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ESSAYS

PROGRESSIVE STATE TAX POLICY IS POSSIBLE AND IMPERATIVE

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*Darien Shanske**

I. INTRODUCTION

We know that a free school lunch might be the only full meal a child living in poverty gets to enjoy.¹ We also know how important adequate nutrition is in connection with many fundamental human capacities. Lunch is also relatively cheap compared to much else we spend money on as a society. It is true that some students will not take free lunch if it is stigmatized as “free.” It is a bit more expensive to solve this problem through universal provision of free lunch, but still not by much.²

Do we have a moral obligation to work together to provide universal free lunch? In a world of scarce resources, ultimate answers to many such

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¹ For a useful summary of research findings, see, e.g., Saied Toossi, *The Effect of Universal Free School Meals on Children’s Food Hardship*, 124 FOOD POL’Y 1, 3 (2024); Caroline Danielson, *Examining the Reach of Universal School Meals in California*, PUB. POL’Y INST. CAL. (Aug. 15, 2024, 4:51 PM), <https://www.ppic.org/blog/examining-the-reach-of-universal-school-meals-in-california/>.

² AMY LI, THE 2022–23 BUDGET: SCHOOL NUTRITION, LEGIS. ANALYST’S OFF. (2022), <https://lao.ca.gov/reports/2022/4519/school-nutrition-020822.pdf> (illustrating that California paid \$650 million for one year (2-22-23) of universal free lunch); This is a lot until one remembers that California has almost six million K-12 students and spent about \$100 billion on K-12 education in 2022–23. See *Fingertip Facts on Education in California*, CAL. DEP’T EDUC. (Mar. 8, 2025, 5:00 PM), <https://www.cde.ca.gov/ds/ad/ceffingertipfacts.asp>; STEPHEN Q. CORNMAN ET AL., NAT’L CTR. FOR EDUC. STATS., REVENUES AND EXPENDITURES FOR PUBLIC ELEMENTARY AND SECONDARY EDUCATION: SCHOOL YEAR 2021–22, at 5 tbl. 1 (2024), <https://nces.ed.gov/pubs2024/2024301.pdf>.

questions are hard.³ An easy question is whether we have a moral obligation to consider how we might provide such programs, even if financed through suboptimal methods. Of course we should. An almost as easy question is whether or not there are certain minimal quanta of particular goods, such as health and safety, such that the costs of providing these goods are very likely to be overwhelmed by the benefits.⁴

To be sure, states and localities must be careful before they swoop in and start new safety net programs, however sensible. States and localities are typically bound by balanced budget rules.⁵ That means, for a given amount of revenue, there is a fixed pie as between different worthy programs. Further, as to the taxes raised by states and local governments, the theory of fiscal federalism generally views the level of taxation as limited by competition with other jurisdictions. Relatedly, much of the tax bases, which theory says should be used by subnational governments⁶ and are used by them,⁷ are regressive. This is thought to make sense as efficient because it is the wealthy who are most likely to move away from high taxes. Yet raising regressive taxes to pay for poverty reduction can be self-defeating.⁸ To see this last point, suppose that for every three kids who get free lunch because of a program expansion, there are two more kids who must now skip dinner

³ And so I broadly agree with Barbara Fried that there is no escaping scarcity and tradeoff. BARBARA FRIED, *FACING UP TO SCARCITY: THE LOGIC AND LIMITS OF NONCONSEQUENTIALIST THOUGHT* 20–21 (2020).

⁴ In this, I also agree with Fried. *Id.* at 174–75 (arguing that a number of different moral theories coalesce around the importance of providing a decent minimum for all). See generally Darien Shanske, *A Brief Theory of Taxation and Framework Public Goods*, in *TAX JUSTICE AND TAX LAW: UNDERSTANDING UNFAIRNESS IN TAX SYSTEMS* (Dominic de Cogan & Peter Harris eds., 2021).

⁵ Richard Briffault, *Foreword: The Disfavored Constitution*, 34 COLUM. L. REV. 907, 947–49 (2003).

⁶ Richard A. Musgrave, *Who Should Tax, Where, and What?*, in *TAX ASSIGNMENT IN FEDERAL COUNTRIES* 2, at 12–13 (Charles McLure Jr. ed., 1983).

⁷ See CARL DAVIS ET AL., *INST. ON TAX’N & ECON. POL’Y, WHO PAYS? A DISTRIBUTIONAL ANALYSIS OF THE TAX SYSTEMS IN ALL 50 STATES* 10–11 (7th ed. 2024), <https://media.itep.org/ITEP-Who-Pays-7th-edition.pdf> (finding that most state tax systems worsen inequality); see also Johannes Fleck et al., *Tax and Transfer Progressivity at the U.S. State Level* 3–4 (Sept. 12, 2021) (unpublished manuscript) (on file with author) (finding that even accounting for progressive state spending, state fiscal systems do not reduce inequality).

⁸ Manuel Schechtl & Rourke L. O’Brien, *Fiscal Impoverishment in Rich Democracies*, 102 SOC. FORCES 1249, 1249–68 (2024); Ariel J. Kleiman, *Impoverishment by Taxation*, 170 UNIV. PA. L. REV. 1451, 1451 (2022).

because their family cannot afford the increase in taxes to pay for increased lunch.

So, while theory indicates caution as to state and local poverty alleviation, it does not indicate surrender, at least not yet. Given the intensity of the need, we should go further. Here, I will propose two related routes. First, I propose looking more carefully at the theory of fiscal federalism to see if, hidden in plain sight, there are important opportunities for states and localities to combat poverty. Second, I will argue that the theory of fiscal federalism is idealized and does not describe our current system in many ways. Let us return to school lunch. Optimal fiscal federalism indicates that the federal government should fund that program for all students, yet it does not. Given that it is such a low-cost and high-value intervention, it seems myopic to insist out of hand that states and localities cannot afford to step up instead.

On the revenue side, is it right to say that the federal government is fully occupying the space of progressive taxation, leaving no efficient tools for states and localities? I do not think so.⁹ If states can raise money for valuable interventions progressively, then I think the answer is that they *should*. In fact, there are many possible interventions. Alas, I am not sure that they *all* can be financed progressively, which means that there is a need to prioritize and evaluate more regressive revenue tools in particular. Such choices are beyond my scope in this short Essay, but carefully choosing among priorities is a very different enterprise than giving up on the whole endeavor altogether.

II. SLIGHTLY DEEPER DIVE INTO THE CONCEPTUAL ARGUMENT

The prompt motivating this symposium about state taxes and poverty led me to a metaphysical state of mind because in a certain way it is asking the impossible: theory says there is no good way to use state tax policy to effectively combat poverty.¹⁰ This is because state and local taxes should be

⁹ Darien Shanske, *How the States Can Tax Shifted Corporate Profits: An Application of Strategic Conformity*, 94 S. CAL. L. REV. 251, 251 (2021).

¹⁰ JONATHAN GRUBER, PUBLIC FINANCE AND PUBLIC POLICY 268–70 (2d ed. 2007) (summarizing optimal fiscal federalism); Kirk J. Stark, *Fiscal Federalism and Tax Progressivity: Should the Federal Income Tax Encourage State and Local Redistribution?*, 51 UCLA L. REV. 1389, 1406–08 (2004).

relatively regressive. Using regressive taxes to combat poverty will always be suboptimal because the taxes are worsening the problem that the spending they support is trying to solve.

And yet, at the same time, such policies seem entirely possible and extremely necessary. They are necessary as a matter of justice and in many cases are clearly sound policy. Successful state and local interventions clearly happen.¹¹

So, what is one to do when theory, on its own, seems to lead us to a morally and empirically untenable place?¹² I think the answer is not to abandon theory, but to think it through more closely. And this, idiosyncratically to be sure, led me to Immanuel Kant and the antinomies of pure reason. What follows, of course, is a vulgar oversimplification of Kant's key insights.

For Kant, pure reason thinks itself into ditches that, thought properly, should teach us about the limits of reason itself rather than about the world. For example, using reason we might well conclude that the world had a beginning, since everything must have started at some point. At the same time, one might reasonably conclude that the world must always have been because when was there ever not a world?¹³ There are two strategies out of the so-called antinomies of pure reason that I should like to focus on.

First, sometimes reason can get itself out of a ditch through being more careful. In particular, sometimes we use words incautiously.¹⁴ I will suggest

¹¹ David R. Agrawal & Kirk J. Stark, *Will the Remote Work Revolution Undermine Progressive State Income Taxes?*, 6 (Glob. Lab. Org., Working Paper No. 1119, 2022), <https://www.econstor.eu/bitstream/10419/260551/1/GLO-DP-1119.pdf>; Clayton P. Gillette, *Local Redistribution, Living Wage Ordinances, and Judicial Intervention*, 101 NW. UNIV. L. REV. 1057, 1070–71 (2007).

¹² Attachment to theory in the face of evidence (or other tools) is hardly a problem unique to this area. For some other interesting examples, see Jane G. Gravelle, *When Estimated Economic Effects Fail the Sniff Test: Tax Examples*, 76 NAT'L TAX J. 621 (2023).

¹³ Immanuel Kant, *Critique of Pure Reason* at A427–430, B455–57 (Norman Kemp Smith trans., 1929).

¹⁴ For Kant, one problem is with the ambiguous use of the notion of what is “conditioned” in connection with whether or not the world has a beginning (or end) in space and time. IMMANUEL KANT, *CRITIQUE OF PURE REASON* at A499–500, B527–28 (Norman Kemp Smith trans., 1929); see also Michelle Grier, *Kant's Critique of Metaphysics*, STAN. ENCYCLOPEDIA PHIL. ARCHIVE § 4.1 ¶ 7 (rev. ed. 2022), <https://plato.stanford.edu/archives/fall2022/entries/kant-metaphysics/> (“Kant diagnoses the error or fallacy contained in this syllogism as that of ambiguous middle.”).

that something similar is true as to the theory of fiscal federalism. Reading the theory more closely, we will find there are important ways to aid the poor at the state level consistent with the theory.

Second, Kant uses a kind of hypothetical reasoning. This argument accepts two seemingly contradictory propositions as both true (at least in a sense), if some further framework were true.¹⁵ In our case, we might grant that theory makes state-level redistribution difficult despite the great need. However, we do not live in a theoretically perfect world and hence there might be something to be done. Specifically, if the federal government has left inexpensive high-value poverty-reducing policies on the table and also failed to implement progressive and efficient tax changes—as it has—*then* states may achieve valuable poverty alleviating interventions. This is especially true if the federal government has erected the scaffolding for states to do what it has not. In this world, our world, the states can act to meaningfully reduce poverty.

III. STRATEGY ONE: DEEPER DIVE INTO LOCAL PUBLIC GOODS

I will start at the beginning. It is consistent with the theory of fiscal federalism that local public goods—like education—be provided at the local level, at least to an extent. This is because much of the benefit of these goods is enjoyed locally, and there are advantages to having such services paid for—and monitored—by the same group that will benefit most from them.¹⁶ A local taxpayer might care about local public education because they have kids in the schools, care about their taxes and/or, care about their schools because of the relationship between schools and their home value.

Yet, as *public* goods, even if impure because they do aid the recipients in particular, good local schools do not just help the children whose families pay the “full” tax price for the schools. For example, some families, let us

¹⁵ For Kant, a deeper framework (transcendental idealism) illustrates how human freedom and the law of the natural world can be compatible. See KANT, *supra* note 14, at A558, B586; see also Grier, *supra* note 14, at § 4.2 ¶ 3 (“Given transcendental idealism (with its distinction between appearances and things in themselves) it remains possible that in addition to the mechanism of nature, or contingent existence, there is an intelligible causal power, or a necessary being.”).

¹⁶ GRUBER, *supra* note 10, at 177–78.

call them renters, pay less per pupil in property taxes because their homes are less valuable¹⁷ but still benefit from good public schools.

It will immediately be noted that these students from poorer homes are, from the view of most of the residents of more affluent communities, relative “free riders” because they pay less in taxes for the same excellent product as their peers. And this is, of course, why these communities use zoning to restrict supply (among other reasons, to be fair).¹⁸ Thus, it appears that while there might be a few lucky poorer students in well-resourced districts, there cannot be very many, and the efficient operation of the system *requires* that result.

But it turns out that this is not entirely so, even at the level of theory. Place matters, especially to those at the bottom of the socio-economic ladder because they are the ones who most benefit from neighborhoods that cultivate opportunity,¹⁹ and thus boxing out the poor from places that would improve the outcomes of their children is costly for all of us. Further, it is on balance costly to box out workers from high-productivity areas to which they would otherwise migrate.²⁰ Finally, it is costly for well-resourced communities not to have enough teachers or fire fighters, and it is especially costly to have them live very far away.²¹ There is a kind of paradox of thrift at play. It might be efficient for one community to zone out the less well off, but it is not efficient for all communities to do so.

The primary solution to this issue, one that many states are slowly adopting, is to preempt local zoning power at least enough so that all communities are providing an appropriate mix of housing.²² But tax is ever present. A regulatory mandate is a kind of stick. There can also be tax sticks (for example, lose grants or even some taxing power) and tax carrots (such

¹⁷ This is assuming the full cost of property taxes are passed on to them as opposed to landlords.

¹⁸ WILLIAM FISCHER, THE HOMEVOTER HYPOTHESIS 65 (2001).

¹⁹ See generally Raj Chetty & Nathaniel Hendren, *The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects*, 133 Q.J. ECON. 1107 (2018).

²⁰ See Gabriel M. Ahlfeldt & Elisabetta Pietrostefani, *The Economic Effects of Density: A Synthesis*, 111 J. URB. ECONS. 93 (2019).

²¹ See, e.g., *id.*

²² See, e.g., Christopher S. Elmendorf, *Beyond the Double Veto: Housing Plans as Preemptive Intergovernmental Compacts*, 71 HASTINGS L.J. 79 (2019).

as extra taxing power or a special supplemental subvention from the state). In this way, tax can be a part of the story of redistributing local public goods.

It is beyond my scope and expertise to advocate for certain sticks and carrots, but I want to emphasize the general structure for why such redistributive interventions are appropriate. It is *consistent* with fiscal federalism both to fund local public goods locally *and* to nudge local jurisdictions towards more sharing of those public goods. Because there are many levers that should be pulled (e.g., zoning) in order to achieve this result, state and local tax systems do not have to do the heavy lifting on their own. This is what gives even small tax reforms their potential power.

IV. SECOND STRATEGY: OUR WORLD IS NOT THE IDEAL WORLD

If our world were the ideal world of theory, then there would surely be less for states and localities to do. Put simply, if the feds were to provide universal free lunch, then the states would not have to. Alternatively, if other exogenous factors produced a world of relative equality and sufficiency, where all children were sent to school with healthy lunches, then, of course, universal free lunch would not be a high impact intervention.

But this is not our world. Given that there are high-impact and low-cost interventions, this changes the analysis as to what states can and should do, even if we can also accept that, in theory, states should do less.²³

A. First Criterion: Expenditures

It is clear that there are high value state (and local) level expenditures. This Essay begins with the example of universal free lunch and ends with the

²³ I should note here the substantial overlap in this argument and that of Adam Thimmesch in connection with the state corporate income tax. Adam B. Thimmesch, *A Future for the State Corporate Income Tax*, 77 TAX L. 761, 761 (2024). Thimmesch notes that there is a strong argument in the first best world for states not to have corporate income taxes. But we do not live in that world. Thus, eliminating corporate income taxes in our world might make matters worse because it would not be a step towards the first best world. To be concrete, the state corporate income tax might be eliminated but the federal government would not step up and that would mean, given balanced budget rules, that states might have to eliminate programs such as universal free lunch. This Essay should be seen as placing Thimmesch's insight into a still broader context. In our imperfect world, there are many bundles of expenditure and revenue reforms that make sense beyond the state corporate income tax.

example of the Child Tax Credit (CTC). Other examples abound, including increasing access to Pre-K and increasing the subsidy for those who purchase health care through ACA exchanges.²⁴ The federal government temporarily increased the credits given to those who purchase health insurance on exchanges,²⁵ and while these credits did reduce the ranks of the uninsured substantially,²⁶ that provision is set to lapse and seems unlikely to be continued under the current Congress.

B. Second Criterion: Revenue Sources

Another important empirical prerequisite is the availability of relatively progressive revenue sources. This is because using regressive taxes to provide for the poor might be counterproductive and so could involve tricky empirical analysis. It might well make sense to use regressive taxes if the expenditures were high value enough, as some seem to be, but it is a much easier analysis if a state could tap more progressive sources that would not much undermine the value of these initiatives.

It could be that the federal government has fully occupied the space of progressive taxation, but that is clearly not the case. To take one example: corporate income taxation. The corporate income tax is relatively progressive, especially as to that portion of the tax that is *not* collected. That is, at least some very profitable, large corporations are systematically under-taxed at the federal level²⁷ and could be taxed at the state level.²⁸ There is also theoretical and empirical evidence that such firms are likely to share much of the burden of any new tax with their shareholders²⁹ and highly-paid

²⁴ MIRANDA DIETZ ET AL., ALL 2.37 MILLION CALIFORNIANS IN THE INDIVIDUAL MARKET WILL FACE HIGHER PREMIUMS IF CONGRESS DOES NOT ACT BY 2025, at 2–3 (2024), <https://laborcenter.berkeley.edu/wp-content/uploads/2024/09/All-2.37-million-Californians-in-the-individual-market-will-face-higher-premiums-if-Congress-does-not-act-by-2025.pdf>.

²⁵ *See id.*

²⁶ Letter from Phillip L. Swagel, Dir. Cong. Budget Off., to Ron Wyden, Chairman Comm. on Fin. (Dec. 5, 2024) (on file with the Congressional Budget Office).

²⁷ KIMBERLY A. CLAUSING, CAPITAL TAXATION AND MARKET POWER 2 (2024).

²⁸ *See, e.g.,* Shanske, *supra* note 9.

²⁹ Edward G. Fox, *Does Capital Bear the U.S. Corporate Tax After All? New Evidence From Corporate Tax Returns*, 17 J. EMPIRICAL LEGAL STUD. 71, 72 (2020).

employees,³⁰ which makes imposing such taxes rather progressive. Thus, raising revenue from this source is unlikely to undermine the progressivity of expenditures.

And it is a substantial amount of revenue. For example, the California Department of Finance estimates the revenue lost to the income shifting of major corporations costs the state over \$3 billion a year.³¹ This is the state's largest corporate tax expenditure and, returning to our opening example, is more than enough to fund universal free lunch with much left over for expanding the CTC³² or further subsidizing health insurance, etc.

And there are many other progressive options because state tax systems are generally regressive, and some are spectacularly so.³³ Many states do not even have income taxes, while others have flat income taxes. For states that do have relatively progressive personal income taxes, like California, there remain large and hard-to-justify holes. That is, a highly paid entertainer in California pays a relatively high-income tax rate, but an equally wealthy investor will not pay any tax unless the investor sells their shares.³⁴ The very wealthy do not need to sell assets in order to fund consumption; they can just use their income or savings from income or they can borrow.³⁵ Preventing the super wealthy from paying less than the merely affluent through state-level wealth taxation or mark-to-market taxation would raise a lot of revenue progressively.³⁶

³⁰ WILLIAM G. GALE & SAMUEL I. THORPE, TAX POL'Y CTR., RETHINKING THE CORPORATE INCOME TAX: THE ROLE OF RENT SHARING 12 (2022), <https://www.brookings.edu/wp-content/uploads/2022/05/Rethinking-the-Corporate-Income-Tax-Formatted.pdf>.

³¹ CAL. DEP'T FIN., TAX EXPENDITURE REPORT 2024–25, at 16 (2025).

³² There are about six million school age kids in California and hence a \$500 CTC would cost about \$3 billion, which is to say that closing this loophole in the corporate tax gets California a sizeable credit.

³³ DAVIS ET AL., *supra* note 7.

³⁴ For a general discussion of the phenomenon, including practical analysis of how such reforms could be implemented, see Brian D. Galle et al., *Money Moves: Taxing the Wealthy at the State Level*, 112 CAL. L. REV. __ (forthcoming 2025).

³⁵ Edward Fox & Zachary Liscow, The Role of Unrealized Gains and Borrowing in the Taxation of the Rich (2025). Law & Economics Working Papers. 286, at *18, https://repository.law.umich.edu/law_econ_current/286.

³⁶ For example, a New York Mark-to-Market proposal was estimated to raise about \$20 billion its first year and \$1 billion per year thereafter. David Gamage et al., *The NY Billionaire Mark-to-Market Tax*

In short, there are many ways for all states to raise revenue for high-value programs progressively.

C. Third Criterion: Piggybacking and (Un)Piggybacking

It could be objected that corporate income taxes are complicated and hard for a state to administer. Over forty states do administer such a tax and, of course, they do so by piggybacking off the federal corporate income tax.³⁷ This brings us to the third important (partial) prerequisite: building on a federal foundation. It might well be worth it for states to use untapped progressive sources of funds for high value interventions *even if* it means significant new administrative burdens. As it is, before we need to make that additional evaluation, there are plenty of gaps in federal coverage that could be addressed without undertaking major administrative tasks.

But note that federal supplementing also goes to expenditures. States could likely not fund a grant large enough to lift a taxpayer out of poverty, but states *could* supplement federal programs in order to put those who receive help over the top. This is one of the reasons the example of the CTC, discussed in the next section, is so important.

On the other side, there are various expensive, regressive state tax policies that require stopping conformity with the federal government. This would also be easy to do. Consider the mortgage interest deduction; it is doubtful whether this deduction achieves anything at the federal level,³⁸ but when states conform to this deduction, they are only adding a little more benefit to homebuyers, but at a great cost to themselves. For example, this deduction costs California about \$3 billion a year;³⁹ even trimming the

Act: Revenue, Economic, and Constitutional Analysis, IND. LEGAL STUD. RSCH. PAPER (forthcoming), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3766547. Brian D. Galle et al., *The California Tax on Extreme Wealth (ACA 8 & AB 310): Revenue, Economic, and Constitutional Analysis*, IND. LEGAL STUD. RSCH. PAPER, no. 461, Sept. 2021, at 1 (showing that a California wealth tax proposal was estimated to raise about \$7.5 billion per year). For our purposes, what is crucial is that even more modest versions of these reforms would raise more than enough to cover many of the high-value expenditures identified in this Essay.

³⁷ DAVIS ET AL., *supra* note 7, at 185, 203.

³⁸ Dennis J. Ventry Jr., *The Accidental Deduction: A History and Critique of the Tax Subsidy for Mortgage Interest*, 73 L. & CONTEMP. PROBS. 233, 236–37 (2010).

³⁹ CAL. DEP'T FIN., *supra* note 31, at 14.

deduction by a third would fund universal free lunch. Conformity to the stepped-up basis rules costs almost \$5 billion a year.⁴⁰ The list goes on and on.

V. AN EXAMPLE FROM MINNESOTA

In 2021, the federal government, as part of the American Rescue Plan, expanded the Child Tax Credit, which had a dramatic impact on reducing child poverty.⁴¹ The expansion at the federal level lapsed, but in 2023 Minnesota passed a large expansion of the credit at the state level.⁴² Given the success of the reform at the federal level, one might reasonably assume this will be a high value intervention, especially since it will be layered on the still extant federal credit.

And how did Minnesota pay for this change, estimated to cost \$900 million over two years?⁴³ If this revenue came from relatively regressive taxes, then one would need to worry about fiscal impoverishment. However, this is not how the revenues for the program were raised. More than half of the revenue is projected to come from conformity with a federal corporate tax provision known as Global Intangible Low-Taxed Income (GILTI),⁴⁴ which essentially increases the taxes on large, profitable corporations that had shifted their profits to subsidiaries in lower-tax jurisdictions. As discussed above, such a change is relatively progressive. Further, this change relied on administrative piggybacking.

So, in sum, what do we have? Minnesota used a relatively easy and progressive tax change to top off a federal anti-poverty measure when there

⁴⁰ *See id.*

⁴¹ *How Did the 2021 American Rescue Plan Act Change the Child Tax Credit*, TAX POL'Y CTR., <https://taxpolicycenter.org/briefing-book/how-did-2021-american-rescue-plan-act-change-child-tax-credit> (last visited Feb. 19, 2025).

⁴² MINN. DEP'T REVENUE, 2024–2025 BIENNIAL BUDGET, at 15 (2023).

⁴³ *Id.*

⁴⁴ I.R.C. § 951A. *Rob Hubbard, House, Senate Cut \$3 Billion Tax Deal that Includes Money Back to Taxpayers*, MINN. HOUSE REPRESENTATIVES (May 18, 2023 10:17 AM), <https://www.house.mn.gov/sessiondaily/Story/18016>; *see also* Shanske, *supra* note 9. Note that the rest of the revenue is projected to come from small, but progressive, changes to the tax code.

is evidence that just such an increase is a powerful tool to reduce child poverty.

VI. CONCLUSION AND A NOTE ON 2025–2028

The draft of this Essay has been largely finalized during the fall of 2024. The prospects for additional large scale federal support for the social safety net has become distinctly lower, while the likelihood of reductions is much higher. Still, many of the pieces of federal policy that could be supplemented—such as the Earned Income Tax Credit (EITC), CTC—are likely to remain in some form, if stunted. On the revenue side, there are likely to be ever more gaps in the progressivity of the federal income tax. Yet here too the pieces that states can use, such as GILTI, are likely to remain.

States (and localities) should always push themselves and the country further on the path to justice in distribution through looking hard for ways to pair gaps in revenue collection with gaps in providing for urgent needs. That there will soon be an expansion of such opportunities is a sad state of affairs. Yet it is also true that this means that the moral imperative to make our world more just will line up with what is possible at the state and local level in a very straightforward way.