

[83] See Okun, supra note 80, at 16 ("Starvation and dignity do not mix well."); Barak, supra note 81, at 125 (quoting various sources that define dignity to be concerned with a

People in poverty live shorter lives,[84] each day of which is significantly more likely to be marked by chronic illness,[85] exclusion,[86] and sadness[87]. In these ways, living in poverty makes it more difficult for someone to pursue her best life, as a robust concept of dignity would require. Poverty also limits people's freedoms—to consume, travel, live, learn, and work as they wish—and prevents people from realizing their goals.[88] Poverty makes people dependent on others for basic needs, including friends and family, charities, and the state.[89] Although one's dignitary wellbeing surely

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person's physical, psychological, and spiritual "integrity" or "wholeness"); Kenneth S. Abraham & G. Edward White, The Puzzle of the Dignitary Torts, 104 Cornell L. Rev. 317, 326-29 (2019) (equating dignity with access to basic needs and describing violations of human dignity associated with "persons in extreme poverty or lacking in basic food supplies"); Rachel Bayefsky, Note, Dignity as a Value in Agency Cost-Benefit Analysis, 123 Yale L.J. 1732, 1739 (2014) (describing dignitary harms).

[84] According to one study, the richest 1% can expect to outlive the poorest 1% by 14.6 years for men and 10.1 years for women. Raj Chetty, Michael Stepner, Sarah Abraham, Shelby Lin, Benjamin Scuderi, Nicholas Turner, Augustin Bergeron & David Cutler, The Association Between Income and Life Expectancy in the United States, 2001-2014, 16 J. Am. Med. Assn 1750, 1753 (2016), https://jamanetwork.com/journals/jama/fullarticle/2513561 [https://perma.cc/DV8G-5W2M].

[85] Robert Wood Johnson Foundation, Overcoming Obstacles to Health 17 fig.3a (2008), http://www.commissiononhealth.org/PDF/ObstaclesToHealth-Report.pdf [https://perma.cc/J6MK-7DXD] (reporting that 30.9% of individuals below the federal poverty line report being in poor or fair health, compared to 6.6% of individuals whose income is at least four times greater than the federal poverty line). For about one-third of adults living below the poverty line, activities are limited due to a chronic health condition, compared to one-tenth of adults with incomes at least four times greater than the poverty line. Id. at 21 fig.4. Adults living below the poverty line are also twice as likely to be diabetic and fifty percent more likely to have heart disease. Id. at 22 figs.5 & 6.

[86] For instance, low-income individuals may be excluded from full participation in the political process. Cf. James R. Repetti, Democracy and Opportunity: A New Paradigm in Tax Equity, 61 Vand. L. Rev. 1129, 1130-31 (2008) (arguing that equity analysis should include equality of opportunity to participate in the political process).

[87] The HHS National Health Interviews Survey reports that, compared to the nonpoor (individuals with income at least 200% of the federal poverty line), people in poverty are about five times more likely to feel sadness, hopelessness, or worthlessness all or most of the time and three times more likely to feel that "everything is an effort" all or most of the time. U.S. Dep't of Health & Hum. Serv., Ctr. Disease Control, Summary Health Statistics for U.S. Adults: National Health Interview Survey, 2012, at 49 tbl.14 (2014), https://www.cdc.gov/nchs/data/series/sr_10/sr10_260.pdf [https://perma.cc/953E-SCUH].

[88] See, e.g., Amartya Sen, Development as Freedom 8 (1999) ("[E]conomic unfreedom, in the form of extreme poverty, can make a person helpless prey in the violation of other kinds of freedom.").

[89] See Peter Schaber, Absolute Poverty, in Humiliation, Degradation, Dehumanization 151-52 (Paulus Kaufmann, Hannes Kuch, Christian Neuhäuser, Elaine Webster eds., 2011) (arguing that absolute poverty violates human dignity because people in poverty are dependent on others).

declines gradually as one slides toward poverty, the existence of a poverty threshold suggests that there is some resource level below which these deprivations becomes too severe for society to accept.

Protecting individual dignity thus requires shielding all persons from deprivation, degradation, and social exclusion, among other harms.[90] Although there is no constitutional right to dignity, concern for human dignity scaffolds much legal and constitutional interpretation.[91] Given the centrality of human dignity in defining the scope of constitutional rights in the United States, the government should not knowingly and repeatedly violate human dignity.

It may seem that existing poverty measures sufficiently safeguard human dignity. However, as explained above,[92] the poverty rate only observes population-level pathologies and overlooks individual changes of status. If more people are pulled out of poverty than pushed into poverty, the poverty rate still falls despite any harm befalling impoverished households. In order to adequately guard human dignity, a measure must track individualized harm separate from improvements experienced by others. That is, the elevation of one person cannot erase dignitary harm caused to another.[93] Measuring fiscal impoverishment thus forefronts human dignity by observing whether tax collection harms *any* individual, irrespective of the improved condition of others.

2. Governments' Goals and Duties

Awareness of fiscal impoverishment is also important because impoverishment undermines governments' avowed goal of reducing poverty as well as a fundamental duty to not harm citizens and residents. Notice, importantly, that these problems of fiscal impoverishment arise from the fact that the *state* is the agent of harm, in contrast to harm arising solely from a person's own choices or another person's actions.[94] The government's special

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[90] See Abraham & White, supra note 83, at 329 (discussing the dignitary harms associated with living in poverty); see also Reuven S. Avi-Yonah & Yoseph M. Edrey, Constitutional Review of Federal Tax Legislation 17 (U. Mich. L. & Econ. Rsch. Paper Series, No. 21-007, 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3771017 [https://perma.cc/G7BR-D5HG] ("Any tax system that does not leave the taxpayer with a dignified minimum standard of living probably violates the constitutional right to human dignity.")

[91] See Barak, supra note 81, at 13 (describing human dignity as an implied value in the U.S. Constitution); id. at 103-13 (exploring human dignity as a constitutional value).

[92] See discussion supra Part II.B.

[93] Cf. Abraham & White, supra note 83, at 326-29 (providing various examples of dignity in the context of human rights as prioritizing the rights of "every human" and protecting "any person" from dignitary harm).

[94] See Adam Omar Hosein, Doing, Allowing, and the State, 33 L. & Phil. 235, 235

role in fiscal impoverishment distinguishes it from the standard criteria described above. Most notably, fiscal impoverishment implicates the economic responsibilities of the state vis-à-vis poor taxpayers.

Evidence of state and federal governments' poverty reduction goals can be seen in the establishment of the Federal Poverty Guidelines,[95] as well as the host of public benefit programs operating at local, state, and federal levels.[96] Although the question of how best to mitigate poverty falls to political and bureaucratic processes, some version of a goal of helping low-income individuals is clear. If governments seek to elevate households above a pre-determined level of wellbeing, they surely should not push some below that level. Thus, recognizing fiscal impoverishment reveals governments' violation of their own internal goals.

Even in the absence of such internal goals, however, fiscal impoverishment violates a fundamental governmental duty to not harm citizens and residents.[97] This duty is one of its most basic.[98] Were the harms of fiscal impoverishment divorced from taxes, governments would be authorized to inflict them only under very limited circumstances.[99] Governments in the United State may impose corporeal harm up to capital punishment, restrict someone's freedom via imprisonment or quarantine, and cause significant financial harm via fines or restitution. They may inflict these harms under a state's police power[100] on the grounds of punishment,

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(2014) (arguing that the "doing/allowing distinction" should be applied to state action).

[95] Annual Update of the HHS Poverty Guidelines, 85 Fed. Reg. 3060-61 (2020).

[96] See infra Part III.A.2 for a description of several prominent federal and state antipoverty programs.

[97] There are various ways to arrive at this principle. It could, for instance, arise from an affirmative duty on the part of the government to promote "the good" for its residents. <u>See</u> The Declaration of Independence ¶ 2 (U.S. 1776) ("It is the Right of the People to . . . institute new Government, . . . organizing its powers in such form . . . most likely to effect their Safety and Happiness"); Aristotle, Politics bk. I, at 25 (Benjamin Jowett trans., 1905) ("[T]he state or political community, which is the highest [community] of all, and which embraces all the rest, aims at . . . the highest good."). Alternatively, it could arise from an affirmative duty on the part of government to protect its citizens from harm. <u>See</u> Thomas Hobbes, Leviathan pt. 2, at 128-29 (A.P. Martinich ed., 2002) (1651) (asserting that government protects citizens from the ills that emerge in the absence of any restraint); Steven J. Heyman, <u>The First Duty of Government: Protection, Liberty and the Fourteenth Amendment</u>, 41 Duke L.J. 507, 512-16 (1991) (discussing the legal foundations of the fundamental right to protection). By extension, a requirement to protect means that the government cannot cause harm itself.

[98] <u>Cf.</u> Aristotle, <u>supra</u> note 97, at 25 (declaring that the state seeks the "highest good"); Heyman, <u>supra</u> note 97, at 512-16.

[99] <u>See, e.g.</u>, U.S. Const. amend. V (limiting takings); <u>Id.</u> amend. VIII (limiting cruel punishment and excessive fines).

[100] <u>See, e.g.</u>, U.S. Const. amend. X (granting certain powers to the states); <u>see also</u> <u>Legal Authorities for Isolation and Quarantine</u>, Ctrs. for Disease Control & Prevention, (Feb.

deterrence, or to protect society from further harm,[101] but their ability to do so is strictly circumscribed, in some cases by the U.S. Constitution.[102] Generally speaking, the harm caused must be reasonably justified by a greater good achieved, or a graver harm forestalled. For instance, imprisoning a violent offender or shutting down businesses to prevent the spread of a dangerous disease may cause harm, but the state does so to protect the public's safety and health.[103]

Legally speaking, tax policies need not be justified under such a restrictive calculus.[104] This freedom makes good sense. A broad power to tax is necessary to enable the government to fund our collective pursuits, freed from the constant litigation that a more restrictive grant of power would allow. However, where tax levies push some households into severe deprivation, perhaps we *should* ask whether the tax revenue raised justifies the harm of impoverishment. Exposed to such scrutiny, it is difficult to imagine an answer in the affirmative. Where $100 or $1,000 taken from a poor family directly limits their ability to buy food or medicine, the gain to public coffers seems petty.

The gratuity of the harm is laid bare when one considers the dollars at stake and their relative value to poor and non-poor taxpayers. At the federal level, households earning less than $10,000 per year are projected to have paid 0.1% of federal tax revenue in 2019.[105] The amount collected is nearly

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2020), https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html [https://perma.cc/45BE-26QQ] (explaining that the federal government's power to isolate and quarantine arises from the Commerce Clause of the U.S. Constitution and the Public Health Service Act, while state and local governments have police power to protect the health and safety of their residents).

[101] It is worth noting that such power is not expressly granted by the Constitution but may be implied. See Paul Fuller, Is There a Federal Police Power?, 4 Colum. L. Rev. 563, 565 (1904) (considering the federal government's police power to protect and promote the good for its people and concluding that such power "must be under the doctrine of implied powers, to be inferred from the necessity which arises for its use").

[102] See, e.g., U.S. Const. amend. VIII (limiting excessive punishment and fines).

[103] See, e.g., Michael Levenson, Local and State Officials Unlock Sweeping Powers to Fight Coronavirus, N.Y. Times (Mar. 14, 2020), https://www.nytimes.com/2020/03/14/us/national-state-emergency.html [https://perma.cc/3S95-YGP4] (describing subnational governments' powers during public health crises).

[104] See McCulloch v. Maryland, 17 U.S. 316, 428 (1819) ("The only security against the abuse of [taxation], is found in the structure of the government itself."); Eric Kades, Drawing the Line Between Taxes and Takings: The Continuous Burdens Principle, and Its Broader Application, 97 Nw. U. L. Rev. 189, 192 (2002) ("At times, judges and legal commentators have declared that Congress' power to tax is beyond constitutional review.").

[105] Joint Comm. on Tax'n, Overview of the Federal Tax System as in Effect for 2019, 34 tbl.A-6 (2019). Note that this group likely includes many non-poor households that report low incomes on their tax returns due to business losses or other items that reduce gross

\$2.2 billion, bespeaking a significant transfer away from poor taxpayers.[106] Moreover, the Treasury could easily collect this 1/1,000th of federal tax revenue from better-off households without worsening deprivation or overly hampering growth. For example, repealing bonus and accelerated depreciation of equipment would raise \$71.5 billion in one year, more than offsetting the tax revenue collected from the lowest rung of the economic ladder.[107]

Although pursuing the standard criteria is vitally important, this discussion has sought to show that such aggregate goals miss something important. Specifically, concern for human dignity as well as governmental responsibilities to individual low-income households justify increased attention on fiscal impoverishment. Shifting from normative to positive, the next Part illustrates the extent of fiscal impoverishment's harm in the United States by sketching its scope across the fifty states and the District of Columbia.

III. FISCAL IMPOVERISHMENT IN THE UNITED STATES

We need not concoct a hypothetical tax system to see that fiscal impoverishment can occur in a progressive, equalizing, and poverty-reducing fiscal system. The U.S. fiscal system offers a prime example, as this Part details. First, this Part describes the various taxes and public benefits that low-income households in the United States are most likely to pay and receive. Then, using several stylized households, it explores pre- and post-tax and transfer incomes at various income levels to illustrate the scope of fiscal impoverishment across all fifty states and D.C. This analysis reveals a disparate distribution of fiscal burdens, with net costs diverging sharply depending on a taxpayer's geographic location, family structure, and eligibility for a patchwork of federal and state public benefit programs.

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income. Additionally, many households living in poverty likely fall into the \$10,000-\$20,000 and \$20,000-\$30,000 income bands.

[106] Id. This revenue figure does not include amounts collected by state and local governments.

[107] Joint Comm. on Tax'n, Estimates of Federal Tax Expenditures for Fiscal Years 2019-2023, at 24 (2019), jct.gov/publications.html?func=startdown&id=5238 [https://perma.cc/3YGM-C25T] (estimating that all equipment depreciation in excess of the alternative depreciation system will cost \$71.5 billion in lost revenue in 2019 for corporations and individuals combined).

A. *Specific Taxes and Transfers*

Many others have detailed the taxes most burdensome to low-income taxpayers.[108] This Article will not retrace those careful steps, only briefly describing such charges.[109]

1. Taxes

Federal Income Tax—Most people living in or near poverty will owe no federal income tax, or very little tax, because the tax filing threshold roughly tracks the federal poverty threshold.[110] Exempting income below a certain level traces back to a longstanding and well-accepted notion that the state should only tax income above a subsistence level, sometimes referred to as "clear income."[111]

Although the tax-filing threshold—the dollar amount below which no income tax is owed[112]-—and federal poverty threshold are currently quite close, the gap between them has been wider in the recent past, as Figure 1 shows. Over the past forty years, the average (inflation-adjusted) gap between the tax-filing threshold and the federal poverty guideline is $1,733.[113]

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[108] See supra Part I.B.

[109] For discussion of the challenges associated with determining and valuing the taxes and transfers included in fiscal impoverishment calculations, see infra Part III.C.1.

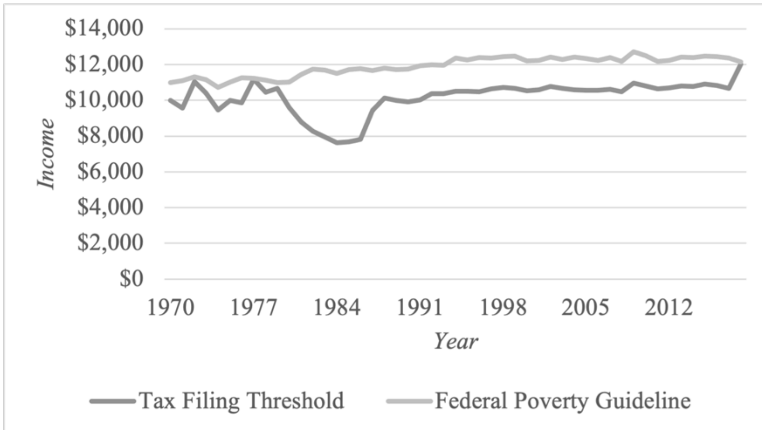
[110] The EITC further ensures a low or even negative federal tax burden on low-income taxpayers. See infra notes 139-148 and accompanying text.

[111] See 9 Edwin R. A. Seligman, Progressive Taxation in Theory and Practice 129–30, 160–62 (1894) (providing examples of several historical scholars who have recognized the concept of "clear income").

[112] 6 Borris I. Bittker & Lawrence Lokken, Federal Taxation of Income, Estates and Gifts ¶ 111.1.2, at 111-3 ("[A]n individual is required to file an income tax return for a taxable year if gross income equals or exceeds the sum of the 'exemption amount' . . . .").

[113] Calculations by author based on historical data from the IRS, Tax Policy Center, and Social Security Administration. See SOI Tax Stats - Historical Table 23, IRS, https://www.irs.gov/statistics/soi-tax-stats-historical-table-23 [https://perma.cc/RXB8-C3XM]; Standard Deduction: 1970 to 2019, Tax Pol'y Ctr (Feb. 8, 2022), https://www.taxpolicycenter.org/statistics/standard-deduction [https://perma.cc/C4BL-PSEZ]; Social Welfare and the Economy, Soc. Sec. Admin. (2019), https://www.ssa.gov/policy/docs/statcomps/supplement/2019/3e.html#table3.e8 [https://perma.cc/9KZQ-RMZQ] (providing the necessary information in table 3.E8: Poverty Guidelines for Families of Specified Size, 1965–2019). Income was adjusted for inflation using the U.S. Census Bureau, Annual Average Consumer Price Index Research Series (CPI-U-RS): 1947 to 2018 (2019), https://www.census.gov/topics/income-poverty/income/guidance/current-vs-constant-dollars.html [https://perma.cc/LX77-S6NW].

FIGURE 1: GAP BETWEEN POVERTY GUIDELINE AND TAX-FILING THRESHOLD, 1970-2018 (ADJUSTED FOR INFLATION)



Federal Payroll Taxes—Federal payroll taxes, which include Federal Insurance Contributions Act (FICA) and Self-Employment Contributions Act (SECA) taxes, represent the largest federal fiscal cost to low-income taxpayers.[114] These taxes apply to the first dollar of wages or self-employment earnings.[115] Employees pay a tax rate of 7.65% on wages; their employers pay an additional 7.65% on those same wages.[116] There is broad consensus among economists that the employer's portion of FICA taxes is passed on to workers through lower wages.[117] Self-employed individuals—a category that includes freelancers, gig-economy workers, misclassified workers, and small-business owners—face a SECA tax rate of 15.3%.[118]

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[114] See James M. Puckett, Improving Tax Rules by Means-Testing: Bridging Wealth Inequality and "Ability to Pay," 70 Okla. L. Rev. 405, 422-23 (2018) (describing regressive design features of federal payroll taxes); Linda Sugin, Payroll Taxes, Mythology, and Fairness, 51 Harv. J. Legis. 113, 116-17 (2014) (noting that federal payroll taxes contribute greatly to the disproportionate taxation of labor income).

[115] See I.R.C. § 3121(a) (defining wages); I.R.C. § 1402(a) (defining net earnings from self-employment). The Social Security tax component applies up until a ceiling, which is $137,700 in 2020. Press Release, Soc. Sec. Admin., Social Security Announces 1.6 Percent Benefit Increase for 2020 (Oct. 10, 2019), https://www.ssa.gov/news/press/releases/2019/#10-2019-1 [https://perma.cc/MLA5-AV77].

[116] I.R.C. §§ 3101–3102 (outlining the tax on employees); I.R.C. §§ 3111–3113 (outlining the tax on employers).

[117] See Don Fullerton & Gilbert E. Metcalf, Tax Incidence, in 4 Handbook of Public Economics 1787, 1821-22 (Alan J. Auerbach & Martin Feldstein eds., Alan J. Auerbach & Martin Feldstein eds., 2002) (discussing several studies finding that employees bear the burden of payroll taxes).

[118] I.R.C. § 1401 (providing the rate of tax on income from self-employment).

Both FICA and SECA taxes contribute to the Social Security and Medicare trust funds.[119] Because of this connection between the taxes and later benefits, many consider them more like insurance contributions than taxes.[120] Others, however, refute this view for various reasons, including the fact that benefits are not directly related to the amount of taxes paid and the fact that payees have no legal claim to benefits merely for making payments, among other reasons.[121] This Article takes the latter position, believing the burden that payroll taxes impose on low-income taxpayers should be evaluated in the current time period irrespective of future benefits that the taxpayers may or may not receive.[122]

State and Local Sales and Excise Taxes[123]—Sales taxes are the most important source of revenue in many states, and the most significant nonfederal tax for low-income taxpayers.[124] The Institute for Taxation and Economic Policy (ITEP) reports that households in the bottom income quintile face an average state and local sales and excise tax rate of 7.1%.[125]

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[119] Social Security and Medicare Tax Rates, Soc. Sec. Admin (2020), https://www.ssa.gov/OACT/ProgData/taxRates.html [https://perma.cc/M53P-3VPH] (explaining that employment taxes finance the Social Security and Medicare trust funds).

[120] See, e.g., Lawrence H. Thompson, The Social Security Reform Debate, 21 J. Econ. Literature 1425, 1437 (1983) (discussing this "insurance model" perspective); Andrew G. Biggs, Mark Sarney & Christopher R. Tamborini, Soc. Sec. Admin., Issue Paper No. 2009-01, A Progressivity Index for Social Security 6-7 (2009) (describing the "social insurance nature" of the Social Security program).

[121] See, e.g., Michael Graetz, The Troubled Marriage of Retirement Security and Tax Policies, 135 U. Pa. L. Rev. 851, 868 (1987) (arguing that Social Security taxes' regressive structure "violates principles of tax justice and cannot be defended . . . by reference to ultimate benefits that the working poor may expect to receive"); Sugin, supra note 114, at 152 (arguing that equating regressive payroll taxes with insurance contributions has deceived workers into accepting a regressive tax structure that unfairly overburdens wage earners).

[122] Social Security benefits pull millions of senior citizens out of poverty. Kathleen Romig, Ctr. on Budget and Pol'y Priorities, Social Security Lifts More Americans Above Poverty Than Any Other Program 1 tbl.1 (2020), https://www.cbpp.org/sites/default/files/atoms/files/10-25-13ss.pdf [https://perma.cc/2G74-WMR8]. Even so, the system is less progressive than many estimates assume in part because they fail to consider the direct correlation between income and life expectancy. See Coronado, Fullerton & Glass, supra note 69, at 24 (making this point).

[123] Although federal excise taxes are similarly regressive, they are omitted from the analysis because they apply only to a subset of goods, which some poor households may not consume. Major Federal Excise Taxes, supra note 52. Including an estimate for federal excise taxes would increase fiscal impoverishment.

[124] See ITEP, supra note 7, at 12 (describing the regressive nature of state and local sales taxes).

[125] Id. at 1-2, 4 (estimating a total state and local tax rate, including income, property, and corporates taxes, of 11.4% on the bottom income quintile, and 7.4% on the top income quintile).

Table 8, in the Appendix, provides sales tax rates for low-income households in all fifty states and the District of Columbia.[126]

Aside from the seven states that offer a sales tax credit to low-income taxpayers, generally there is no direct relief for sales taxes.[127] What's more, low-income households pay a larger average consumption tax rate because they tend to consume all their income, or even more than their annual income.[128]

State Income Taxes—State income tax structures vary widely. Most states have progressive rates.[129] Nine states impose a flat income tax, levying the same rate on all taxpayers.[130] Many states' income taxes begin to accrue on incomes well below any reasonable poverty threshold.[131] To offset these tax burdens, twenty-nine states offer income-based tax credits like the EITC, most of which are refundable.[132] These are discussed further in the next Subsection.

Property Taxes—Property taxes comprise the largest share of local governments' own-source revenue.[133] Poor households pay such taxes directly if they own their own homes or indirectly via increased rent.[134] ITEP estimates that households in the bottom income quintile pay an average

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[126] Further information about ITEP's methodology can be found in the Appendix, infra, at notes 354-357 and accompanying text, and in ITEP, supra note 7, at 134-37.

[127] Id. at 16.

[128] Id. at 18.

[129] Id. at 14.

[130] Id. (noting that Colorado, Illinois, Indiana, Kentucky, Massachusetts, Michigan, North Carolina, Pennsylvania, and Utah all impose a flat-rate income tax).

[131] Fed'n of Tax Adm'rs, State Individual Income Taxes 1 (2022), https://www.taxadmin.org/assets/docs/Research/Rates/ind_inc.pdf [https://perma.cc/V3KE-LMH6] (listing all states' tax rates, bracket ranges, personal exemptions and standard deductions). Pennsylvania is the only state that levies an income tax with no standard deduction or personal exemptions. ITEP, supra note 7, at 15. Pennsylvania offers a tax forgiveness credit that relieves qualifying low-income families of state income taxes. See Pa. Dep't of Revenue, Rev-631 (PO+) 11-21, Tax Forgiveness for PA Personal Income Tax, https://www.revenue.pa.gov/FormsandPublications/FormsforIndividuals/PIT/Documents/rev-631.pdf [https://perma.cc/X99M-JHBS](describing eligibility for the state's tax forgiveness program).

[132] ITEP, supra note 7, at 16.

[133] See Judy A. Zelio, A Guide to Property Taxes: The Role of Property Taxes in State and Local Finances 6-9 (2004) (estimating that property tax revenue accounts for 20% of state and local own-source revenue on average).

[134] See Richard W. England, Tax Incidence and Rental Housing: A Survey and Critique of Research, 69 Nat'l Tax J. 435, 449-51 (2016) (describing recent empirical research on residential property tax incidence which finds that some portion of the property tax is borne by taxing jurisdictions' residents via higher rents or reduced local wages); see generally Fullerton & Metcalf, supra note 117, at 1815-17 (discussing property tax incidence).

property tax rate of 4.2% of total income.[135] Table 8 in the Appendix provides rates for low-income households in all fifty states and the District of Columbia. Several states offer property tax rebates, some of which are refundable and available to renters.[136] These programs reduce fiscal impoverishment in the handful of states in which they exist.

2. Transfers

Refundable tax credits and other public benefits offset taxes and protect many households from fiscal impoverishment. These supportive transfers operate via a patchwork of programs administered in complex and overlapping ways by federal, state, and local agencies, reflecting entrenched pathologies of our federalist system. Despite these complexities, there are enough similarities between states to draw generalizations about the various transfer programs throughout the United States. Most notably, working families with children, individuals with disabilities, and senior citizens receive the bulk of these benefits.[137]

As explained above,[138] when assessing fiscal impoverishment this Article considers only safety-net benefits that bear on basic needs in the current period. It ignores the value of many other government benefits, perhaps most notably that of universal in-kind public benefits such as roads, military protection, schools, and so forth. Although a low-income person benefits from roads or schools, she is still considered poor and remains severely deprived even after her use of these public goods. Moreover, any past or future benefit she might receive from, say, education or Social Security, does nothing to alleviate her deprivation in the current period.

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[135] See ITEP, supra note 7, at 12 (noting, also, that the top 1% face an average property tax rate of 1.7% of income).

[136] See Sonya Hoo, Tax Pol'y Inst., Property Tax Credits Offered Through State Income Tax Systems 1089 (2005), https://www.urban.org/sites/default/files/publication/51451/1000852-Property-Tax-Credits-Offered-Through-State-Income-Tax-Systems.PDF_[https://perma.cc/X3PX-XH9P] (stating that seventeen states and the District of Columbia allow such credits).

[137] In 2018, the federal government spent $1,566 billion on Social Security retirement benefits and Medicare, $199 billion on disability insurance and Supplemental Security Income, and $81 billion on tax credits for working families. See Cong. Budget Office, The Budget and Economic Outlook 2019 to 2029, at 68 tbl.3-2 (2019), https://www.cbo.gov/system/files/2019-03/54918-Outlook-3.pdf. These spending categories represented the largest line items in the 2018 budget outside of government employee pensions, veterans' programs, and Medicaid. See id.

[138] Supra text accompanying notes 67–70.

Refundable Tax Credits—Refundable tax credits dramatically increase the progressivity of the federal income tax system. The largest of these are the EITC and child tax credit.[139] Both credits provide cash transfers to low-income working families with children.[140] Both credits impose a work requirement and phase in at low-income levels, meaning the credit amount increases as the recipient's income increases until the credit reaches its maximum amount.[141]

Congress originally enacted the EITC in part to offset federal payroll taxes among working families living in poverty.[142] Although this effort was largely successful for recipient families with children, workers without children receive an EITC too small to fully offset payroll taxes.[143] Nonworkers, as well as people earning ineligible or nontaxable income, are excluded from the EITC and child tax credit.[144] Entire households are also excluded from the EITC if one parent lacks a work-eligible Social Security number.[145] Additionally, families might be excluded from both credits because they fail to satisfy eligibility rules related to family structure and care arrangements.[146]

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[139] Joint Comm. on Tax'n, supra note 107, at 28-29 tbl.1 (providing cost estimates for all federal tax expenditures, including the EITC and the "[c]redit for children and other dependents").

[140] Thomas L. Hungerford & Rebecca Thiess, The Earned Income Tax Credit and the Child Credit: History, Purpose, Goals, and Effectiveness 2-4 (Econ. Pol'y Inst., Issue Brief #370, 2013), https://files.epi.org/2013/The-Earned-Income-Tax-Credit.pdf [https://perma.cc/KW38-MTAW].

[141] I.R.C. §§ 32(b), 24(d) (West 2021). For 2021 only, Congress eliminated the phase-in structure for the child tax credit so that the lowest-income recipients could receive the full credit amount. Importantly, this expansion allowed the credit to reach non-working families with children. See American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 9611 (enacted). The expansion expired at the start of 2022. Id.

[142] See House of Rep, 99th Cong., A Report on the Activities of the Select Committee on Children, Youth, and Families. Representatives 19-23 (1986), https://files.eric.ed.gov/fulltext/ED269158.pdf [https://perma.cc/D2AG-P96S] (statement of Sen. Daniel Patrick Moynihan); Hungerford & Thiess, supra note 140, at 1-2.

[143] See Jurow Kleiman, supra note 20, at 21-24 (describing positive federal tax burdens on childless taxpayers). For 2021 only, Congress increased the EITC for childless workers so that it fully offsets payroll taxes for some workers living below the poverty line. I.R.C. § 32(b)(2)(A), (n)(4) (West 2021). This expansion expired at the start of 2022. Id.

[144] For instance, state "workfare" programs are excluded from EITC eligibility. See I.R.S., Pub. 596, Earned Income Credit (EIC), at 9 (2020), https://www.irs.gov/pub/irs-pdf/p596.pdf [https://perma.cc/Y6XL-N4Q4] (explaining that workfare is not included for the purposes of calculating EITC eligibility).

[145] Id. at 5.

[146] See Jacob Goldin & Ariel Jurow Kleiman, Whose Child Is This? Improving Child-Claiming Rules in Safety-Net Programs, 131 Yale L.J. (forthcoming 2022) (manuscript at 21-23) (on file with author) (describing how child-claiming rules exclude many families from refundable tax credits).

Twenty-eight states and the District of Columbia offer state-level refundable tax credits that largely piggyback off the federal structure.[147] Because these credits tend to cover the same households as the federal credit, they typically do not change who is most likely to be impoverished in most states.[148]

Social Security Disability and Retirement—The most significant cash transfer program in the United States is Social Security,[149] which ensures that elderly U.S. residents are protected from fiscal impoverishment. The Social Security Administration also runs the federal disability insurance program, which includes Social Security Disability Income and Supplemental Security Income (SSI).[150] These programs provide varying levels of support, starting at $841 per month in 2022,[151] to individuals with a qualifying disability.[152] In addition to supporting disabled individuals, these programs also provide benefits to children with a deceased or disabled parent.[153]

Temporary Assistance for Needy Families (TANF)—The other significant cash-transfer program for low-income households is Temporary Aid to Needy Families (TANF).[154] Distinct from retirement or disability benefits, TANF benefits are means-tested, meaning they phase out as income rises.[155]

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[147] State Earned Income Tax Credits, Urb. Inst., https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/state-earned-income-tax-credits [https://perma.cc/EDQ2-8WHQ].

[148] There are several exceptions to this. For instance, several states have recently extended benefits to families with members who lack Social Security numbers, including California, Colorado, Maryland, New Mexico, and Washington. See id. Additionally, some states offer benefits to childless households that are calculated as a greater percentage of the federal credit compared to credits for households with children, including Maine, Maryland, and the District of Columbia. See id.; Richard C. Auxier, District of Columbia Shows How to Expand the EITC For Childless Workers, Tax Pol'y Ctr. (Feb. 26, 2019), https://www.taxpolicycenter.org/taxvox/district-columbia-shows-how-expand-eitc-childless-workers [https://perma.cc/MVE5-964M].

[149] Cong. Budget Off., The Federal Budget in Fiscal Year 2020 (2021), https://www.cbo.gov/system/files/2021-04/57170-budget-infographic.pdf [https://perma.cc/7372-QHP2].

[150] Soc. Sec. Admin., Pub. No. 05-10029, Disability Benefits 1 (2019), https://www.ssa.gov/pubs/EN-05-10029.pdf [https://perma.cc/ZJ6V-3G4E].

[151] Soc. Sec. Admin., Pub. No. 05-10003, Update 2 (2020) https://www.ssa.gov/pubs/EN-05-10003.pdf [https://perma.cc/58FE-N6M7].

[152] Soc. Sec. Admin., supra note 150, at 1.

[153] Soc. Sec. Admin., Pub. No. 05-10085, Benefits for Children 1 (2018), https://www.ssa.gov/pubs/EN-05-10085.pdf [https://perma.cc/H628-3HNS].

[154] See generally Gene Falk, Cong. Rsch. Serv., RL 32760, The Temporary Assistance for Needy Families (TANF) Block Grant: Responses to Frequently Asked Questions (2019) (describing the TANF program).

[155] Robert A. Moffitt, The Temporary Assistance for Needy Families Program, in

As the name implies, TANF provides benefits only to households with children.[156] Work requirements further restrict benefits in many states.[157] Additional barriers to access are discussed below.[158]

Aside from TANF, there are vanishingly few other cash support programs for struggling households. Some local governments run modest support programs for poor childless adults, sometimes called general relief.[159] These programs tend to be limited to disabled adults who cannot qualify for federal disability benefits.[160]

Near-Cash and In-Kind (Nonmedical) Benefits—Other benefit programs increase a household's access to a specific essential need, like food or housing. The largest such program is the Supplemental Nutrition Assistance Program (SNAP), often called food stamps, which provides food support to tens of millions of individuals each month.[161] In 2021, the U.S. Department of Agriculture recalculated the household food allotment for SNAP purposes, increasing benefits by 27% overall[162]—the largest one-time increase in the program's history.[163] Other programs include the National School Lunch

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Means-Tested Transfer Programs in the United States 303-05 (Robert A. Moffit ed., 2003) (discussing the TANF "tax rate," which is the rate at which TANF decreases as income rises).

[156] 42 U.S.C. § 601(a)(1).

[157] Falk, supra note 154, at 9.

[158] Infra Part III.B.1.

[159] Liz Schott, Ctr. on Budget & Pol'y Priorities, State General Assistance Programs Are Very Limited in Half the States and Nonexistent in Others, Despite Need 1 (2020), http://www.cbpp.org/sites/default/files/atoms/files/7-9-15pov.pdf [https://perma.cc/Y49M-D9H5] (noting the declining size and scope of general assistance programs across states).

[160] Id.

[161] Ctr. on Budget & Pol'y Priorities, The Supplemental Nutrition Assistance Program (SNAP) 1, 3 (2019) https://www.cbpp.org/sites/default/files/atoms/files/policybasics-foodstamps.pdf [https://perma.cc/PPC4-Y8PR] (providing that, in 2018, households received average monthly benefits of $127).

[162] See Press Release No. 0179.21, USDA, USDA Modernizes the Thrifty Food Plan, Updates SNAP Benefits (Aug. 16, 2021), https://www.usda.gov/media/press-releases/2021/08/16/usda-modernizes-thrifty-food-plan-updates-snap-benefits [https://perma.cc/QHV8-RCHM]; USDA, Estimated Increase in SNAP Benefits, FY 2022 (2021), https://fns-prod.azureedge.net/sites/default/files/resource-files/tfp-state-by-state.pdf [https://perma.cc/7AAU-4ULN] [hereinafter "Estimated Increase in SNAP"] (calculated by using U.S. total figures, dividing total increase by total prior benefits to arrive at 27% percent increase in total benefits).

[163] Areeba Haider, 5 Details About the Largest Increase to SNAP Benefits in the Program's History, Ctr for Am. Prog. (Aug. 25, 2021), https://www.americanprogress.org/article/5-details-largest-increase-snap-benefits-programs-history/ [https://perma.cc/Q7T9-6Q2Q].

Program,[164] housing assistance such as Section 8 vouchers,[165] Child Care and Development Funding (CCDF) assistance,[166] and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).[167]

All of these programs provide means-tested benefits.[168] Like TANF, in-kind benefits allocate scarce resources by prioritizing households with children as well as elderly and disabled individuals.[169] For instance, of the 5 million people who receive Section 8 vouchers, 70% belong to families with children.[170] Specific limitations and uptake issues are discussed in greater depth below.[171]

Medicaid—Medicaid addresses a vital need of low-income households by providing public medical insurance.[172] States administer the program under federal guidelines.[173] States are required to provide Medicaid coverage to low-income children, pregnant women, certain low-income parents/caretakers, and most elderly and disabled individuals receiving

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[164] U.S. Dep't of Agric., The National School Lunch Program (2017), https://fns-prod.azureedge.net/sites/default/files/resource-files/NSLPFactSheet.pdf [https://perma.cc/3BWB-P4VD].

[165] See generally Maggie McCarty, Cong. Rsch. Serv., RL32284, An Overview of the Section 8 Housing Programs: Housing Choice Vouchers and Project-Based Rental Assistance (2014), https://crsreports.congress.gov/product/pdf/RL/RL32284/19 [https://perma.cc/D967-RHG4] (describing the Section 8 program).

[166] See Karen Lynch, Cong. Rsch. Serv., IF10511 Child Care Entitlement to States 1-2 (2019), https://crsreports.congress.gov/product/pdf/IF/IF10511 [https://perma.cc/EQQ5-WKR9] (describing means-tested child care subsidy programs).

[167] 42 U.S.C. § 1786 (West 2021).

[168] See generally Edgar O. Olsen, Housing Programs for Low-Income Households, in Means-Tested Transfer Programs in the United States, supra note 155, at 365-442 (discussing housing programs for low-income households); David M. Blau, Child Care Subsidy Programs, in Means-Tested Transfer Programs in the United States supra note 155, at 443-516 (discussing child care and early education subsidy programs); 42 U.S.C. § 1786(d)(2) (West 2021) (describing nutrition programs).

[169] The federal government limits SNAP benefits available to unemployed able-bodied adults without dependents (ABAWDs) to three months in any three-year period. 7 U.S.C. § 2015(o)(2)-(3). A state can request a waiver of this limitation if an area has an unemployment rate higher than 10% or does not have a sufficient number of jobs. Id. at (o)(4).

[170] Ctr. on Budget & Pol'y Priorities, United States Housing Choice Fact Sheet 1 (2017), https://www.cbpp.org/sites/default/files/atoms/files/3-10-14hous-factsheets_us.pdf [https://perma.cc/ZQX2-QPV6].

[171] See infra sections III.B.1 (describing barriers to access for means-tested programs).

[172] Ctr. on Budget & Pol'y Priorities, Introduction to Medicaid 1 (2020), https://www.cbpp.org/sites/default/files/atoms/files/policybasics-medicaid_0.pdf [https://perma.cc/KQL3-6FMZ].

[173] See id. at 2 (describing certain mandatory conditions for states to receive federal Medicaid funding).

SSI.[174] Although the Affordable Care Act extended mandatory support to low-income childless adults, the Supreme Court in *National Federation of Independent Business v. Sebelius* allowed states to deny such coverage without losing federal support.[175] At the time of writing, fifteen states have chosen not to expand Medicaid coverage to low-income childless adults.[176]

Assessing the value of medical benefits is complex. Although it may free up household resources, Medicaid cannot be used to purchase other essential needs like food or housing. Moreover, the amount of income that Medicaid frees up differs from household to household. If a recipient is healthy, Medicaid may free up no additional resources. If a recipient is sick or disabled, the value of such benefits is significantly higher.[177] Even so, acknowledging this fact does not tell us how much that recipient would have spent on care in the absence of free healthcare.[178]

This Article adopts the U.S. Census Bureau's approach to valuing Medicaid. Under this approach, the Census calculates the "fungible value" of in-kind medical services based on the market value of medical services and family-level food and housing costs.[179] Most notably, where the household's cash income is insufficient to meet its food and housing needs (which is true for all fiscally impoverished households), the fungible value of medical benefits is deemed to be zero.[180] For additional comments on valuing Medicaid, see the Appendix.[181]

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[174] Id.

[175] Nat'l Fed'n of Indep. Bus. v. Sebelius, 567 U.S. 519, 585 (2012) (holding that Congress cannot "penalize States that choose not to participate in [the Affordable Care Act] by taking away their existing Medicaid funding").

[176] CBPP, supra note 172, at 3.

[177] See Gary Burtless & Sarah Siegel, Medical Spending, Health Insurance, and Measurement of American Poverty, in Race, Poverty, and Domestic Policy 125 (C. Michael Henry, ed., 2004) (explaining why the value of medical benefits differs from household to household).

[178] See U.S. Census Bureau, Proceeding of the Conference on the Measurement of Noncash Benefits, Vol. 1, at 18-21 (1985), https://www.census.gov/content/dam/Census/library/working-papers/1985/demo/measurementconf.pdf [https://perma.cc/KUR8-H8H4] (explaining that poor individuals with significant healthcare expenses would "[be] forced to spend nearly all of their income, go heavily into debt, rely on free care and the like").

[179] See Calculating Fungible Values: Medicare, Medicaid, U.S. Census Bureau, https://www.census.gov/programs-surveys/cps/technical-documentation/user-notes/fungible-values.html [https://perma.cc/2XF6-9RYL] (Oct. 8, 2021).

[180] Id.

[181] Infra text accompanying notes 366-373.

B. *How Fiscal Impoverishment Occurs*

This Section applies the foregoing reasoning to describe fiscal impoverishment for several stylized households in the United States. Whether a household is fiscally impoverished depends on the mix of taxes it pays and public benefits it receives. The public benefit landscape is complex, as the brief prior discussion demonstrates. Even so, it is possible to draw some general conclusions based on information about program eligibility rules and uptake patterns. In particular, families that do not receive refundable tax credits and individuals without custodial children ("childless" individuals) face possible fiscal impoverishment at certain income levels. Estimating net tax burdens for stylized examples of such households demonstrates how fiscal impoverishment occurs among U.S. households.

The skeletal analysis here reveals that fiscal impoverishment is significant and highly variable. Millions of households are likely fiscally impoverished, with fiscal burdens varying based on someone's location and eligibility for the patchwork of federal and state benefits that make up the U.S. safety net. This variability tracks well-known patterns of exclusion and deemed deservingness in U.S. welfare spending. Those affected include households without children, nonworking households, families with extended-kinship care and non-kinship care arrangements, and immigrants. Fiscal impoverishment is also more likely to afflict households with income just above or below the poverty threshold, rather than those in deep poverty, due partly to the decline of means-tested benefits as income rises.

It is important to be transparent about something upfront: Most working U.S. citizen families with traditional care arrangements are protected from fiscal impoverishment due to refundable tax credits as well as antipoverty programs like SNAP. Elderly and disabled individuals are similarly protected from fiscal impoverishment due to Social Security benefits and state disability programs. This support should be celebrated. Yet it should not provide cover for the fiscal impoverishment that afflicts other taxpayers. This Article does not draw a deservingness boundary around traditional public benefit recipients. The harms detailed above call upon concerns about serious deprivation and social exclusion.[182] These concerns apply as much to traditional families as they do to impoverished noncustodial parents, undocumented children and parents, childless individuals, and families with extended-kinship care relationships.

This Section offers these stylized calculations at the risk of getting mired in the technicalities that such estimates require. Virtually every input can be questioned. More fundamentally, using an income threshold to capture

[182] See supra Part II.C.1 (discussing the importance of human dignity and its relation to fiscal impoverishment).

a population-wide state of human deprivation is a highly dubious endeavor, as the debate around poverty thresholds illustrates. Even so, we should not abandon the calculative exercise. Numbers highlight scope and magnitude, they capture the interest of policymakers and journalists, and they reveal patterns to be addressed via policy reform.[183] In the final Section, I address the challenges to and necessity of measuring fiscal impoverishment.

1. Families with Children

Working Families. Low-income families that are excluded from refundable tax credits likely face fiscal impoverishment. Working families with children might be excluded from the EITC, the child tax credit, or both, due to eligibility rules related to family structure or immigration status. Nonworking families are also excluded from both credits, aside from a temporary child tax credit expansion in 2021.[184] This Section briefly describes these rules and their effect on families, focusing initially on working families. Because impoverishment depends on other benefits as well, this Section also explores such families' access to non-tax benefits. It then offers a stylized example of a fiscally impoverished family that is excluded from refundable tax credits, estimating likely net tax cost across states. It concludes by considering fiscal impoverishment of nonworking families.

Some working families are excluded from refundable tax credits due to care arrangements that run afoul of eligibility rules related to family structure.[185] Most importantly, a taxpayer must be closely related to a child and live with her for at least six months of the year in order to claim her for the child tax credit or the EITC.[186] Only a child's parent, grandparent, sibling, aunt, or uncle is eligible to claim her.[187] If a child does not live with a sufficiently close relative for at least six months of the year, she cannot be

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[183] Cf. Bearer-Friend, supra note 79, at 38-46 (arguing that failing to gather data on tax outcomes by race both obscures and maintains racial inequality).

[184] See Ariel Jurow Kleiman, Revolutionizing Redistribution: Tax Credits and the American Rescue Plan, 133 Yale. L.J.F. 535, 548 (2021) https://www.yalelawjournal.org/forum/revolutionizing-redistribution-tax-credits-and-the-american-rescue-plan (describing the temporary expansion of the child tax credit in 2021); id. at 551-52 (discussing the effect of the expansion on fiscal impoverishment).

[185] See Goldin & Jurow Kleiman, supra note 146 (manuscript at 21-23) (describing families that are excluded from refundable tax credits due to child-claiming rules).

[186] I.R.C. §§ 32(c), 24(c), 152(c) (West 2021) (providing child-claiming rules). In certain cases, a noncustodial parent may be allowed to claim a child for the child tax credit, but not the EITC, if the custodial parent provides written permission for the other parent to claim the child. See I.R.S., Pub. No. 501, Dependents, Standard Deduction, and Filing Information 13 (2022), https://www.irs.gov/pub/irs-pdf/p501.pdf [https://perma.cc/3HET-YD55].

[187] I.R.C. § 152(c)(2) (West 2021).

claimed by anyone.[188] These child-claiming rules exclude households in which children are raised or informally fostered by family friends and more distant relatives, like cousins.[189] They also exclude families that care for children for some portion of the year less than six months. Imagine, for instance, a child who lives with her mother for five months, her father for five months, and her grandparents for two months.

Although certainly the exception rather than the rule when it comes to families with children, the number of such households is nontrivial. Recent research estimates that over 330,000 children are excluded from the child tax credit due to relationship requirements.[190] This number may increase over time because a growing number of children live with and are supported by non-parent relatives.[191] Such ineligibility is likely disparately distributed by race, as Black and Latinx households are more likely to be deemed ineligible for the child tax credit compared to white or Asian households.[192]

Refundable tax credit rules also exclude working families with mixed-immigration status.[193] The EITC excludes families in which any member lacks a work-eligible social security number.[194] The child tax credit is slightly more inclusive, only barring families from claiming *children* that lack an eligible social security number.[195] The result is that a mixed-status family can receive the child tax credit for each child who has U.S. citizenship or some other status that confers social security eligibility, such as deferred action for childhood arrivals (DACA).[196] It cannot, however, receive the EITC if even one parent in the household lacks such immigration status.[197] Research from the Migration Policy Institute finds that 4.1 million U.S.

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[188] Goldin & Jurow Kleiman, supra note 146 (manuscript at 21-23).

[189] See generally Elaine Maag, H. Elizabeth Peters & Sara Edelstein, Increasing Family Complexity and Volatility: The Difficulty in Determining Child Tax Benefits (2016), https://www.law.upenn.edu/live/files/7076-main-paper-maag [https://perma.cc/V96E-V6UV] (discussing increasing family complexity and its effect on tax credit administration).

[190] Goldin & Michelmore, supra note 21, at 19, 29 tbl.3.

[191] See Maag, Peters & Edelstein, supra note 189, at 1 ("In a small but growing number of households, children live with relatives other than parents either temporarily or permanently . . . ."); Natasha V. Pilkauskas & Christina Cross, Beyond the Nuclear Family: Trends in Children Living in Shared Households, 58 Demography 2283, 2283 (2018) (examining trends in shared households and finding that the rise in children living in shared households was driven mostly by an increase in multigenerational households).

[192] Goldin & Michelmore, supra note 21, at 2-3.

[193] See I.R.C. §§ 24(h)(7), 32(m) (West 2021) (providing social security number requirements).

[194] I.R.C. § 32(m) (West 2021).

[195] I.R.C. § 24(h)(7) (West 2021).

[196] Andrew Hammond, The Immigration Welfare Nexus in a New Era?, 22 Lewis & Clark L. Rev. 501, 515 (2018) (describing immigrant children's eligibility for public-benefit programs).

[197] I.R.C. § 32(m) (West 2021).

citizen children live in mixed-status households and that three-quarters of these families live below 185% of the federal poverty threshold.[198]

Additionally, administrative activity by the IRS might render certain families unable to receive the credits. For instance, the IRS might deny credits to an eligible family due to identity theft or the family's inability to document custody of children.[199] The IRS can also divert refundable tax credits (as well as overpaid income taxes) to satisfy debts for past-due taxes.[200] And, some eligible families may simply fail to claim the credits, perhaps because they mistakenly believe they are not eligible.[201] The threat of audit may also deter eligible taxpayers from claiming credits.[202] The most recent IRS estimates provide that 22% of eligible taxpayers fail to claim the EITC, which totals approximately 5 million households.[203] These underclaiming households reflect the significant costs imposed by rule complexity and IRS decisions regarding the administration of refundable tax credits.

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[198] Randy Capps, Michael Fix & Jie Zong, Migration Pol'y Inst., A Profile of U.S. Children with Unauthorized Immigrant Parents 1, 6 (2016), https://www.migrationpolicy.org/sites/default/files/publications/ChildrenofUnauthorized-FactSheet-FINAL.pdf [https://perma.cc/2EDN-RPE7].

[199] See Drumbl, supra note 6, at 73-75 (discussing identity theft); id. at 77-79 (discussing IRS audit procedures that result in denial of tax credits to eligible taxpayers).

[200] See Comments Regarding Review of Regulatory and other Relief to Support Taxpayers during COVID-19 Pandemic from Am. Bar Ass'n. Sec. of Tax'n, 2-3 (Jan. 15, 2021) (on file at https://www.americanbar.org/content/dam/aba/administrative/taxation/policy/2021/011521comments.pdf [https://perma.cc/V7ED-LD3K]) (discussing the IRS's refund offset discretion).

[201] 1 Nat'l Taxpayer Advoc., Annual Report to Congress 247, 250-51 (2015) ("[T]he EITC is directed toward a population of taxpayers who are least able to navigate its complexity."); Saurabh Bhargava & Dayanand Manoli, Psychological Frictions and the Incomplete Take-Up of Social Benefits: Evidence from an IRS Field Experiment, 105 Am. Econ. Rev. 3489, 3489-90 (2015) (considering the causes of low take-up of EITC benefits).

[202] John Guyton, Kara Liebel, Dayanand S. Manoli, Ankur Patel, Mark Payne & Brenda Schafer, The Effects of EITC Correspondence Audits on Low-Income Earners 35 (Nat'l Bureau of Econ. Rsch., Working Paper No. 24465, 2019), https://www.nber.org/papers/w24465.pdf [https://perma.cc/556L-W723].

[203] Statistics for Tax Returns with EITC, IRS, https://www.eitc.irs.gov/eitc-central/statistics-for-tax-returns-with-eitc/statistics-for-tax-returns-with-eitc (Mar. 10, 2022) (providing that, in 2018, there were approximately 25 million total EITC-eligible households); *EITC Participation Rate by States Tax Years 2011 through 2018*, IRS, https://www.eitc.irs.gov/eitc-central/participation-rate/eitc-participation-rate-by-states (Dec. 6, 2021) (providing a 78.1% EITC take-up rate in 2018); see also Jacob Goldin & Zachary Liscow, Tax Benefit Complexity and Take-up: Lessons from the Earned Income Tax Credit, 72 Tax L. Rev. 59, 60 (2018) (describing how to measure EITC take-up rate, and estimating that about 5 million eligible taxpayers fail to claim the credit). It is worth noting that these figures include childless taxpayers as well.

A family's fiscal impoverishment depends on other public benefits as well, the landscape of which is somewhat more complex. Perhaps most importantly, these families are unlikely to receive other cash assistance simply because most low-income families do not receive non-tax cash assistance. Less than a quarter of families living in poverty received TANF benefits in 2020.[204] Federal law requires that states enforce a five-year limit on receipt of benefits,[205] and some states impose an even shorter eligibility period.[206] Because eligibility varies drastically by state,[207] low-income households may be especially disadvantaged merely because of where they live.[208] These geographic differences may cause disparate distribution by race as well, as states with a greater proportion of African-American residents tend to have more restrictive eligibility rules.[209] These access difficulties will be compounded for families with extended-kinship and non-kinship care relationships, unstable housing, or mixed-immigration status.[210]

Other public benefits, such as housing vouchers and child-care subsidies, report similarly dismal coverage.[211] Only about one-third of

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[204] Aditi Shrivastava & Gina Azito Thompson, Ctr. on Budget & Pol'y Priorities, Cash Assistance Should Reach Millions More Families to Lessen Hardship 1 (2022), https://www.cbpp.org/sites/default/files/atoms/files/6-16-15tanf.pdf [https://perma.cc/YK6F-W646].

[205] 42 U.S.C. § 608 (a)(7).

[206] See, e.g., Va. Code Ann. § 63.2-612 (West 2021) (providing a 24-month time limit); Ariz. Rev. Stat. Ann. § 46-294 (2021) (providing a twelve-month time limit).

[207] Ctr. on Budget & Pol'y Priorities, Temporary Assistance for Needy Families 3-4 (2022), https://www.cbpp.org/sites/default/files/atoms/files/7-22-10tanf2.pdf [https://perma.cc/B7JW-DSFN].

[208] Shrivastava & Thompson, supra note 204, at 2 (noting "wide variation among state [TANF-to-poverty ratios], which range from 71 in California and Vermont to just 4 in Arkansas, Louisiana, Mississippi, and Texas").

[209] See Heather Hahn, Laudan Aron, Cary Lou, Eleanor Pratt & Adaeze Okoli, Urban Inst., Why Does Cash Welfare Depend on Where You Live? How and Why State TANF Programs Vary 23 (2017), https://www.urban.org/sites/default/files/publication/90761/tanf_cash_welfare_final2_1.pdf [https://perma.cc/EJ54-2FTX] ("A larger share of African American people in a state's population is generally associated with less generous and more restrictive policies . . . .").

[210] See Linda Giannarelli, Christine Heffernan, Sarah Minton, Megan Thompson & Kathryn Stevens, Dep't of Health & Hum. Servs., OPRE Report 2017-82, Welfare Rules Databook: State TANF Policies as of July 2016, at 13-28 (2017), https://www.urban.org/sites/default/files/publication/95251/welfare_rules_databook_state_tanf_policies_as_of_july_2016_1.pdf [https://perma.cc/72EH-BT5N] (discussing differences in TANF eligibility rules across states).

[211] See Isaac Shapiro, Robert Greenstein, Danilo Trisi & Bryann DaSilva, Ctr. on Budget & Pol'y Priorities, It Pays to Work: Work Incentives and the Safety Net 6 (2016), https://www.cbpp.org/sites/default/files/atoms/files/3-3-16tax.pdf [https://perma.cc/8GCD-GBKX] (excluding TANF and housing assistance from marginal tax rate calculations among

eligible households receive Section 8 housing vouchers.[212] Families often sit on Section 8 waitlists for over a decade.[213] Child-care support via the CCDF program is even less comprehensive. In 2015, the CCDF program provided support to about 14% of eligible children.[214] Thus, the vast majority of low-income families receive no federal child-care support. And, once again, the characteristics that render these families unable to claim the EITC or child tax credit may also complicate their access to housing vouchers and child-care subsidies.

SNAP benefits and subsidized school lunch programs are the exception to this low-coverage pattern. Both programs successfully reach most low-income households.[215] SNAP household eligibility rules allow non-relative adults to claim children, provided that the children are under that adult's "parental control."[216] Thus, households with extended-kinship and non-kinship care arrangements can qualify for SNAP benefits, even if they fail to qualify for benefits under other programs.[217] Even so, SNAP benefits and school lunch alone may not be enough to fully offset taxes in all states,

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working poor households because "a substantial majority of poor families with children don't receive such aid").

[212] See id. at 6 ("[A]bout one in three [poor families with children] receive housing assistance.").

[213] See e.g., Jake Blumgart, What an Affordable Housing Moonshot Would Look Like, Slate (July 1, 2016, 11:56 AM), https://slate.com/business/2016/07/its-time-for-universal-housing-vouchers.html [https://perma.cc/45DH-2UQE] (describing the program as "a lottery for the lucky few"); Julia Wick, The Waiting List for Section 8 Vouchers in L.A. Is 11 Years Long, LAist (Apr. 4, 2017, 12:00 AM), https://laist.com/2017/04/04/section_8_waiting_list.php [https://perma.cc/8LW5-4BMP] ("Low-income families struggling to pay their rent in Los Angeles who seek Section 8 housing assistance will have to wait for more than a decade for help.").

[214] Linda Giannarelli, Gina Adams, Sarah Minton & Kelly Dwyer, Urban Inst., What If We Expanded Child Care Subsidies? 3 (2019), https://www.urban.org/sites/default/files/publication/100284/what_if_we_expanded_child_care_subsidies_3.pdf [https://perma.cc/F45W-TM3N] (providing that 1 in 7 eligible children receive support through CCDF in 2015, but that the number may be "somewhat higher" now).

[215] U.S. Dep't of Agric., Trends in Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2010-2017 xxiii (2019), https://www.fns.usda.gov/snap/trends-supplemental-nutrition-assistance-program-participation-rates-fiscal-year-2010 [https://perma.cc/TA9J-77U7] (reporting that 84 percent of eligible individuals participated in SNAP in FY 2017); America Counts Staff, Funding for Nutrition Benefits Programs Informed by Census Statistics, U.S. Census Bureau (Jan. 21, 2021), https://www.census.gov/library/stories/2020/01/census-statistics-used-to-plan-healthy-food-programs-for-low-income-households.html [https://perma.cc/3CTT-XMNV] (reporting on coverage of free school lunch programs, explaining that children that receive SNAP also receive free school lunch).

[216] 7 C.F.R. § 273.1(a)(3), (b)(1)(iii) (2021).

[217] Id.

particularly for families living near and just above the poverty line, as *Example 1* demonstrates. Additionally, despite these programs' widespread coverage, Census data from 2020 report that approximately 800,000 children living in poverty belonged to households that did not receive *any* means-tested assistance, including SNAP or school lunch programs.[218]

The public benefit landscape for mixed-status families is particularly complex.[219] Families in which all members are undocumented are generally not eligible for support under most benefit programs, including TANF, SNAP, and Medicaid.[220] Only a few states fill these gaps with state public benefit programs.[221] Although U.S. citizen children qualify for benefits under most federal programs,[222] mixed-status families often fail to claim them.[223] Qualifying for benefits can also be difficult for mixed-status families due to how programs calculate household income and expenses.[224]

To summarize, despite the success of child-related tax benefits, some families are intentionally excluded while others slip through the cracks. Without refundable tax credits, these families often pay substantial taxes, including payroll taxes, federal income taxes, and state and local taxes. As *Example 1* illustrates, other public benefits may not suffice to prevent fiscal impoverishment.

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[218] Census data provide that 10,781,000 children living in poverty belonged to households receiving means-tested assistance, out of 11,607,000 total children living in poverty. U.S. Census, POV26: Program Participation Status of Household - Poverty Status of People: 2020, Below 100% of Poverty--All Races (2021) https://www2.census.gov/programs-surveys/cps/tables/pov-26/2021/pov26_2_1.xlsx (providing figures for all people "Under 18 years" living below "100% of Poverty"). These figures leave 826,000 children outside of households receiving means-tested assistance.

[219] For a detailed discussion of mixed-status families' eligibility for and access to public benefits programs, see Hammond, supra note 196, at 509-18.

[220] See 8 U.S.C. § 1611 ("[A]n alien who is not a qualified alien . . . is not eligible for any Federal public benefit . . . .").

[221] See, e.g., Table 12: State-Funded Food Assistance Programs, Nat'l Immigir. L. Ctr., https://www.nilc.org/issues/economic-support/state_food/ [https://perma.cc/LD4L-6KFJ] (Apr. 2020) (listing California, Connecticut, Illinois, Maine, Minnesota, and Washington as states that provide nutrition assistance to immigrants who are excluded from federal programs).

[222] See Hammond, supra note 196, at 517 ("Parental [immigration] status rarely affects children's statutory eligibility or entitlement to [public benefit programs], but parental status nevertheless impedes access.").

[223] See Paula Fomby & Andrew J. Cherlin, Public Assistance Use Among U.S.-Born Children of Immigrants, 38 Int'l Migration Rev. 584, 593 (2004) (finding that U.S. citizen children with foreign-born caregivers are less likely to access various public benefits, including TANF and SSI, compared to those with U.S.-born caregivers).

[224] See Hammond, supra note 196, at 516 (describing how the SNAP benefit program accounts for incomes of family members in mixed immigration status households).

> *Example 1*[225]: Abby lives in Alabama and cares for her cousin's two children while her cousin is incarcerated. Abby supports the children financially, takes them to school, monitors their daily activities, and so forth. Although she is low-income, Abby cannot claim her cousin's children for the purpose of the EITC or child tax credit because she is not their parent, grandparent, aunt, or sister.[226] Abby's annual income is $20,598.[227] Although she pays no federal income tax,[228] her employee portion of federal payroll taxes is $1,576.[229] Her state income tax totals $555, and sales and property tax together total $1,751. Abby's household receives SNAP benefits of $142 per month.[230] The children also receive free school lunch worth approximately $$104 per month total. With this bundle of taxes and benefits, Abby's after-tax household income is $19,676—approximately $922 below the poverty threshold in 2019.

Whether or not Abby's family is impoverished will depend upon their access to the patchwork of state and federal programs that support low-income families. As explained above, they may have less trouble receiving SNAP benefits and subsidized school lunch but have more difficulty obtaining housing benefits or subsidized child care. If they are a mixed-status family, their eligibility for these various benefits will be more complicated.[231]

Table 3 provides fiscal impoverishment estimates for Abby's family in the least, most, and median impoverishing states. The expanded Table 5 in

[225] Appendix Part A describes the calculation methods for these figures and Appendix Part B, Table 5 provides additional figures. The figures in the text are rounded for simplicity.

[226] I.R.C. § 152(c)(2) (West 2021).

[227] U.S. Census Bureau, supra note 64.

[228] Although not eligible for the full child tax credit, Abby is currently able to claim a smaller, nonrefundable "partial child tax credit" of up to $500. I.R.C. § 24(h)(4) (West 2021). This amount can offset Abby's income tax, but not her payroll taxes.

[229] The total payroll tax amount, including her employer's portion, is $3,262. Including the full payroll tax requires adding the employer's portion to Abby's income to arrive at her true pre-tax income, which here is $22,961. See Cong. Budget Off., The Distribution of Household Income, 2014, at 37 (2018), https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/53597-distribution-household-income-2014.pdf [https://perma.cc/75TS-QKDT] (adding the employer's share of payroll taxes to workers' gross income to arrive at pre-tax labor income). Her after-tax income would be the same as above, even with the full payroll tax included in the calculation. The calculations in the text ignore the employer's portion of payroll taxes for the sake of simplicity.

[230] In 2021, her SNAP benefits would increase to $299 per month at this income level.

[231] See Hammond, supra note 196, at 514-18. (discussing the inconsistent eligibility rules governing immigrants' access to public benefits).

the Appendix provides figures for all fifty states and the District of Columbia. The figures are not intended to show how all families at this income level would fare, but rather to show how one such family might fare, given reasonable assumptions based on benefit rules and take-up patterns. The benefits included reflect information about the package of benefits that is most common for low-income households.

TABLE 3: IMPOVERISHMENT OF FAMILY EXCLUDED FROM CHILD-RELATED TAX CREDITS AT 100% OF THE FEDERAL POVERTY THRESHOLD[232]

State	*Fed. Inc. Tax*	*State Inc. Tax*	*Payroll Tax*	*Sales, Prop. Tax*	*SNAP*	*School Lunch*	*Net Tax*
Alaska	$0	$0	$1,576	$1,421	$3,376	$2,023	-$7,220[233]
Tennessee	$0	$0	$1,576	$2,142	$1,707	$1,253	$758
Washington	$0	$0	$1,576	$3,666	$1,707	$1,253	$2,282

As these calculations show, a family like Abby's would face a large range of possible outcomes depending on the state in which they live. Perhaps most notably, Alaska pays all eligible residents a Permanent Fund Dividend, which was $1,606 in 2019.[234] Like other transfer programs, eligibility depends on immigration status.[235] The Permanent Fund Dividend is idiosyncratic, but it is worth noting because it demonstrates the power of a universal transfer to reduce fiscal impoverishment. Additionally, Alaska and Hawaii provide larger SNAP allotments and ascribe a larger value to school lunches compared to the forty-eight contiguous states.[236] These higher amounts reflect the higher cost of food in both places.[237] Otherwise, the range

[232] This amount is $20,598 in 2019. See U.S. Census Bureau, supra note 64.

[233] This large net transfer reflects Alaska's Permanent Fund Dividend, which is not included in any of the columns and equaled $1,606 per person in 2019. *See* ALASKA DEP'T OF REVENUE, PERMANENT FUND DIVIDEND DIVISION: ANNUAL REPORT 3 (2019), https://pfd.alaska.gov/docs/permanentfunddividendlibraries/annual-reports/2019-pfd-annual-report.pdf?sfvrsn=7a45aab2_3 [https://perma.cc/2PVY-TXHG]. Abby would be eligible to claim the Permanent Fund Dividend on behalf of unrelated children in her care under certain circumstances. *See* 15 ALASKA ADMIN. CODE tit. 15 § 23.113 (2021) (providing child eligibility rules). The amount included here reflects payments to all three people in the household, totaling $4,818 ($1,606 x 3).

[234] Alaska Stat. Ann. § 43.23.005 (West 2021) (providing eligibility); Alaska Dep't of Revenue, supra note 233, at 3.

[235] See 15 Alaska Admin. Code tit. 15, § 23.154 (2021) (providing "alien eligibility" rules).

[236] See infra Appendix Part B tbl.5.

[237] See Food Insecurity in America, Feeding America, https://map.feedingamerica.org/county/2019/overall [https://perma.cc/6GVK-P7TL] (select Alaska and Hawaii) (providing an average cost per meal of $3.13 in the U.S. overall, $3.63 in Alaska, and $3.50 in Hawaii).

of outcomes is largely a function of state tax rates and standard deductions, as well as the availability of progressive state tax credits such as property tax or sales tax rebates.[238] For example, Vermont offers a refundable "renter credit," which operates like a property tax credit for renters.[239] Many states also offer child care tax credits or deductions for qualifying child-care expenses.[240] Some states' child care credits are refundable, boosting their anti-impoverishment effect.[241]

While state-level earned income credits improve the progressivity of many states' income tax systems, these credits' typically piggyback off federal credits[242]—that is, they calculate the state credit as some proportion of the recipients' federal EITC.[243] Thus, Abby's family would likely be ineligible for any state earned income credit alongside the federal EITC. However, several states have recently extended state earned income tax credits to families with undocumented family members, including California, Colorado, Maryland, New Mexico, and Washington.[244]

In some states, taxes may exceed public benefits by only a few hundred dollars.[245] Some may argue that this meager gap between taxes and benefits causes little harm to poor households. Yet even these small amounts can exert a significant toll on struggling families. Consider just one consequence of poverty that is greatly affected by marginal fluctuations in household income: evictions. Recent eviction data show that renters are most often evicted for being just a few hundred dollars in arrears.[246] An eviction, in turn, can trigger a spiral of physical and emotional harms. Their aggregate effect ravages the fabric of low-income communities.[247] If we take seriously

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[238] See supra notes 132, 136 and accompanying text.

[239] See Renter Credit, Vt. Dep't of Taxes https://tax.vermont.gov/individuals/renter-rebate [https://perma.cc/LC9N-KAZQ].

[240] State Tax Credits, Tax Credits for Workers and Their Families, http://www.taxcreditsforworkersandfamilies.org/state-tax-credits [https://perma.cc/G6GD-BPW5]; State Tax Credits for Child Care, Comm. for Econ. Dev., https://www.ced.org/child-care-state-tax-credits [https://perma.cc/CG4B-MZTR] (select "Alphabetical List of All States").

[241] Id.

[242] Urban Inst., supra note 147.

[243] Id.

[244] Id.; see also, e.g., Cal. Revenue & Tax'n Code, § 17052(p) (West 2021).

[245] See infra Appendix Part B tbl.5.

[246] Emily Badger, Many Renters Who Face Eviction Owe Less than $600, N.Y. Times (Dec. 12, 2019), https://www.nytimes.com/2019/12/12/upshot/eviction-prevention-solutions-government.html [https://perma.cc/9CKS-JRX8].

[247] See generally Matthew Desmond, Evicted: Poverty and Profit in the American City (2016) (documenting the harms caused by eviction and describing their aggregate effect on low-income neighborhoods); see also, Williamson, supra note 7, at 60 (describing the psychic toll of sales taxes on low-income taxpayers).

what it means to live in poverty, by definition, every dollar counts toward purchasing basic needs. Seemingly small costs can have major consequences.

Nonworking Families. Nonworking families cannot receive the EITC or child tax credit.[248] Although not subject to income taxes or payroll taxes, these households still bear state and local sales and property taxes. They therefore face possible fiscal impoverishment if they do not receive sufficient support from non-tax public benefit programs.[249] Many nonworking families may be eligible for means-tested assistance through the various programs described above. However, on top of the barriers to access just described, many public benefit programs require that recipients work in the formal labor market.[250] These work requirements bar nonworking families from support.

Outside of government support, nonworking families might receive income via child support, help from family members or charities, or other unstable sources.[251] If nontax public benefits are insufficient to offset the state and local taxes they pay, nonworking families will be fiscally impoverished, as *Example 2* demonstrates.

> *Example 2*[252]: Beatrice lives in Wisconsin with her two children. She is not currently working. She receives child support of $1,716.50 each month, putting her at the federal poverty threshold of $20,598 in 2019.[253] Although she does not pay income or payroll taxes, she still bears state and local sales and property taxes. In 2019, she may pay approximately $2,080 in such state and local taxes. Beatrice is ineligible for TANF for one of the reasons described

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[248] See I.R.C. §§ 32(a), 24(d) (West 2021). Congress expanded the child tax credit to include nonworking families for the year 2021 only. American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 9611 (enacted). The expansion expired at the start of 2022. Id.

[249] According to 2020 U.S. Census data, among nonworking adults living in poverty, 4.2 million needed to stay home for family reasons or could not find work. U.S. Census, POV24: Reason for Not Working or Reason for Spending Time Out of the Labor Force -- Poverty Status of People Who Did Not Work or Who Spent Time Out of the Labor Force: 2020, Below 100% of Poverty -- All Races (2021), https://www2.census.gov/programs-surveys/cps/tables/pov-24/2019/pov24_100_1.xls (providing, among adults ages 18 to 64 who "[d]id not work last year," that 3,423,000 stayed home for "[h]ome or family reasons" and 795,000 "[c]ould not find work").

[250] Falk, supra note 154, at 9.

[251] See Olga Khazan, How Welfare Reform Left Single Moms Behind, The Atlantic (May 12, 2014) (noting that income sources for low-income single parent families "isn't clear" and listing several possible sources including help from family and illegal activity).

[252] See Appendix Part A for methodology.

[253] U.S. Census Bureau, supra note 64 (providing a poverty line of $20,598 in 2019 for a family of three with two children).

> above. She is unable to access Section 8 housing support due to waiting lists. She receives SNAP benefits of approximately $39 per month.[254] The value of school lunches will total approximately $104 per month. Based on these figures, Beatrice's family will pay more in tax ($2,080) than they receive in benefits ($1,724), pushing them below the poverty threshold in 2019.

Beatrice's stylized family will be fiscally impoverished in states where the combined rate of sales and property taxes exceeds 8.4%,[255] unless that state provides other offsetting benefits.[256] According to sales and property tax rate estimates used herein, Beatrice's family would likely be fiscally impoverished in all but eight states (Alaska, Delaware, Hawaii, Kentucky, Montana, Oregon, South Carolina, and Utah).[257]

One might wonder how common households like Beatrice's are. Census data suggest that the number is nontrivial. According to 2020 data, there are approximately 286,000 families with income just above and below the poverty line who receive neither labor earnings nor non-food public benefits.[258] Using an average family size of 3.23,[259] this translates to

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[254] In 2021, SNAP benefits would increase to $196 per month at this income level.

[255] Tbl.8 in the Appendix provides sales and property tax rate estimates for households in the bottom quintile in all 50 states and DC.

[256] For instance, Alaska pays all eligible residents a Permanent Fund Dividend, which was $1,606 in 2019. See Alaska Dep't of Rev., supra note 233, at 3. Alaska and Hawaii also provide larger SNAP allotments to offset the higher cost of food in those states. See Memorandum from Lizbeth Silbermann, Director, U.S. Dep't of Agric., on SNAP--Fiscal Year 2019 Cost-of-Living Adjustments 2 (2018) (on file with author).

[257] See infra Appendix Part B tbl.8. Although Hawaii's state and local tax rates exceed 8.3% on average for households in the lowest income quintile, Hawaii also provides larger SNAP allotments, which would likely offset the tax amount. In Hawaii, Beatrice's family would receive $495 per month in SNAP benefits.

Like Hawaii, Alaska also provides larger SNAP allotments. In Alaska, Beatrice's SNAP allotment would be $178 per month in 2019. See Appendix, Part A for the calculation methodology.

[258] Data are from the March 2020 U.S. Census Bureau's Community Population Survey (CPS). I restricted results to families with children with income 75-125% of the poverty threshold, who did not receive income from labor earnings or government benefits including TANF, Social Security, or SSI. U.S. Census Bureau, Community Population Survey, March 2020 Supplement, https://data.census.gov/mdat/#/search?ds=CPSASEC2020&cv=FINC_WS(2),FINC_SSI(2),FINC_SS(2),FINC_FR(2),FINC_PAW(2),FINC_SE(2)&rv=POVLL(3,4),FTYPE(1,3,4)&wt=FSUP_WGT [https://perma.cc/2E82-6R2T]. For definitions of terms, see U.S. Census Bur., Current Population Survey, 2020 Annual Social and Economic (ASEC) Supplement 7-1 to 7-12 (2020), https://www2.census.gov/programs-surveys/cps/techdocs/cpsmar20.pdf [https://perma.cc/UEL3-NAL2] [hereafter ASEC Supplement].

[259] U.S. Census Bur., American Community Survey, tbl.S1101,

approximately 923,780 people in nonworking families that are at risk of fiscal impoverishment.

Together *Examples 1* and *2* illustrate how families with children in the United States might face fiscal impoverishment despite the availability of safety-net benefits. A few patterns are worth noting. Families at risk of fiscal impoverishment are those excluded from major federal safety-net and antipoverty programs due perhaps to family structure, immigration status, or employment status. Families living near the poverty line are most at risk of fiscal impoverishment largely due to the phase-out of SNAP benefits. Additionally, there is a wide range of outcomes by state. This range partly reflects differences in states' tax systems and in some cases idiosyncratic transfer programs such as Alaska's Permanent Fund Dividend. With more individualized data, state-level variations would also reflect disparate access to public benefit programs across states.

2. Childless Individuals and Households

Childless taxpayers are also likely to face fiscal impoverishment due to the scope and coverage of refundable tax credits and other public benefits. Note that there is some definitional overlap between these childless households and the families just discussed. As the prior Section explained, many individuals care for children in ways that are not recognized by the refundable tax credits' eligibility rules. These individuals are considered childless under such rules, although they are not. I cabin discussion of those caregivers to the prior Section. This Section addresses individuals who do not care for children for any significant portion of time.

Childless individuals are a diverse group. They include noncustodial parents, grandparents, single adult family members in multi-generational households, and people with no connection to children. The concerns raised above about dignity, deprivation, and governmental responsibility apply equally to households with and without children. Dignity does not turn on one's proximity to a child.

Childless workers can receive the EITC.[260] However, outside of a temporary expansion in 2021,[261] for many childless workers living below the poverty line the amount is too small to fully offset the income and payroll taxes the worker will owe.[262] Childless workers are categorically excluded

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https://data.census.gov/cedsci/table?q=s1101&tid=ACSST1Y2019.S1101&hidePreview=false (last visited Dec. 30, 2020).

[260] I.R.C. § 32(c)(1)(A)(ii) (West 2021).

[261] I.R.C. § 32(n) (West 2021).

[262] See Jurow Kleiman, supra note 20, at 122-23 (noting that a childless worker will still face positive average tax rates despite their poverty level earnings).

from the child tax credit and TANF.[263] Other safety-net programs, including Medicaid, are often similarly limited for able-bodied childless adults.[264]

Example 3 describes the most likely taxes paid and transfers received for a stylized childless worker with income equal to the federal poverty threshold.

> *Example 3*[265]: Clark is a noncustodial father in California, earning poverty level wages of $13,300 in 2019.[266] His state and federal income tax combined with his employee share of the payroll tax is $824, which includes federal and state EITCs. His estimated sales tax burden is 7.2% and his estimated property tax burden is 4% of total income, for a total additional amount of $1,490. Because Clark does not care for his children in his home, he is ineligible for TANF benefits. In 2019 Clark would not have received any SNAP benefits at this income level.[267] Because he is not disabled, he will not receive any disability benefits. His net tax cost is therefore $2,314, leaving him well below the poverty threshold, with after-tax income of $10,986.

In most years, taxpayers like Clark will face fiscal impoverishment in all fifty states and D.C. In fact, even those earning wages above the poverty line may be pulled into poverty, as Table 4 and the expanded Table 7 in the Appendix show. U.S. Treasury data report just over 7.6 million taxpayers like

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[263] I.R.C. § 24(a) (West 2021); Temporary Assistance for Needy Families, Benefits.gov, https://www.benefits.gov/benefit/613 [https://perma.cc/RH2Z-HAFJ].

[264] See e.g., 42 U.S.C. § 608(a)(1) (2018) (limiting TANF funding to families with minor children); 7 U.S.C. § 2015(o)(2)-(3) (imposing a three-month limit on SNAP benefits for non-working able-bodied adults without dependents). Note that Medicaid is an exception to this pattern in the thirty-eight states that expanded Medicaid eligibility pursuant to Affordable Care Act rules. See Rachel Garfield, Kendal Orgera & Anthony Damico, The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid, Kaiser Family Found (2021), https://www.kff.org/medicaid/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid [https://perma.cc/6CWS-FWEG] (noting that Medicaid eligibility for adults remains limited in the twelve states that have not adopted the Medicaid expansion and that childless adults remain ineligible in nearly all of these states).

[265] See Appendix Part A for methodology and Part B tbls.6-8 for additional figures.

[266] This amount is the Federal Poverty Threshold for a single individual under the age of 65 in 2019. U.S. Census Bureau, supra note 64.

[267] In 2021, his monthly SNAP allotment at this income level would be $33.

Clark in this income range in 2019 who face possible fiscal impoverishment.[268]

Table 4 provides tax and transfer calculations for a taxpayer like Clark with income equal to 100% and 125% of the federal poverty threshold, with results from the least, most, and median impoverishing states. The expanded Tables 6 and 7 in the Appendix provide results for all fifty states and D.C.

TABLE 4: FISCAL IMPOVERISHMENT OF STYLIZED CHILDLESS WORKER IN 2019

State	*Fed. Inc. Tax*	*State Inc. Tax*	*Payroll Tax*	*Sales, Prop. Tax*	*SNAP*	*Net Tax*[269]	*Impov-erished?*
At 100% of the Federal Poverty Threshold[270]							
Alaska	-$63	$0	$1,017	$918	$710	-$444[271]	No
Mississippi	-$63	$90	$1,017	$1,303	$0	$2,348	Yes
Washington	-$63	$0	$1,017	$2,223	$0	$3,322	Yes
At 125% of the Federal Poverty Threshold[272]							
Alaska	$443	$0	$1,272	$1,147	$0	$1,255[273]	No
S. Dakota	$443	$0	$1,272	$1,862	$0	$3,576	Yes
Washington	$443	$0	$1,272	$2,959	$0	$4,674	Yes

These calculations allow for several observations. Childless taxpayers living just below and above the poverty threshold are likely those most at risk of fiscal impoverishment.[274] Our childless taxpayer with income equal to the

[268] I.R.S., Pub. 1304, SOI Tax Stats--Individual Income Tax Returns Complete Report 3 tbl.1.2. All Returns: Adjusted Gross Income, Exemptions, Deductions, and Tax Items, by Size of Adjusted Gross Income and by Marital Status, Tax Year 2019 (Filing Year 2020) (2020), https://www.irs.gov/pub/irs-soi/19in12ms.xls (reporting 7.6 million single taxpayers with income between $10,000 and $15,000). Note that this figure will include individuals described above, in Section III.B.1, who care for children but do not satisfy the refundable tax credits' child-claiming rules.

[269] A negative value in this column denotes a net transfer rather than a net tax.

[270] This amount is $13,300 in 2019. U.S. Census Bureau, supra note 64.

[271] The final tally for Alaska reflects the Permanent Fund Dividend, which is not included in any of the columns and equaled $1,606 per person in 2019. See Alaska Dep't of Revenue, supra note 233, at 3.

[272] This amount is $16,625 in 2019, which is 125% of $13,300.

[273] As above, the final tally for Alaska reflects the Permanent Fund Dividend, which is not included in any of the columns and equaled $1,606 per person in 2019. See Alaska Dep't of Revenue, supra note 233, at 3.

[274] According to calculations not included in this Article, if Clark lived in deep poverty—defined as below 50% of the poverty threshold—he would likely receive sufficient SNAP benefits to protect him from fiscal impoverishment in all fifty states.

federal poverty threshold is impoverished in all states except for Alaska (due to the Permanent Fund Dividend).[275] This fiscal impoverishment occurs because the federal EITC and state tax credits are not sufficient to offset income and payroll taxes, and because SNAP benefits fall as income increases. Even taxpayers with income equal to 125% of the poverty threshold may be fiscally impoverished in certain states, as Table 4 and Table 7 in the Appendix show.

As above, the level of fiscal impoverishment varies widely between states. Childless taxpayers fare best in Alaska due to the Permanent Fund Dividend and higher SNAP allotment in that state. The District of Columbia also mitigates fiscal impoverishment somewhat by providing a relatively generous EITC for childless workers.[276] At all income levels, and in fact for families as well, Washington state fiscally impoverishes low-income taxpayers the most. This impoverishment occurs because Washington imposes the highest sales tax amount on low-income households and offers no offsetting refundable tax credits or rebates.[277]

These figures illustrate impoverishment for childless *workers*, but nonworking childless individuals face fiscal impoverishment as well.[278] Although they will not pay income or payroll taxes, they will pay state and local sales and property taxes. Meanwhile, nonworking able-bodied childless adults are excluded from nearly all major public benefit programs, including refundable tax credits and, in most cases, SNAP benefits as well.[279]

C. *Addressing Challenges and Concerns*

Some may take issue with certain methodological choices made herein while others may question the broader value of such calculations to the antipoverty discourse. This Section addresses these concerns and defends the exercise of estimating fiscal impoverishment. While a general awareness of fiscal impoverishment is valuable, awareness alone is not enough. Undertaking actual calculations is necessary to highlight the magnitude of the

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[275] See infra Appendix Part B tbl.6.

[276] See Auxier, supra note 148 (reporting that the District of Columbia expanded its EITC for childless workers and noting that other states "should follow the District's example").

[277] See ITEP, supra note 7, at 7 fig.4, 126-27; infra Appendix Part B tbl.8 (providing estimates of sales and property tax levels on households in the lowest income quintile across the United States).

[278] See supra notes 248–257 and accompanying text for discussion of fiscal impoverishment of nonworking families with children.

[279] See 7 U.S.C. § 2015(o) (providing a work requirement for able-bodied childless adults); I.R.C. §§ 32(a), 24(d) (West 2021) (imposing a work requirement by basing credit amounts on earned income); supra Part III.A.2.

problem, capture the interest of policymakers and journalists, and reveal patterns to be addressed via policy reform.[280]

1. Defining and Valuing Fiscal Inputs

Reasonable estimators will disagree about which taxes and benefits to include as well as how to value those included. The stylized examples above include certain salient taxes as well as cash and near-cash benefits that bear on basic needs, but certainly other charges and benefits could be included. For instance, one might wish to include some value for public education received in the current period.[281] Some may also wish to include an estimate for regulatory benefits, such as rent control laws or minimum wage. On the cost side, calculations could include non-tax government charges such as criminal court fines and fees, costs imposed by nuisance laws,[282] or child support collection. Factoring in the complexity and time cost associated with accessing and redeeming benefits could also offset some of the value received.[283] It is worth reiterating, however, that fiscal impoverishment seeks to account for current-period deprivation, so estimates should only include costs and benefits that bear on immediate basic needs.

Estimators must also decide how to value any non-cash benefits included in the analysis. The Appendix provides greater detail on the valuation methods used herein; other reasonable valuation methods are certainly acceptable. For instance, although these estimates value Medicaid at its "fungible value" of zero for households living below the poverty line, one could instead include some insurance value or an amount based on

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[280] Cf. Bearer-Friend, supra note 79, at 38-46 (critiquing colorblind tax data collection and analysis and discussing how this data conceals racial inequalities).

[281] For instance, public school might be valued at its child-care equivalent for families with young children. However, as explained above, fiscal impoverishment calculations should not include the value of any benefit received in past years because it would not bear on current period deprivation. See supra Part II.A, notes 67-68 and accompanying text.

[282] See Greene, supra note 23, at 768-74 (discussing the devastating impact of nuisance laws on those in poverty).

[283] See, e.g., Carolyn Y. Barnes, "It Takes a While to Get Used to": The Costs of Redeeming Public Benefits, 31 J. Pub. Admin. Resch. & Theory 295, 301-303 (2021) (finding that limited portability of benefits and the use of third-party agents makes redeeming SNAP and WIC benefits difficult); Barak Y. Orbach, Unwelcome Benefits: Why Welfare Beneficiaries Reject Government Aid, 24 Law & Ineq. 107, 115-126 (2006) (detailing various costs that limit access to welfare benefits); Janet Currie, The Take Up of Social Benefits 11-13 (Nat'l Bureau Econ. Resch., Working Paper No. 10488, 2004), http://www.nber.org/papers/w10488 [https://perma.cc/3QWN-DXMW] (summarizing "evidence that transactions costs are important determinants of take up rates" of welfare programs).

recipients' willingness to pay.[284] One could also offset Social Security payroll taxes with some insurance value to reflect the possibility of receiving Social Security disability or survivor benefits in the event of an accident.[285] Although these approaches are reasonable, this Article does not adopt them because there is not a broadly accepted method for such insurance-value estimates.

Tax incidence raises another methodological choice. The calculations here primarily include taxes borne directly by the taxpayer. The largest exception is the property tax, which is borne directly by homeowners but indirectly by renters.[286] One could also include the indirect incidence of other taxes remitted by third parties, which low-income individuals might bear through lower wages, higher prices, or in other indirect ways.[287] Most importantly, estimates of an employee's tax cost often include her *employer's* portion of payroll taxes based on a general consensus that employees bear such taxes through reduced wages.[288] However, for the purpose of this discussion, including the employer's portion of payroll taxes adds some complexity and opacity to the calculations without appreciably improving the illustrative power of the examples.[289]

This Article does not aim to establish the best possible way to calculate fiscal impoverishment. Rather, it seeks to establish the need for

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[284] See Amy Finkelstein, Nathaniel Hendren & Erzo F.P. Luttmer, The Value of Medicaid: Interpreting Results from the Oregon Health Insurance Experiment, 127 J. Pol. Econ. 2836, 2870-71 (2019) (finding that recipients' willingness to pay for Medicaid ranges from $0.50 to $1.20 per dollar of net cost); id. (finding significant variation in recipients' willingness to pay for the pure insurance component of Medicaid); see infra notes 366-373 and accompanying text.

[285] See Martin R. Holmer, Pub. Pol'y Inst., AARP, The Value of Social Security Disability Insurance 16 (2001), http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.336.3836&rep=rep1&type=pdf (arguing that Social Security disability insurance confers significant insurance value for risk averse individuals).

[286] State sales tax estimates also include the indirect incidence of certain business-level consumption taxes. See infra note 356 and accompanying text.

[287] See Cong. Budget Off., supra note 229, at 38 ("[E]mployers appear to pass on their share of payroll taxes to employees by paying lower wages than they otherwise would.").

[288] Id. at 38 n.9; Fullerton & Metcalf supra note 117, at 1821-22.

It is worth noting that self-employed workers, independent contractors, and "gig" workers pay both portions of the payroll tax directly, at a total rate of 15.3%. I.R.C. § 1401 (West 2021).

[289] Because workers bear indirect payroll taxes through reduced wages, including the employers' portion of payroll taxes requires estimators to increase individuals' pre-tax income by the amount of indirect taxes included. This is because, in theory, in a world without payroll taxes, employees' wages would be higher by the amount of the payroll tax. See Cong. Budget Off., supra note 229, at 38 n.9. The result is that after-tax income is the same as it would be without such taxes included, while pre-tax income (and total tax cost) is greater. For a numerical example, see id.

fiscal impoverishment analysis and to illustrate how such impoverishment occurs for many low-income U.S. households. The examples here are stylized, but reflective. A more robust estimate would include individualized bundles of taxes and benefits that reflect household-level data. Although such estimates will differ from the skeletal examples here, they should be focused on individual or household-level deprivation in the current period. Within those boundaries, alternative valuation approaches may be justified.

2. Poverty Threshold Challenges

Using a poverty threshold is problematic for at least two reasons. First, there is tremendous disagreement over how to calculate poverty thresholds. Different approaches to poverty measurement might, for instance, adjust thresholds for geographic cost-of-living, base the threshold on consumption rather than income, or measure deprivation in relative rather than absolute terms.[290] Although this Article uses the U.S. Census Bureau's Poverty Thresholds, it does not endorse these thresholds or the methodology underlying them. The Article uses the federal government's poverty measure for the sake of simplicity, setting aside the difficult question of how to arrive at an ideal poverty measure.[291]

Second, and more abstractly, poverty thresholds are highly dubious no matter how exacting the methodology underlying them. To see why, imagine two people: the first earns income equal to the poverty threshold and pays $10 of tax, while the second earns income $11 above the poverty threshold and pays the same $10 of tax. These two cases are essentially identical. Even so, the first is unacceptable from a fiscal impoverishment standpoint, while the second is completely fine. At the very least, this concern counsels toward using a threshold high enough to cover all possible instances of deprivation—something the current federal threshold almost certainly does not achieve.

We may be tempted to throw up our hands and admit defeat in the face of such seemingly arbitrary line-drawing. Yet we should not give in to this temptation. Conceding the dubiousness of poverty thresholds should not lead to abandoning the exercise of measuring poverty—or fiscal impoverishment—if doing so would help to improve the lives of low-income households. Instead, we can draw upon principled reasoning to inform a

[290] See Alstott, supra note 54, at 289-91 (adopting a relative measure of poverty); Nicholas Eberstadt, The Poverty of "The Poverty Rate" 97 (2008) ("Consumption-based indices promise to provide a more serviceable, consistent proxy for material well-being . . . ."); Fox, supra note 65, at 14-15 (describing the methodology underlying the Supplemental Poverty Measure).

[291] See supra Part II.A for additional discussion of this point.

decision of where to draw these lines. Although a poverty threshold is a rough tool, it is better than a tool too complex to easily wield, and certainly better than no tool at all.

3. Defending the Calculative Exercise

There are two additional dangers to offering numerical calculations. First, doing so invites technical debate that distracts from the larger point of the fiscal impoverishment endeavor—that aggregative thinking obscures the people who are left behind. Second, and perhaps worse, estimating households' net tax costs can suggest a cost-benefit approach to taxpaying that undermines more generous notions of fiscal citizenship.

Notwithstanding these risks, the exercise of formally defining and estimating fiscal impoverishment is worthwhile. While a general awareness of fiscal impoverishment is valuable, awareness alone is not sufficient to reform the legal structures and rules that contribute to it. Undertaking actual calculations is necessary to highlight the magnitude of the problem and reveal demographic and geographic patterns, as the stylized examples herein illustrate.

To that end, the above calculations support the following conclusion: Millions of people in the United States are made poor or poorer by net positive taxes, using a standard measure of poverty and estimating safety-net benefits these taxpayers are most likely to receive. Fiscally impoverished households are among the most vulnerable, including families with extended-kinship and non-kinship care relationships, families with mixed-immigration status, childless workers, and nonworking families and individuals.

Further research might reveal additional patterns. For instance, demographic groups that tend to rely on extended-kinship care arrangements are more likely to be excluded from refundable tax credits and thus more likely to face fiscal impoverishment.[292] If these practices diverge by families' racial or ethnic background, fiscal impoverishment will have a disparate racial impact. Without undertaking specific estimates, substantiating these patterns of impoverishment will be difficult.

Numerical estimates also help to reveal which legal rules are most responsible for fiscal impoverishment. The analysis here suggests that tax credit eligibility rules related to child care arrangements and immigration status contribute to fiscal impoverishment, among others. Outcomes at the state and local levels depend in part on state income tax structures, the availability of refundable state tax credits, and levels of sales and property

[292] See supra Part III.B.1.

taxes. A more robust analysis would account for divergent access to public benefits across states as well.

In light of the harms wrought by fiscal impoverishment, policymakers and advocates ought to devote attention to reforming these fiscal structures. The next Part considers how they might do so.

IV. Rethinking Taxes on Low-Income Households

This Part explores what fiscal impoverishment means for U.S. tax and transfer systems, addressing both policy and politics. The first Section offers reforms that policymakers should consider immediately, including adopting and formalizing a fiscal impoverishment measure at the federal, state, and local levels. The second considers how an awareness of fiscal impoverishment should inform how we evaluate broad-based fiscal system reforms. The final section raises the difficult question of politics and offers a word of caution for anti-poverty advocates concerned about tax burdens on low-income households.

A. *Current Practices and Policies*

1. Measure Fiscal Impoverishment

The Article's primary recommendation is that fiscal impoverishment analysis should be formalized and broadly adopted so that it can guide policy reform at the local, state, and federal levels. Fiscal impoverishment should be another standard criterion by which U.S. governments, think tanks, academics, journalists, and others assess tax and transfer policies. Alongside measures of progressivity, poverty reduction, and inequality reduction, measuring fiscal impoverishment would deepen our understanding of fiscal burdens and redistribution in the United States.

A fiscal impoverishment metric could take several different forms. The most obvious is to simply measure the number of people or households made poor or poorer by the fiscal system. The result could be provided as an absolute number or as a percentage of all poor households.[293] The latter has the added benefit of describing the portion of poverty that is worsened by government fiscal policies. Importantly, policymakers and advocates could also use diverse poverty definitions or thresholds when assessing fiscal impoverishment, including relative poverty measures.[294]

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[293] Cf. Higgins & Lustig, supra note 8, at 70 tbl.3 (describing fiscal impoverishment in several ways, including per capita fiscal impoverishment as a percentage of the poverty line).

[294] See Alstott, supra note 54, at 289-91 (describing absolute versus relative poverty measures).

There are several possible methodological approaches to tallying fiscal impoverishment. Ideally, a comprehensive accounting would estimate taxes and benefits for specific households based on national survey data. The U.S. Census Bureau's Annual Social and Economic Supplement collects data on respondents' income level and source, including public benefits.[295] Such information would enable robust fiscal impoverishment estimates for individual households in the sample. Alternatively, analysts could undertake a more robust version of the type of analysis offered here—that is, calculations based on stylized households and informed by program eligibility rules. These calculations could be combined with U.S. Treasury or Census data about the distribution of households' income, as well as tax credit and public benefit data to estimate an approximate number of impoverished households.

Qualitative data, such as interviews and stories from individual taxpayers, should augment numerical estimates. The Federal Reserve's Beige Book offers a useful model for a formalized anecdotal approach, reporting on regional economic conditions based on interviews with businesses, economists, and market experts.[296] Indeed, qualitative methods perhaps better capture the spirit of the fiscal impoverishment endeavor by foregrounding individual experiences.

Several different entities might undertake fiscal impoverishment analysis. At the federal level, the Congressional Budget Office could include fiscal impoverishment analysis in its regular reporting on the distribution of income and taxes in the United States.[297] State legislative analysts' offices could undertake such analysis at the state level, especially for proposed changes to state taxes or state-administered public benefits. The U.S. Census Bureau could offer detailed fiscal impoverishment analysis at the federal and state levels alongside existing poverty level estimates.[298] Essentially, any project that undertakes analysis of poverty levels, distribution of public benefits, progressivity of taxes or benefits, income inequality, and so forth—

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[295] See, e.g., U.S. Census Bureau, Current Population Survey 2021 Annual Social and Economic (ASEC) Supplement 6C-30 to 6C-31 (2021), https://www2.census.gov/programs-surveys/cps/techdocs/cpsmar21.pdf [https://perma.cc/E8EF-YAFE].

[296] See generally Fed. Rsrv. Dist., The Beige Book (2021), https://www.federalreserve.gov/monetarypolicy/files/BeigeBook_20211201.pdf [https://perma.cc/DGS3-J824] (reporting on current economic conditions based on qualitative information).

[297] See, e.g., Cong. Budget Off., supra note 1, at 3.

[298] See generally Emily A. Shrider, Melissa Kollar, Frances Chen & Jessica Semega, U.S. Census Bureau, Income and Poverty in the United States: 2020 (2021) (tallying poverty in the United States), https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-273.pdf [https://perma.cc/X8YM-Q269].

including work by academics and think tanks—could incorporate fiscal impoverishment assessments into its research.

2. Tax Policy Reforms

In addition to measuring it, governments should seek to address fiscal impoverishment through targeted reforms at each level of government. Inter-governmental transfers are not advisable. While federal benefits could offset both federal and sub-federal taxes, they would also allow states with more regressive fiscal systems to freeride on others. An impoverishment-based federal transfer would essentially subsidize regressive state fiscal systems by providing larger aggregate benefits to states with higher levels of fiscal impoverishment. Due to these complications, it is preferable and more feasible for each level of government—local, state, and federal—to separately consider how to reduce fiscal impoverishment within its own system.

Alleviating taxes on low-income taxpayers is a subject that can, and has, filled volumes.[299] This section only briefly describes several piecemeal reforms to reduce fiscal impoverishment, and from a bird's eye view. Certainly, one option is to provide a universal transfer similar to Alaska's Permanent Fund Dividend. Because others have ably covered the topic of universal basic income,[300] this discussion focuses its attention elsewhere.

Income and Payroll Tax—In general, an income tax system has at least two options to prevent fiscal impoverishment. The first is to ensure that income tax filing thresholds are roughly linked to adequate poverty-line indices, acknowledging that such thresholds will always be deeply contested. Aligning tax-filing and poverty thresholds relates to the notion that only "clear income" should be taxed, a precept that has informed tax system design from the beginning.[301] While the federal tax system would require only minor adjustment,[302] most states would need to drastically increase the standard deductions and personal exemptions that define their filing thresholds.[303]

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[299] For a brief survey, see supra Part I.B.

[300] See generally Philippe Van Parijs & Yannick Vanderborght, Basic Income: A Radical Proposal for a Free Society and a Sane Economy (2017) (discussing why and how to implement a universal basic income); Miranda Perry Fleischer & Daniel Hemel, The Architecture of a Basic Income, 87 Univ. Chi. L. Rev. 625 (2020) (describing the structure of a universal cash transfer program).

[301] See Seligman, supra note 111, at 129–30, 160–62.

[302] See supra Figure 1.

[303] See Fed'n of Tax Adm'rs, supra note 131, at 1 (listing states' personal exemptions and standard deductions).

Payroll taxes, which begin to accrue from the first dollar of earnings, would also require radical redesign.[304]

Alternatively, policymakers could provide adequate offsetting rebates to low-income taxpayers who face positive tax burdens. For instance, the maximum childless EITC could be calculated as 15.3% of the federal poverty guideline, which would account for both the employee's and employer's portion of federal payroll taxes. This calculation would yield a maximum credit of $1,970 ($2,665 for married couples) in 2021.[305] At the state level, such a transfer might offset state disability and unemployment taxes, in addition to income taxes. Additionally, eligibility rules for the EITC and child tax credit should be expanded to include families with extended-kindship and non-kindship care arrangements, as well as families that care for children for less than six months of the year.[306]

Providing rebates directly through the tax system ensures that they are specifically designed to prevent fiscal impoverishment. Relying on separate transfers administered outside of the tax system risks haphazard distribution plagued by programmatic and geographic divergence in eligibility, transfer amounts, filing processes, and so forth—as we currently see.

Sales Tax—Many states improve sales tax progressivity by exempting necessary items such as food, medicine, and utilities.[307] However, to better prevent fiscal impoverishment and at lower cost, state and local governments should provide a sales tax rebate.[308] A sales tax rebate could be means-tested—provided only to low-income households—or universal—provided to all households on poverty-level consumption. A universal rebate is more

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[304] See George K. Yin, John Karl Scholz, Jonathan Barry Forman & Mark J. Mazur, Improving the Delivery of Benefits to the Working Poor: Proposals to Reform the Earned Income Tax Credit Program, 11 Am. J. Tax Pol'y 225, 280-82 (1994) (proposing a social security tax exemption).

[305] This amount is 15.3% of $12,880 (the one-person poverty guideline) and $17,420 (the two-person poverty guideline). Annual Update of the HHS Poverty Guidelines, 86 Fed. Reg. 7732 (Feb. 1, 2021). Note that a more accurate calculation would account for the fact that half of the FICA tax is borne indirectly by the worker through reduced wages. See supra notes 229, 289 and accompanying text for further explanation.

[306] See generally Goldin & Jurow Kleiman, supra note 146 (manuscript at 21-23) (describing which children are excluded from refundable tax credits).

[307] See Katherine Loughead, Sales Taxes on Soda, Candy, and Other Groceries, 2018, Tax Found. (July 11, 2018), https://taxfoundation.org/sales-taxes-on-soda-candy-and-other-groceries-2018 [https://perma.cc/GAF6-X9MN] (describing state rules exempting groceries from sales taxes).

[308] See, e.g., Tenn. Advisory Comm'n on Intergovernmental Rels., Sales Tax on Food: Targeting Relief to the Working Poor and Elderly Poor 3 (Staff Working Paper, 1999), https://www.tn.gov/content/dam/tn/tacir/documents/sales_tax_on_food.pdf [https://perma.cc/QWL8-2PCR] (considering a food sales tax rebate for low-income taxpayers).

costly but easier to administer. A state could finance the additional cost of a universal rebate via a slightly higher sales tax rate.

A sales tax rebate offers several advantages over piecemeal tax exemptions. First, and most importantly, a rebate can target low-income households or poverty-level consumption, rather than reducing taxes on all consumption of exempted goods. In fact, unlike rebates, sales tax exemptions provide a larger absolute benefit to wealthier households because they consume more than low-income households. Second, a rebate is less costly than sales tax exemptions, as it allows the government to continue collecting sales tax revenue on most consumption. Third, rebates avoid the complexity and distortions caused by different tax treatment of various items.[309] Stories of such inane complexity abound—a Hershey's bar is taxed, but a Twix is not; a bag of potato chips at the deli is taxed, but at the grocery store it is not.[310] A rebate, which could be provided via debit card or through an income tax credit (as some states currently do[311]), obviates such complexity.

Property Tax—The property tax imposes direct costs on homeowners and indirect costs on renters.[312] Not all homeowners are wealthy; Census data reveal that fifteen percent of homeowners have income less than half of their area median income.[313] For these homeowners, local governments should enact or expand property tax relief programs to protect them from fiscal impoverishment.[314] For instance, circuit-breaker programs provide means-tested property tax relief by preventing property taxes from rising above a certain percentage of income.[315]

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[309] Loughead, supra note 307, at 1-3.

[310] Id. at 1-2.

[311] See, e.g., Idaho Tax Comm'n, Claiming the Idaho Grocery Credit 1 (2009), https://tax.idaho.gov/pubs/EIS00126_02-09-2009.pdf [https://perma.cc/L8XG-3WP7] (explaining how to claim a sales tax rebate via income tax credit in Idaho).

[312] England, supra note 134, 448-51; Fullerton & Metcalf, supra note 117, at 1812-15.

[313] Lauria Goodman & Bhargavi Ganesh, Low-Income Homeowners Are as Burdened by Housing Costs as Renters, Urb. Inst. (Jun. 15, 2017), https://www.urban.org/urban-wire/low-income-homeowners-are-burdened-housing-costs-renters [https://perma.cc/TZ7N-G4RW]. However, it is also worth considering the imputed rental value of one's home as well as the homeowner's equity in it when calculating fiscal impoverishment. Such considerations might mitigate impoverishment concerns for many homeowners.

[314] See Andrew Hayashi & Ariel Jurow Kleiman, Property Taxes During the Pandemic, 96 Tax Notes State 1461 1464-66 (2020) (describing property tax protections for low-income homeowners).

[315] Aidan Davis, Inst. on Tax'n & Econ. Pol'y, Property Tax Circuit Breakers in 2018, at 1 (2018), https://itep.org/wp-content/uploads/091318-Property-Tax-Circuit-Breakers.pdf [https://perma.cc/M6AT-4T3U].

For renters, income tax renter credits can offset the indirect incidence of property taxes. Many states offer such credits, although some only do so for taxpayers over the age of 65.[316] To improve their power to offset fiscal impoverishment, these credits should be made refundable.[317]

B. *Broad Fiscal Reform*

More than any time in recent memory, policymakers face questions about the long-term viability of our current revenue-raising tools.[318] As they consider the necessity of novel tax instruments to pay for spending programs, policymakers should be mindful of how proposed reforms might affect poor households. This section offers such an evaluation for a broad category of tax reforms that perennially resurfaces in the United States. Specifically, many tax experts advocate enacting regressive tax instruments, such as a value-added tax (VAT),[319] in order to raise greater revenue for progressive redistribution.[320] There is an ongoing debate on this issue, with one side advocating the adoption of broad-based regressive taxes to enable more progressive spending, and the other advocating continued prioritization of progressive taxes.[321]

This Article urges caution among those who advocate adopting regressive taxes for progressive ends.[322] Increasing regressive taxes in the

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316 Logan Allec, Here Are the States That Give Renters a Tax Credit, rent.com (Feb. 27, 2019), https://www.rent.com/blog/states-with-a-renters-tax-credit [https://perma.cc/HR9A-N4JT].

317 See, e.g., Vt. Dep't of Taxes, supra note 239 (describing Vermont's refundable renter rebate).

318 See, e.g., Howard Gleckman, How Will We Pay for All the Coronavirus Relief, TaxVox (Apr. 3, 2020), https://www.taxpolicycenter.org/taxvox/how-will-we-pay-all-coronavirus-relief [https://perma.cc/42B5-B727] ("When we look back at the changes COVID-19 made to society and the economy, we may think about this as the time when the US began to look to sources of tax revenue that once seemed unthinkable.").

319 A value-added tax is a consumption tax imposed on businesses throughout the production process and is often described as regressive. See generally Kaisa Alavuotunki, Mika Haapanen & Jukka Pirttilä, The Effects of the Value-Added Tax on Revenue and Inequality, 55 J. Dev. Stud. 490 (2019) (discussing and measuring VAT regressivity).

320 Lind, supra note 27; see also Burman, supra note 27, at 12 (advocating a VAT in order to fund EITC expansion).

321 See Lind, supra note 27; Burman, supra note 27, at 12; Slavov & Viard, supra note 27, at 1886; Edward D. Kleinbard, We Are Better Than This: How Government Should Spend Our Money 340-46 (2014) (arguing that progressives should loosen their commitment to progressive taxes in favor of increased spending); Sugin, supra note 27, at 1374 (questing Kleinbard's conclusion that it would be politically easier to increase spending, since the "same forces that fight progressivity on the tax side also fight it on the spending side").

322 See James R. Repetti, The Appropriate Roles for Equity and Efficiency in a Progressive Individual Income Tax, 23 Fl. Tax Rev. 522, 564-66 (2020). Professor Repetti

United States may worsen fiscal impoverishment even despite increased progressive spending, especially given the United States' history of excluding certain groups from redistribution.[323] While such broad-based reforms are eminently worthwhile, policymakers should take care not to harm vulnerable households when adopting them. Tracking fiscal impoverishment would aid them in doing so.

There are at least two reasons to be concerned that increased progressive spending will not offset the impoverishment that a regressive tax would cause. Perhaps most importantly, a great deal of progressive spending does not ameliorate the corporeal deprivation of poverty. Even if regressive taxes fund broad-based progressive redistribution—such as schools, parks, and so forth—these public benefits do little to provide nutrition, shelter, medicine, or other basic needs to impoverished taxpayers. Thus, the system may indeed be made more generous and progressive overall, but still worsen impoverishment.

Second, the U.S. has a long history of antipathy to welfare spending.[324] There is no reason to believe that implementing a VAT or other regressive tax instrument would change this sentiment. Advocates of such policies often point to the robust public spending of European nations—all of which levy VATs—as assurance of the greater antipoverty spending likely to follow such tax reforms.[325] However, this thinking belies the fact that there is no guarantee of increased progressive spending in the U.S., and particularly no guarantee that such spending would adequately offset fiscal impoverishment. In fact, the century-long history of public benefits in the U.S. suggests that exactly the opposite is more likely, reflecting a deeply rooted aversion to welfare spending.[326]

Fiscal patterns at the state level are suggestive on this point. Among states, more regressive tax instruments tend to be correlated with *less*

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addresses this point, questioning whether redistributive spending would occur in a system without progressive taxes. Id. He argues that "[i]t is likely that progressive tax rates have played a role in sustaining the 'cultural force' supporting redistribution through transfer payments (as well as through progressive taxes) because of their impact on our democracy." Id. at 565.

[323] See Katz, supra note 20, at 8-9.

[324] See id. at 46, 194-202 (describing the decline of public assistance in the U.S.); Albert Alesina, Edward Glaeser & Bruce Sacerdote, Why Doesn't the United States Have a European Style Welfare State?, 2 Brookings Papers on Econ. Activity 187, 188-89 (2001) (attributing American aversion to welfare spending to historical and sociological factors, as well as racial discord).

[325] See, e.g., Lind, supra note 27.

[326] Alesina, Glaeser & Sacerdote, supra note 324, at 188-89; see also Repetti, supra note 322, at 565-66 (suggesting the progressive tax rates contribute to redistributive spending by "ensuring that the voice of the poor is not entirely eclipsed by the wealthy").

redistribution, not more.[327] Specifically, those states that tax people in poverty most heavily are also those that redistribute the least to low-income residents.[328] Thus, if current and historical U.S. practice offers any guide, adopting regressive tax instruments to fund redistribution is likely to exacerbate harms to households that are already impoverished.

The point here is not to discourage support for broad-based, regressive taxes like the VAT, which have much to commend them.[329] Rather, I hope to alert policymakers and tax experts to the risks of such policies when adopted without concerted attention to vulnerable taxpayers. Increasing progressive spending is incredibly important, but so too is protecting struggling households from fiscal impoverishment. To do so adequately, a regressive tax must be coupled with rebates or offsetting transfers that are truly universal, not based on the presence of children, work, or other non-income criteria. Additionally, transfers must offset tax costs as they are incurred, rather than requiring low-income households to smooth consumption over long time periods in anticipation of future rebates.[330] Many VAT advocates have proposed compelling and inventive progressive structures.[331] These designs are worth considering. However, enacting any universal welfare program would require drastic redesign not just of our tax policies, but of our safety-net policies as well.

C. *The Double-Edged Sword of Politics*

Although the politics and optics involved here are complicated, they can only be ignored at the peril of harming vulnerable taxpayers. Perhaps most obviously, targeting fiscal impoverishment could offer a politically feasible anti-poverty strategy because policies that resemble tax cuts are more

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[327] Newman & O'Brien, supra note 7, at 120-21.

[328] Id.

[329] See, e.g., Michael J. Graetz, 100 Million Unnecessary Returns: A Simple, Fair and Competitive Tax System for the United States 67-70 (2010) (detailing reasons to commend broad-based, regressive taxes).

[330] Cf. Brian Galle & Manuel A. Utset, Is Cap and Trade Fair to the Poor? Short-Sighted Households and the Timing of Consumption Taxes, 79 Geo. Wash. L. Rev. 33, 34-35 (2010) (explaining that a regressive carbon tax would reduce the standard of living for low-income households throughout the year, while a tax rebate at the end of the year would fail to address the whole year's increased deprivation).

[331] See Graetz, supra note 329, at 161-81; William Gale, Raising Revenue with a Progressive Value-Added Tax, in Tackling the Tax Code 191 (Jay Shambaugh & Ryan Nunn eds., 2020); Sheri Avi-Yonah & Reuven Avi-Yonah, Leveling the Playing Field: The Case for an Education Value Added Tax 9-10 (U. Mich. L., Pub. L. & Leg. Theory Rsch. Paper Ser., No. 474, July 2015).

popular than direct spending.[332] Targeting fiscal impoverishment might therefore have real political legs.

There is also, however, some political risk to pursuing an anti-impoverishment strategy because taxpaying and political rights are linked in the minds of many.[333] Of course, voting in the United States is not overtly connected to taxpaying status.[334] Nonetheless, in many subtle ways taxpaying and political power are indeed connected.[335] Moreover, antagonism against perceived non-taxpayers fuels anti-welfare political positions.[336] Even among low-income taxpayers themselves, contributing to our shared resources can be a point of pride.[337] Explicitly seeking to end all net taxes on poor households could thus undermine support for welfare spending and erode both a public and personal sense of fiscal citizenship among low-income households.

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[332] See, e.g., Leonard E. Burman & Marvin Phaup, Tax Expenditures, The Size and Efficiency of Government, and Implications for Budget Reform 1 (Nat'l Bureau of Econ. Rsch., Working Paper No. 17268, 2011), https://www.nber.org/system/files/working_papers/w17268/w17268.pdf [https://perma.cc/TGZ5-DCLE] (discussing how tax expenditures are "irresistible to policymakers," who can achieve political and policy goals through "spending programs that are framed as tax cuts").

[333] See, e.g., Batchelder, Goldberg Jr. & Orszag., supra note 29, at 66-67 (considering, and ultimately rejecting, the argument that all should pay taxes out of "civic duty"); Joseph J. Thorndike, Opinion: Soak the Poor to Make the Rich Happy?, Tax Analysts (Oct. 4, 2012), http://www.taxhistory.org/thp/readings.nsf/ArtWeb/B3F0ADFA1AAF506D85257AC6006BC240?OpenDocument [https://perma.cc/V8FC-GYB2] (quoting Andrew Mellon, who said that "[a]s a matter of policy, it is advisable to have every citizen with a stake in his country").

[334] U.S. Const. amend. XXIV (prohibiting voting restrictions based on payment of taxes). However, voter ID rules and other voting restrictions may indirectly achieve a similar result. See Danielle Lang & Thea Sebastian, Too Poor to Vote, N.Y. Times (Nov. 1, 2018), https://www.nytimes.com/2018/11/01/opinion/election-voting-rights-poverty.html [https://perma.cc/7F3M-REXU] (explaining how voting restrictions that require formerly incarcerated individuals to pay court fines and fees disenfranchise poor people).

[335] See Lawrence Zelenak, Learning to Love Form 1040: Two Cheers for the Return-Based Mass Income Tax 17-27 (2013) (exploring the link between income tax filing and fiscal citizenship); Nancy Staudt, Taxation without Representation, 55 Tax L. Rev. 555, 556 (2002) (arguing that the U.S. legal system "couple[s] political rights with taxpaying status" and amounts to a "hidden poll tax"); Saul Levmore, Taxes as Ballots, 65 U. Chi. L. Rev. 387, 389-91 (1998) (examining how the process of tax filing gauges taxpayers' opinions similar to voting).

[336] Williamson quotes one survey respondent who wrote, "I am barely taking care of myself and having to take care of those who don't pay taxes." Williamson, supra note 7, at 47.

[337] See Sarah Halpern-Meekin, Kathryn Edin, Laura Tach & Jennifer Sykes, It's Not Like I'm Poor: How Working Families Make Ends Meet in a Post-Welfare World 17 (2015) (contrasting the EITC with welfare benefits and highlighting how the former can generate taxpayer pride when the latter might not); Zelenak, supra note 335, at 17-18 (offering historical and cultural examples of taxpayer pride during the New Deal era).

While these political risks should be acknowledged--and should inform the rhetorical framing of any anti-impoverishment effort--in reality, political rights do not and cannot depend on taxpaying. For one, there simply is no direct relationship. Some who pay positive net taxes lack robust political rights, such as undocumented workers, while others who receive net transfers have significant political power, such as farmers receiving agricultural subsidies. Further, the exchange of taxes for political rights is too nonspecific to inform the design of tax policies. Questions of proper valuation, accounting period, membership in overlapping political communities, and the incidence of indirect taxes all complicate any direct exchange of taxes for political membership.

This issue thus rests firmly in the world of rhetoric and optics. Yet, optics matter, especially for the vulnerable groups that face fiscal impoverishment. These groups are the same ones that face the most vitriol for so-called freeloading: nonworking families, undocumented immigrants, and childless workers.[338] Consider the use of offensive epithets like "deadbeat dad" and "welfare queen,"[339] which malign members of these groups as takers despite the fact that actual analysis reveals that they are anything but.[340] There is a racial valence here as well, with perceived nontaxpaying being the flipside of the race-based anti-welfare sentiment that has defined America's safety-net policies from the beginning.[341]

An explicit anti-impoverishment strategy risks stoking these same racially charged attitudes and undermining support for welfare spending. Moreover, taking seriously such concerns requires antipoverty advocates to espouse two incompatible rhetorical positions: that poor households should pay no taxes, and that poor households *do* pay taxes and thus deserve political rights. But, poor households cannot pay both nothing and something.

This Article does not seek to solve this political problem. A simple solution may not exist. Rather, it seeks to flag the issue for consideration by anti-poverty advocates and bring the dilemma to the attention of scholars and

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[338] See, e.g., Ann Cammett, Deadbeat Dads & Welfare Queens: How Metaphor Shapes Poverty Law, 34 B.C. J.L. & Soc. Just. 233, 234-35 (2014) (describing how poverty and welfare rhetoric "devolved into racial stigmatization of welfare recipients"); Madeline M. Gomez, Intersections at the Border: Immigration Enforcement, Reproductive Oppression, and the Policing of Latina Bodies in the Rio Grande Valley, 30 Colum. J. Gender & L. 84, 106 (2015) (describing how "public charge" rhetoric casts immigrants, particularly women, as "over-rely[ing] on social services and leech[ing] off of the tax dollars" of other Americans).

[339] Cammett, supra note 338, at 237-38 (describing the social histories and rhetorical roles of the metaphors "Deadbeat Dad" and "Welfare Queen").

[340] See supra Section III.B.

[341] See Alesina, Glaeser & Sacerdote, supra note 324, at 189 (attributing U.S. antiwelfare sentiment in large part to racial discord).

experts who write in adjacent areas. At minimum, perhaps these concerns call for highlighting the important *nonfiscal* role that all people play in our society.

CONCLUSION

This Article has offered a new way to assess taxation of low-income households in the United States. Measuring fiscal impoverishment allows us to tally the number of households that are made poor or poorer as a result of federal, state, and local taxes, accounting for the antipoverty public benefits they receive. Distinct from the standard criteria by which we assess our tax laws' redistributive successes, fiscal impoverishment foregrounds human dignity and implicates the economic responsibilities of the state vis-à-vis low-income taxpayers.

This Article has also shown that fiscal impoverishment in the United States is significant and highly variable. The degree to which a household is impoverished depends on where they live, their family structure, and their eligibility for a patchwork of government transfers. Race and immigration status play an outsize role. Such factors ought not to determine one's fortune--although surely few are surprised to see that they do.

We live in unprecedented times, facing doubts about the long-term viability of our current revenue-raising tools. Major changes loom. As policymakers consider the necessity of novel tax instruments, they should be mindful of the ramifications of such tax reforms for struggling households. A fiscal impoverishment metric can aid in this mindfulness. By taking seriously the contributions of poor taxpayers, we can build a fiscal system that advances the wellbeing and protects the dignity of all U.S. households.

APPENDIX

A. *Tax and Transfer Calculation Methodology*

Year of Calculations. Most calculations herein use figures for 2019. Tax year 2019 is the most recent year in which there were no "recovery rebate" checks, which were one-off payments intended to offset the negative economic ramifications of the COVID-19 pandemic.[342] Additionally, as explained above, Congress temporarily expanded the childless EITC and child tax credit in 2021.[343] Using figures from a year that included rebate checks or the expanded EITC and child tax credit would misrepresent the fiscal impoverishment landscape in prior and future years.

In 2021 the U.S. Department of Agriculture recalculated the household food allotment for SNAP purposes, increasing benefits by 27% overall.[344] This increase in SNAP benefits will reduce fiscal impoverishment going forward. Although the calculations herein use 2019 figures for the sake of consistency,[345] 2021 SNAP calculations are also provided in the footnotes.

Poverty Thresholds: All poverty thresholds are based on the U.S. Census Bureau's Poverty Thresholds for 2019.[346] These calculations use thresholds for adults under the age of 65 and adjusted for the presence of children as necessary.[347]

Federal Income Tax and State Income Tax: I calculated income tax amounts using the National Bureau of Economic Research Internet TAXSIM v32, which estimates households' state and federal taxes based on survey data.[348] For calculation of state renter credits, I assume that rent is equal to 30% of income, a figure often used by public benefits programs.[349]

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[342] See, e.g., I.R.C. § 6428 (West 2020) (providing each "eligible individual" with a $1,200 subsidy, plus more for taxpayers with dependent children); American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 9601 (enacted) (providing $1,400).

[343] American Rescue Plan Act of 2021, §§ 9611, 9621.

[344] Estimated Increase in SNAP, supra note 162.

[345] Memorandum from Lizbeth Silbermann, supra note 256.

[346] U.S. Census Bureau, supra note 64.

[347] Id.

[348] TAXSIM Related Files at the NBER, Nat'l Bureau Econ. Rsch., http://users.nber.org/~taxsim [https://perma.cc/2EQ3-QBLF]; cf. Williamson, supra note 7, at 251 n.6 (using TAXSIM to estimate tax burdens for survey respondents).

[349] See Christopher Herbert, Alexander Herman & Daniel McCue, Joint Ctr. for Housing Stud., Measuring Housing Affordability: Assessing the 30 Percent of Income Standard 2 (2018), https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_Herbert_Hermann_McCue_measuring_housing_affordability.pdf [https://perma.cc/U26Y-XGNQ].

Federal Insurance Contribution Act Taxes (Payroll Tax): All employees pay FICA taxes at a rate of 7.65% of wages; employers pay an equivalent amount.[350] Although TAXSIM calculates FICA taxes at the combined rate of 15.3%, the calculations here use only the employee's portion.[351] Using only the employee's portion underestimates the degree of fiscal impoverishment because all self-employed workers, "gig" workers, and workers misclassified as independent contractors[352] will bear the full tax amount of 15.3% via the SECA tax.[353]

State & Local Sales and Property Taxes: I used rates from ITEP's *Who Pays?* 2018 Report, which provides estimated sales and property tax rates imposed on each income quintile.[354] The rates used here are those estimated for the bottom income quintile. They are provided separately in Table 8. Purchases made using SNAP benefits are excluded from the calculations, as they are not subject to the sales tax.

Several factors drive the seemingly high sales tax incidence on the lowest income quintile in ITEP's report. The first is that low-income American households consume (on average) more than 100% of their income.[355] The second is that the estimates include the cost of sales taxes that businesses pay on their own purchases, the incidence of which is passed to consumers through higher prices.[356] Finally, the estimates also include state and local excise taxes that apply to alcohol, tobacco, motor vehicle fuel, and sometimes soft drinks and recreational marijuana.[357]

The calculations additionally include the property tax based on empirical evidence that renters bear much of the incidence of property taxes.[358] Removing the property tax from the calculations would moderately reduce the degree of fiscal impoverishment.

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[350] I.R.C. §§ 3101, 3111 (West 2021).

[351] See supra notes 288-289 and accompanying text.

[352] 13 Mertens Law of Federal Income Taxation § 47A:56 (2020) (defining "employees" for purposes of FICA); see, e.g., McDonald v. S. Farm Bureau Life Ins. Co., 281 F.3d 718, 721 (11th Cir. 2002) (describing an instance of alleged worker misclassification).

[353] I.R.C. § 1401 (West 2021).

[354] ITEP, supra note 7, at 31-33.

[355] See id. at 18 ("[T]he poor can rarely save at all . . . .").

[356] Id. at 135.

[357] Id.

[358] England, supra note 134, 448-51 (describing recent empirical evidence that residents bear some portion of property taxes); see generally Fullerton & Metcalf, supra note 117, at 1815-17 (discussing property tax incidence).

Supplemental Nutrition Assistance Program (SNAP) Benefits: SNAP calculations are based on the method provided by the U.S. Department of Agriculture.[359] In order to calculate SNAP benefits at each income level, I calculated the taxpayer's monthly income and reduced it by 20% of gross earnings (for working taxpayers) as well as the standard deduction to arrive at net income. Although applicants may take an "excess shelter deduction" for housing expenses in excess of 50% of adjusted income, I assumed that all stylized households pay housing expenses equal to 30% of gross income, which does not result in any excess shelter deduction.[360] Monthly SNAP benefits equal the maximum monthly allotment amount minus 30% of net income. The method is the same for Alaska and Hawaii, using different amounts for the standard deduction and maximum monthly allotment. I used both 2019 and 2021 SNAP allotment amounts where appropriate, as noted throughout the text.

Slight differences between state rules may change the benefit amounts, but not significantly. Perhaps most notably, differences might arise via the interaction between SNAP and the Low Income Home Energy Assistance Program (LIHEAP).[361] Certain states calculate SNAP benefits to ensure that recipients do not lose food support due to their LIHEAP support.[362] Otherwise, state programs are more likely to differ based on broad categorical eligibility rules rather than specific inputs to the benefit formula.[363]

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[359] See SNAP Eligibility, U.S. Dep't of Agric. (Oct. 1, 2021), https://www.fns.usda.gov/snap/recipient/eligibility [https://perma.cc/EU7H-XYQ2] (providing an example SNAP calculation); U.S. Dep't of Agric., supra note 256 (providing monthly income eligibility standards for SNAP).

[360] While 30% of gross income has been a rule of thumb metric for affordable housing, nearly half of all renters pay more than 30% of their income in housing costs. Herbert, Herman & McCue, supra note 349, at 2. Average housing costs are much higher for lower income households. See Mary Schwartz & Ellen Wilson, U.S. Census Bureau, Who Can Afford To Live in a Home?: A Look at Data from the 2006 American Community Survey 11-12 (2010), https://center4affordablehousing.org/wp-content/uploads/2018/09/who-can-afford.pdf [https://perma.cc/L4X7-MGWG] (finding that households in the bottom income quartile often spend at least 50% of their income on housing). Housing costs also vary drastically by location. Herbert, Herman & McCue, supra note 349, at 6 (assessing housing costs in Cleveland, Philadelphia, and Los Angeles).

[361] See, LIHEAP Clearinghouse, U.S. Dep't of Health & Human Servs., A New Framework for "Heat & Eat" (2014), https://liheapch.acf.hhs.gov/sites/default/files/webfiles/docs/HeatEat.pdf [https://perma.cc/93Y7-SGCN] (describing joint efforts under LIHEAP and SNAP to ensure that low-income households can "both heat their homes and feed their families").

[362] Id.

[363] See Ctr. on Budget & Pol'y Priorites, supra note 161, at 1-2 (describing states' discretion over SNAP eligibility rules).

National School Lunch Program: Each school lunch received a maximum reimbursement amount of $3.48 in 2019 ($5.62 in Alaska and $4.06 in Hawaii),[364] which is assumed to be the meal's value. School is assumed to be in session for 180 days of the year.[365] Most families do not have access to school lunch programs during summer and holidays. These numbers are multiplied by the number of children in the household to find the annual value of the school lunch program.

Medicaid: As explained above, this Article uses the U.S. Census Bureau's "fungible value" method, which ascribes a zero value to medical insurance the government provides to households living in poverty.[366] Because nearly all the households included here are below the poverty line either before or after taxes and transfers, the value of Medicaid is deemed to be $0.[367]

It is worth noting that other valuation methods might ascribe a greater value to Medicaid benefits and somewhat change the fiscal impoverishment landscape depicted here. Perhaps the most prominent alternative method is to include the actual cost of government-provided medical care, which the Congressional Budget Office does in its estimates.[368] This Article does not adopt that method in part because doing so can cause strange results.[369] For instance, someone who lives in deep poverty would seem to be pulled above the poverty line because she suffered a serious accident and received expensive medical care.[370] This odd result would occur even if she otherwise

[364] National School Lunch, Special Milk, and School Breakfast Programs, National Average Payments/Maximum Reimbursement Rates, 83 Fed. Reg. 34105 (Jul. 19, 2018).

[365] Table 5.14. Number of Instructional Days and Hours in the School Year, By State: 2018, Nat'l Ctr. for Educ. Stat., https://nces.ed.gov/programs/statereform/tab5_14.asp [https://perma.cc/JRA5-UPTA]; see also Kalena Thomhave, On Summer Vacation and Hungry, Am. Prospect (Sept. 16, 2019), https://prospect.org/education/on-summer-vacation-and-hungry/ [https://perma.cc/MZ4L-HHZ4] (discussing the shortcomings of an attempt to provide meals during summer break).

[366] See supra notes 177-181 and accompanying text.

[367] See Eduardo Porter, Health Care as Income for the Poor, N.Y. Times (Oct. 2, 2012), https://www.nytimes.com/2012/10/03/business/debating-real-value-of-health-benefits-in-poverty-calculations.html?pagewanted=all&_r=0 [https://perma.cc/W4FY-PD9M](describing the Census Bureau's approach to valuing Medicaid as "not unreasonable" in part because "you can't eat health care").

[368] See Cong. Budget Off., The Distribution of Household Income and Federal Taxes, 2008 and 2009, 16-17 (2012), https://www.cbo.gov/sites/default/files/112th-congress-2011-2012/reports/43373-averagetaxratesscreen.pdf [https://perma.cc/Q79H-VFLY]; Finkelstein, Hendren & Luttmer, supra note 284, at 2837 (noting that "academic or public policy analyses often either ignore the value of Medicaid . . . or make ad hoc assumptions" such as "[valuing] Medicaid at the average government expenditure per recipient").

[369] For a more robust discussion of problems with using cost-of-care to estimate the value of Medicaid to recipients, see U.S. Census Bureau, supra note 178, at 18-21.

[370] See, e.g., Uwe E. Reinhardt, Assessing the Value of Medicaid to Its Enrollees, N.Y.

still lived in a state of extreme deprivation. A similar result occurs if a state decides to increase Medicaid fees paid to doctors, despite the fact that low-income Medicaid beneficiaries receive nothing from such a policy change.[371] More generally, using some version of cost of services—whether as valued by the government or the recipient—would reflect the fact that sick and disabled individuals receive a more valuable benefit. Such individuals would thus appear to have more income than similarly situated healthy individuals despite likely being worse off in reality.

Although others have proposed alternative Medicaid valuation methods, the fungible-value method and cost-of-care method represent the two most prominent options.[372] While both methods are inaccurate, this Article takes the position that the fungible value method is less inaccurate than the alternative.[373]

Net Cost: Net cost is total taxes minus total benefits. Benefits in Alaska include the Permanent Fund Dividend, a figure that is not reflected in the other columns or for other states. A negative value in the Net Cost column means that the household receives a net transfer.

Times: Economix (Oct. 12, 2012), https://economix.blogs.nytimes.com/2012/10/12/assessing-the-value-of-medicaid-to-its-enrollees/ [https://perma.cc/D4GY-UV3V] (making a similar point).

[371] Id.

[372] See Finkelstein, Hendren & Luttmer , supra note 284, at 2837; Reinhardt, supra note 370 ("Economists really do not have a robust solution to this [Medicaid valuation] conundrum . . . .").

[373] Cf. U.S. Census Bureau, supra note 178, at 18-21 (excluding medical expenditures and benefits from poverty calculations, concluding that doing otherwise "would do more to distort the picture of the distribution of material well-being than to sharpen it, and that the distortions would be particularly great for low-income persons").

B. *Expanded Fifty-State Tables*

Table 5: Working Family Excluded from Refundable Family Credits at 100% of the Federal Poverty Threshold, 2019[374]

State	*Fed. Inc. Tax*	*State Inc. Tax*	*Payroll Tax*	*Sales, Prop. Tax*	*SNAP*	*School Lunch*	*Net Cost*
AL	$0	$555	$1,576	$1,751	$1,707	$1,253	$922
AK	$0	$0	$1,576	$1,421	$3,376	$2,023	-$7,220[375]
AZ	$0	-$65	$1,576	$2,595	$1,707	$1,253	$1,146
AR	$0	$0	$1,576	$2,286	$1,707	$1,253	$902
CA	$0	$0	$1,576	$2,307	$1,707	$1,253	$923
CO	$0	$101	$1,576	$1,771	$1,707	$1,253	$488
CT	$0	$4	$1,576	$2,534	$1,707	$1,253	$1,154
DE	$0	$284	$1,576	$1,030	$1,707	$1,253	-$70
DC	$0	-$528	$1,576	$2,060	$1,707	$1,253	$148
FL	$0	$0	$1,576	$2,595	$1,707	$1,253	$1,211
GA	$0	$205	$1,576	$2,060	$1,707	$1,253	$881
HI	$0	$180	$1,576	$2,946	$7,172	$1,462	-$3,932
ID	$0	-$265	$1,576	$1,916	$1,707	$1,253	$267
IL	$0	$682	$1,576	$2,637	$1,707	$1,253	$1,934
IN	$0	$375	$1,576	$2,163	$1,707	$1,253	$1,154
IA	$0	$311	$1,576	$2,616	$1,707	$1,253	$1,543
KS	$0	$0	$1,576	$2,451	$1,707	$1,253	$1,067
KY	$0	$0	$1,576	$1,648	$1,707	$1,253	$264
LA	$0	$354	$1,576	$2,431	$1,707	$1,253	$1,401
ME	$0	-$200	$1,576	$2,122	$1,707	$1,253	$538

[374] This family's income is $20,598 in 2019. See U.S. Census Bureau, supra note 64 (providing 2019 poverty thresholds).

Additionally, these estimates assume that families are ineligible for the federal EITC and child tax credit as well as any state earned income credits, since state programs often overlap significantly with the federal credits. They do not assume ineligibility for any other state or federal tax credits.

[375] This large net transfer reflects Alaska's Permanent Fund Dividend, which is not included in any of the columns and equaled $1,606 per person in 2019. See Alaska Dep't of Rev., supra note 233, at 3. The amount included here reflects payments to all three people in the household, totaling $4,818 ($1,606 x 3). Eligibility for the Permanent Fund Dividend depends on a person's immigration status, as well as having a qualified adult to claim the dividend on a child's behalf. See 15 Alaska Admin. Code tit. 15 §§ 23.113 (2021) (providing child eligibility rules), 23.154 (providing "alien eligibility" rules).

MD	$0	$0	$1,576	$1,916	$1,707	$1,253	$532
MA	$0	$1	$1,576	$2,101	$1,707	$1,253	$718
MI	$0	-$224	$1,576	$1,977	$1,707	$1,253	$369
MN	$0	-$873	$1,576	$1,854	$1,707	$1,253	-$403
MS	$0	$134	$1,576	$2,019	$1,707	$1,253	$769
MO	$0	$40	$1,576	$1,957	$1,707	$1,253	$613
MT	$0	$189	$1,576	$1,524	$1,707	$1,253	$329
NE	$0	$0	$1,576	$2,348	$1,707	$1,253	$964
NV	$0	$0	$1,576	$1,895	$1,707	$1,253	$511
NH	$0	$0	$1,576	$1,771	$1,707	$1,253	$387
NJ	$0	$182	$1,576	$2,286	$1,707	$1,253	$1,084
NM	$0	-$34	$1,576	$2,637	$1,707	$1,253	$1,218
NY	$0	$207	$1,576	$2,843	$1,707	$1,253	$1,665
NC	$0	$293	$1,576	$1,854	$1,707	$1,253	$763
ND	$0	$25	$1,576	$2,060	$1,707	$1,253	$701
OH	$0	$0	$1,576	$2,225	$1,707	$1,253	$841
OK	$0	-$7	$1,576	$2,698	$1,707	$1,253	$1,307
OR	$0	$247	$1,576	$1,668	$1,707	$1,253	$531
PA	$0	$0	$1,576	$2,307	$1,707	$1,253	$923
RI	$0	$0	$1,576	$2,678	$1,707	$1,253	$1,294
SC	$0	$0	$1,576	$1,668	$1,707	$1,253	$284
SD	$0	$0	$1,576	$2,307	$1,707	$1,253	$923
TN	$0	$0	$1,576	$2,142	$1,707	$1,253	$758
TX	$0	$0	$1,576	$2,678	$1,707	$1,253	$1,294
UT	$0	$0	$1,576	$1,483	$1,707	$1,253	$99
VT	$0	-$839	$1,576	$1,854	$1,707	$1,253	-$369
VA	$0	$0	$1,576	$1,751	$1,707	$1,253	$367
WA	$0	$0	$1,576	$3,666	$1,707	$1,253	$2,282
WV	$0	$0	$1,576	$1,854	$1,707	$1,253	$470
WI	$0	-$289	$1,576	$2,080	$1,707	$1,253	$407
WY	$0	$0	$1,576	$1,977	$1,707	$1,253	$593

Table 6: Childless Worker at 100% of the Federal Poverty Threshold, 2019[376]

State	*Fed. Inc. Tax*	*State Inc. Tax*	*Payroll Tax*	*Sales, Prop. Tax*	*SNAP*	*Net Cost*
AL	-$63	$425	$1,017	$1,131	$0	$2,510
AK	-$63	$0	$1,017	$918	$710	-$444[377]
AZ	-$63	$28	$1,017	$1,676	$0	$2,658
AR	-$63	$55	$1,017	$1,476	$0	$2,485
CA	-$63	-$130	$1,017	$1,490	$0	$2,314
CO	-$63	$32	$1,017	$1,144	$0	$2,130
CT	-$63	-$40	$1,017	$1,636	$0	$2,550
DE	-$63	$119	$1,017	$665	$0	$1,738
DC	-$63	-$884	$1,017	$1,330	$0	$1,400
FL	-$63	$0	$1,017	$1,676	$0	$2,630
GA	-$63	$170	$1,017	$1,330	$0	$2,454
HI	-$63	$222	$1,017	$1,902	$1,939	$1,140
ID	-$63	-$78	$1,017	$1,237	$0	$2,113
IL	-$63	$515	$1,017	$1,702	$0	$3,171
IN	-$63	$285	$1,017	$1,397	$0	$2,635
IA	-$63	$217	$1,017	$1,689	$0	$2,861
KS	-$63	$220	$1,017	$1,583	$0	$2,757
KY	-$63	$87	$1,017	$1,064	$0	$2,105
LA	-$63	$189	$1,017	$1,569	$0	$2,713
ME	-$63	-$134	$1,017	$1,370	$0	$2,190
MD	-$63	$246	$1,017	$1,237	$0	$2,437
MA	-$63	$245	$1,017	$1,357	$0	$2,556
MI	-$63	$59	$1,017	$1,277	$0	$2,290
MN	-$63	-$566	$1,017	$1,197	$0	$1,586
MS	-$63	$90	$1,017	$1,303	$0	$2,348
MO	-$63	$17	$1,017	$1,264	$0	$2,234
MT	-$63	$154	$1,017	$984	$0	$2,092
NE	-$63	$36	$1,017	$1,516	$0	$2,507
NV	-$63	$0	$1,017	$1,224	$0	$2,178

[376] The worker earns $13,300 per year. U.S. Census Bureau, supra note 64.

[377] The final net transfer for Alaska reflects the Permanent Fund Dividend, which is not included in any of the columns and equaled $1,606 per person in 2019. Alaska Dep't of Revenue, supra note 233, at 3.

NH	-$63	$0	$1,017	$1,144	$0	$2,098
NJ	-$63	$55	$1,017	$1,476	$0	$2,485
NM	-$63	-$81	$1,017	$1,702	$0	$2,575
NY	-$63	$160	$1,017	$1,835	$0	$2,950
NC	-$63	$173	$1,017	$1,197	$0	$2,324
ND	-$63	$12	$1,017	$1,330	$0	$2,296
OH	-$63	$0	$1,017	$1,436	$0	$2,391
OK	-$63	$73	$1,017	$1,742	$0	$2,769
OR	-$63	$388	$1,017	$1,077	$0	$2,419
PA	-$63	$408	$1,017	$1,490	$0	$2,852
RI	-$63	-$9	$1,017	$1,729	$0	$2,674
SC	-$63	$0	$1,017	$1,077	$0	$2,031
SD	-$63	$0	$1,017	$1,490	$0	$2,444
TN	-$63	$0	$1,017	$1,383	$0	$2,337
TX	-$63	$0	$1,017	$1,729	$0	$2,683
UT	-$63	$0	$1,017	$958	$0	$1,912
VT	-$63	-$410	$1,017	$1,197	$0	$1,741
VA	-$63	$229	$1,017	$1,131	$0	$2,314
WA	-$63	$0	$1,017	$2,367	$0	$3,322
WV	-$63	$106	$1,017	$1,197	$0	$2,257
WI	-$63	-$430	$1,017	$1,343	$0	$1,868
WY	-$63	$0	$1,017	$1,277	$0	$2,231

Table 7: Childless Worker at 125% of the Federal Poverty Threshold, 2019[378]

State	*Fed. Inc. Tax*	*State Inc. Tax*	*Payroll Tax*	*Sales, Prop. Tax*	*SNAP*	*Net Cost*	*Amt Impov-erished*[379]
AL	$443	$569	$1,272	$1,413	$0	$3,697	$372
AK	$443	$0	$1,272	$1,147	$0	$1,255[380]	-$2,070

[378] This amount is $16,625 in 2019, which is 125% of the Federal Poverty Threshold of $13,300. U.S. Census Bureau, supra note 64.

[379] This column provides how far the taxpayer falls below the poverty threshold after taxes and transfers. A negative value means that the worker is not impoverished. Rather, their after-tax and transfer income exceeds the poverty threshold by the absolute value of the negative number.

[380] The final net cost for Alaska reflects the Permanent Fund Dividend, which is not

AZ	$443	$115	$1,272	$2,095	$0	$3,924	$599
AR	$443	$227	$1,272	$1,845	$0	$3,786	$461
CA	$443	-$104	$1,272	$1,862	$0	$3,472	$147
CO	$443	$199	$1,272	$1,430	$0	$3,343	$18
CT	$443	$5	$1,272	$2,045	$0	$3,764	$439
DE	$443	$313	$1,272	$831	$0	$2,859	-$466
DC	$443	-$851	$1,272	$1,663	$0	$2,526	-$799
FL	$443	$0	$1,272	$2,095	$0	$3,809	$484
GA	$443	$357	$1,272	$1,663	$0	$3,733	$408
HI	$443	$480	$1,272	$2,377	$1,141	$3,430	$105
ID	$443	$24	$1,272	$1,546	$0	$3,285	-$40
IL	$443	$710	$1,272	$2,128	$0	$4,553	$1,228
IN	$443	$408	$1,272	$1,746	$0	$3,868	$543
IA	$443	$363	$1,272	$2,111	$0	$4,188	$863
KS	$443	$353	$1,272	$1,978	$0	$4,045	$720
KY	$443	$702	$1,272	$1,330	$0	$3,746	$421
LA	$443	$317	$1,272	$1,962	$0	$3,993	$668
ME	$443	-$112	$1,272	$1,712	$0	$3,315	-$10
MD	$443	$478	$1,272	$1,546	$0	$3,739	$414
MA	$443	$427	$1,272	$1,696	$0	$3,837	$512
MI	$443	$151	$1,272	$1,596	$0	$3,461	$136
MN	$443	-$435	$1,272	$1,496	$0	$2,776	-$549
MS	$443	$223	$1,272	$1,629	$0	$3,567	$242
MO	$443	$97	$1,272	$1,579	$0	$3,390	$65
MT	$443	$265	$1,272	$1,230	$0	$3,209	-$116
NE	$443	$170	$1,272	$1,895	$0	$3,780	$455
NV	$443	$0	$1,272	$1,530	$0	$3,244	-$81
NH	$443	$0	$1,272	$1,430	$0	$3,144	-$181
NJ	$443	$169	$1,272	$1,845	$0	$3,728	$403
NM	$443	-$4	$1,272	$2,128	$0	$3,838	$513
NY	$443	$299	$1,272	$2,294	$0	$4,308	$983
NC	$443	$348	$1,272	$1,496	$0	$3,558	$233
ND	$443	$49	$1,272	$1,663	$0	$3,425	$100
OH	$443	$0	$1,272	$1,796	$0	$3,510	$185

included in any of the columns and equaled $1,606 per person in 2019. Alaska Dep't of Revenue, supra note 233, at 3.

OK	$443	$235	$1,272	$2,178	$0	$4,127	$802
OR	$443	$625	$1,272	$1,347	$0	$3,686	$361
PA	$443	$510	$1,272	$1,862	$0	$4,087	$762
RI	$443	$142	$1,272	$2,161	$0	$4,017	$692
SC	$443	$41	$1,272	$1,347	$0	$3,102	-$223
SD	$443	$0	$1,272	$1,862	$0	$3,576	$251
TN	$443	$0	$1,272	$1,729	$0	$3,443	$118
TX	$443	$0	$1,272	$2,161	$0	$3,876	$551
UT	$443	$117	$1,272	$1,197	$0	$3,029	-$296
VT	$443	-$398	$1,272	$1,496	$0	$2,813	-$512
VA	$443	$430	$1,272	$1,413	$0	$3,557	$232
WA	$443	$0	$1,272	$2,959	$0	$4,674	$1,349
WV	$443	$485	$1,272	$1,496	$0	$3,696	$371
WI	$443	-$314	$1,272	$1,679	$0	$3,079	-$246
WY	$443	$0	$1,272	$1,596	$0	$3,310	-$15

Table 8: Sales and Property Tax Rates on Lowest-Income Quintile[381]

State	*Sales Tax*	*Property Tax*	*Combined Rate*
AL	7.1%	1.4%	8.5%
AK	3.3%	3.6%	6.9%
AZ	8.1%	4.5%	12.6%
AR	8.9%	2.2%	11.1%
CA	7.2%	4.0%	11.2%
CO	6.1%	2.5%	8.6%
CT	6.8%	5.5%	12.3%
DE	2.9%	2.1%	5.0%
DC	6.4%	3.6%	10.0%
FL	8.7%	3.9%	12.6%
GA	6.8%	3.2%	10.0%
HI	10.5%	3.8%	14.3%
ID	6.0%	3.3%	9.3%
IL	6.8%	6.0%	12.8%
IN	7.1%	3.4%	10.5%

[381] ITEP, supra note 7, at 31-133.

IA	6.4%	6.3%	12.7%
KS	8.0%	3.9%	11.9%
KY	5.6%	2.4%	8.0%
LA	9.2%	2.6%	11.8%
ME	6.1%	4.2%	10.3%
MD	5.9%	3.4%	9.3%
MA	4.8%	5.4%	10.2%
MI	6.2%	3.4%	9.6%
MN	6.5%	2.5%	9.0%
MS	7.7%	2.1%	9.8%
MO	5.9%	3.6%	9.5%
MT	2.1%	5.3%	7.4%
NE	6.1%	5.3%	11.4%
NV	7.1%	2.1%	9.2%
NH	2.4%	6.2%	8.6%
NJ	5.4%	5.7%	11.1%
NM	9.6%	3.2%	12.8%
NY	7.1%	6.7%	13.8%
NC	6.1%	2.9%	9.0%
ND	7.7%	2.3%	10.0%
OH	7.0%	3.8%	10.8%
OK	9.2%	3.9%	13.1%
OR	2.3%	5.8%	8.1%
PA	6.6%	4.6%	11.2%
RI	7.4%	5.6%	13.0%
SC	5.1%	3.0%	8.1%
SD	8.4%	2.8%	11.2%
TN	8.2%	2.2%	10.4%
TX	9.3%	3.7%	13.0%
UT	5.1%	2.1%	7.2%
VT	5.1%	3.9%	9.0%
VA	5.4%	3.1%	8.5%
WA	13.3%	4.5%	17.8%
WV	6.6%	2.4%	9.0%
WI	5.8%	4.3%	10.1%
WY	6.7%	2.9%	9.6%