

## NOTES

### Fighting Child Poverty in the United States: The Universal Child Benefit

Steven Jessen-Howard\*

#### ABSTRACT

*More than ten million children in the United States live in poverty, largely because of the country's relative lack of investment in children and families. Child poverty is associated with higher rates of child maltreatment and contributes to a host of outcomes that harm children and society. Recent legislation that increased the size and scope of the Child Tax Credit (CTC) demonstrated the power of cash assistance policies to reduce child poverty. However, implementation issues prevented many of the poorest families from receiving benefits, and the CTC expansion expired at the end of 2021. This Note proposes a Universal Child Benefit (UCB) that would provide \$700 monthly for children under age six and \$400 monthly for children ages six to seventeen. All families would automatically receive the benefit through the Social Security Administration (SSA). The UCB would drastically reduce child poverty and improve child well-being in the U.S.*

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\* Law & Public Policy Scholar, Temple University Beasley School of Law. An earlier version of this Note was presented at Temple's Intersection of Law & Public Policy Symposium in April 2022 and at the Global Meeting on Law & Society in Lisbon, Portugal in July 2022. Thank you to Professor Nancy Knauer for her feedback and guidance, and to the Georgetown Journal on Poverty Law and Policy team for their helpful edits and feedback. This Note is dedicated to the current and former residents of the Family Service Center in Maplewood, MN, with the hope that there will be no need for families to reside there in the future. © 2023, Steven Jessen-Howard.

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## I. INTRODUCTION

Roughly four in ten children in the United States live in a household that struggles to afford basic expenses.<sup>1</sup> Because of the United States' lack of family support policies, its child poverty rate is considerably higher than that of most of its peer nations,<sup>2</sup> with Black and Hispanic children especially likely to be poor.<sup>3</sup> Child poverty has many negative impacts on children, many of which can have lifelong consequences.<sup>4</sup> Furthermore, poverty contributes to many children being separated from their families and entering the child welfare system, both because it contributes to several root causes of child maltreatment and because it is often confused with neglect, even when no maltreatment has occurred.<sup>5</sup> The American Rescue Plan Act of 2021 (ARP) made significant progress on fighting child poverty by increasing the amount of the Child Tax Credit (CTC) and expanding its

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1. Arloc Sherman, *Four in Ten Children Live in a Household Struggling to Afford Basics*, CTR. ON BUDGET & POL'Y PRIORITIES, OFF THE CHARTS BLOG (Oct. 21, 2020, 1:00 PM), <https://www.cbpp.org/blog/4-in-10-children-live-in-a-household-struggling-to-afford-basics>.

2. See Timothy Smeeding & Céline Thévenot, *Addressing Child Poverty: How Does the United States Compare with Other Nations?*, 16 ACAD. PEDIATRICS S67, S74 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6087662/>.

3. *Children in Poverty by Race and Ethnicity in the United States*, ANNIE E. CASEY FOUND. KIDS COUNT DATA CTR. (2019), <https://datacenter.kidscount.org/data/tables/44-children-in-poverty-by-race-and-ethnicity?loc=1&loct=1#detailed/1/any/false/1729/10,11,9,12,1,185,13/324,323>.

4. See generally NAT'L ACADS. SCIS., ENG'G, & MED., *Consequences of Child Poverty*, in A ROADMAP TO REDUCING CHILD POVERTY 67 (Greg Duncan & Suzanne Le Menestrel eds., 2019), <https://www.ncbi.nlm.nih.gov/books/NBK547371/> [hereinafter NASEM REPORT].

5. See DANA WEINER ET AL., SYSTEM TRANSFORMATION TO SUPPORT CHILD & FAMILY WELL-BEING: THE CENTRAL ROLE OF ECONOMIC & CONCRETE SUPPORTS, CHAPIN HALL 1, 2–3 (July 2021), <https://www.chapinhall.org/wp-content/uploads/Economic-and-Concrete-Supports.pdf>.

scope.<sup>6</sup> However, those changes encountered implementation issues that prevented many needy families from benefitting and expired in 2022.<sup>7</sup>

This Note argues for the adoption of a Universal Child Benefit (UCB) that would go further towards eliminating child poverty in the U.S. and would reduce the implementation issues related to administering the CTC through the tax code. It proposes a UCB of \$700 monthly for children under age six and \$400 monthly for children ages six to seventeen. All children would be eligible. Payments would be administered monthly through the Social Security Administration (SSA). Progressive tax increases, a carbon tax, and the elimination of overlapping benefit programs could help fund the program. The UCB would slash child poverty and prevent child maltreatment.<sup>8</sup> Millions of families struggling to maintain financial stability and afford increasingly expensive child care costs would experience relief, allowing them to create the family structures—and have the number of children—that they want.<sup>9</sup> Ultimately, it would lead to a healthier, more equitable, and more prosperous United States.

Part II of this Note examines the history of the CTC, its current structure, and changes to the CTC that are currently being considered by Congress and the Biden Administration. Part III explores the state of child poverty in the U.S., its relationship with the child welfare system, and the need for reform. Part IV outlines a proposal to provide a UCB that will fix those problems and could receive significant political support. A brief conclusion summarizes the benefits the UCB would provide and calls policymakers to take immediate action.

## II. THE HISTORY AND PRESENT UNCERTAINTY OF THE CTC

The CTC has undergone substantial changes since it was first implemented.<sup>10</sup> In the past five years, it has been significantly expanded, but those expansions are not permanent.<sup>11</sup> Section II.A explains the origins of the CTC and its changes over time. Section II.B focuses on the recent changes to the CTC under the ARP and their anti-poverty impact. Finally, Section II.C examines the political uncertainty surrounding the CTC following the expiration of the ARP and how the CTC may change in the near future.

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6. American Rescue Plan Act, Pub. L. No. 117-2, § 9611, 135 Stat. 4, 144 (2021), <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

7. See, e.g., Zachary Parolin et al., *The Initial Effects of the Expanded Child Tax Credit on Material Hardship* 11–13 (Nat'l Bureau of Econ. Rsch., Working Paper No. 29285, 2021), [https://www.nber.org/system/files/working\\_papers/w29285/w29285.pdf](https://www.nber.org/system/files/working_papers/w29285/w29285.pdf); Ben Popken, *Millions of Kids Were Thrust Back into Poverty after the Child Tax Credit Expired. What's Next?*, NBC NEWS (Jan. 25, 2022, 3:38 PM), <https://www.nbcnews.com/business/business-news/millions-kids-thrust-back-poverty-child-tax-credit-expired-s-rcna13450>.

8. See *infra* Parts III–IV.

9. *Id.*

10. See *infra* Section II.A.

11. See *infra* Section II.B.

### A. *A Brief History of the CTC*

The CTC has evolved from its origin as a limited tax credit for middle-class families to a more extensive anti-poverty program.<sup>12</sup> As a tax credit, the CTC was initially framed as “tax relief” or a “tax cut” rather than as an anti-poverty benefit program.<sup>13</sup> It was created in 1997 and initially provided only \$400 annually per child, paid out in one lump sum.<sup>14</sup> The CTC was not fully refundable, meaning that families who owed less in taxes than the full value of the credit were not able to collect the full amount and often received nothing at all.<sup>15</sup> Families with little or no income who did not have to file a federal income tax return also missed out on the credit entirely.<sup>16</sup> Coupled with a phaseout for those earning roughly \$80,000 to \$100,000 annually, the CTC almost exclusively benefitted middle-class Americans.<sup>17</sup> The amount of the CTC was increased in 1998 and 2012, but its structure remained mostly unchanged.<sup>18</sup>

The Tax Cut and Jobs Act of 2017 (TCJA) increased the amount of the CTC to \$2,000 annually for each child under the age of seventeen and expanded eligibility to more middle- and upper-middle-class families.<sup>19</sup> However, it maintained the basic structure of CTC eligibility.<sup>20</sup> Families did not receive the full amount unless they had substantial earnings.<sup>21</sup> This income phase-in resulted in the poorest third of children in the country not receiving the full amount of the credit because their families did not make enough to be eligible.<sup>22</sup> It also disproportionately excluded children of color and single parents.<sup>23</sup> Although the TCJA expanded the CTC, its impact on child poverty remained limited because the CTC was not fully refundable.<sup>24</sup>

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12. See, e.g., TAX POL’Y CTR. BRIEFING BOOK: KEY ELEMENTS OF THE U.S. TAX SYSTEM, WHAT IS THE CHILD TAX CREDIT?, TAX POL’Y CTR. (May 2021), <https://www.taxpolicycenter.org/briefing-book/what-child-tax-credit> [hereinafter WHAT IS THE CTC?].

13. See, e.g., Joshua McCabe & Elizabeth Popp Berman, *American Exceptionalism Revisited: Tax Relief, Poverty Reduction, and the Politics of Child Tax Credits*, 3 SOCIO. SCI. 540, 556 (2016), [https://sociologicalscience.com/download/vol-3/july/SocSci\\_v3\\_540to567.pdf](https://sociologicalscience.com/download/vol-3/july/SocSci_v3_540to567.pdf).

14. WHAT IS THE CTC?, *supra* note 12.

15. *Id.*

16. *Id.*

17. See *id.*; SOPHIE COLLYER ET AL., CENTURY FOUND., WHAT A CHILD ALLOWANCE LIKE CANADA’S WOULD DO FOR CHILD POVERTY IN AMERICA 4 (2020), <https://tcf.org/content/report/what-a-child-allowance-like-canadas-would-do-for-child-poverty-in-america/>.

18. The amount increased from \$500 per child in 1998 to \$1,000 per child in 2012. WHAT IS THE CTC?, *supra* note 12.

19. *Id.*

20. *Id.*

21. *Id.*

22. See COLLYER ET AL., *supra* note 17, at 2.

23. *Id.* at 5 (stating more than half of Black and Hispanic children and 70% of children in single-mother households were excluded from the full benefit).

24. See ROBERT GREENSTEIN ET AL., CTR. ON BUDGET & POL’Y PRIORITIES, CHILD TAX CREDIT INCREASES IN GOP TAX PLAN EXCLUDE MILLIONS OF CHILDREN IN LOW-INCOME WORKING FAMILIES 2–3 (Oct. 25, 2017), <https://www.cbpp.org/sites/default/files/atoms/files/10-25-17tax.pdf>. *But see* MARGOT L. CRANDALL-HOLLICK, ET AL., CONG. RSCH. SERV., R45971, THE IMPACT OF THE FEDERAL INCOME TAX ON POVERTY: BEFORE AND AFTER THE 2017 TAX REVISION (“TCJA”; P.L. 115–97) 33

The CTC's rules regarding which caregivers can claim which children also prevent many from receiving their credit.<sup>25</sup> The CTC currently applies a "relationship test" requiring beneficiaries to be the child's parent, grandparent, sibling, aunt, uncle, or a similarly close step-relative.<sup>26</sup> Foster and adoptive parents are also eligible.<sup>27</sup> Additionally, CTC recipients must satisfy a "residency test," meaning a child has spent most of the year in their household.<sup>28</sup> One study of the pre-ARP CTC estimated that eliminating the relationship test would lead to roughly two million additional children receiving CTC benefits.<sup>29</sup> Similarly, more than three million children live with a different adult than they lived with the prior year, signaling their current caregiver may not be able to fulfill the residency test.<sup>30</sup> These requirements are particularly challenging to satisfy for children who are experiencing housing insecurity or are involved in the child welfare or juvenile justice systems, as they are more likely to move frequently and live with non-relatives.<sup>31</sup>

### B. *The American Rescue Plan Act of 2021*

Shortly after the election of President Joe Biden and slim Democratic majorities in the House and Senate, Congress enacted the ARP in response to the coronavirus pandemic and its negative impact on the American economy.<sup>32</sup> The ARP increased government spending on a broad range of initiatives, including \$1,400 stimulus checks for most Americans.<sup>33</sup> Most significantly for child poverty, the ARP included a one-year expansion of the size and scope of the CTC.<sup>34</sup>

The ARP extended the full benefit of the CTC to the poorest families by making it fully refundable, thereby eliminating the income floor and phase-in.<sup>35</sup> Under the ARP, the only families who were ineligible to receive any amount of the CTC were couples making more than \$440,000 annually and single parents

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(2019) (demonstrating the TCJA's expansion of the CTC was nonetheless particularly beneficial for families on the edge of poverty making between \$24,000-\$36,000 annually).

25. See Jacob Goldin & Katherine Michelmore, *Who Benefits from the Child Tax Credit?*, 75 NAT'L TAX J. 123, 125 (2022).

26. See CHILDREN'S DEF. FUND & CTR. FOR THE STUDY OF SOC. POL'Y, TO REACH EVERY CHILD, THE CHILD TAX CREDIT ELIGIBILITY REQUIREMENTS MUST BE CHANGED (June 2021), <https://www.childrensdefense.org/wp-content/uploads/2021/06/CTC-Qualifying-Child.pdf> [hereinafter TO REACH EVERY CHILD].

27. I.R.S. PUB. 972 (2020), <https://www.irs.gov/publications/p972>.

28. TO REACH EVERY CHILD, *supra* note 26.

29. Goldin & Michelmore, *supra* note 25.

30. CHUCK MARR ET AL., CTR. ON BUDGET & POL'Y PRIORITIES, AMERICAN RESCUE PLAN ACT INCLUDES CRITICAL EXPANSIONS OF CHILD TAX CREDIT AND EITC 6 (Mar. 12, 2021), <https://www.cbpp.org/sites/default/files/3-12-21tax.pdf>.

31. See TO REACH EVERY CHILD, *supra* note 26.

32. American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 9611, 135 Stat. 4, 144; Jim Tankersley, *To Juice the Economy, Biden Bets on the Poor*, N.Y. TIMES (Mar. 6, 2021), <https://www.nytimes.com/2021/03/06/business/economy/biden-economy.html>.

33. American Rescue Plan Act § 9611.

34. *Id.*

35. *Id.*

making more than \$240,000.<sup>36</sup> Thus, only about 8% of families with children in the U.S. were ineligible for the CTC.<sup>37</sup> The ARP also raised the amount of the credit considerably, from \$2,000 to \$3,600 annually for children under five and \$3,000 annually for children six to seventeen.<sup>38</sup> Additionally, the ARP changed the payment schedule of the CTC.<sup>39</sup> Rather than distributing it in one lump sum, it was pro-rated with taxpayers receiving CTC checks on a monthly basis.<sup>40</sup> The monthly distribution schedule helped provide a reliable source of support for families that better aligned with the recurrence of regular expenses such as rent, groceries, and diapers, and better allowed for financial planning and saving.<sup>41</sup>

### C. *The CTC's Uncertain Future*

The ARP's changes to the CTC were temporary.<sup>42</sup> Congress failed to extend those changes, and they expired at the end of 2021, with the last monthly payment being distributed on December 15th.<sup>43</sup> The CTC has thus reverted to its structure under the TCJA, capped at \$2,000 per child annually and excluding families with no or very little income.<sup>44</sup> The CTC will regress further without legislative action: the TCJA reforms are set to expire in 2025.<sup>45</sup> If those reforms are allowed to expire, the CTC would shrink to providing only \$1,000 per child for an even more limited set of families.<sup>46</sup> Accordingly, congressional decisions in the next few years will have a significant impact on the future of the CTC and child poverty in the U.S.

The Biden administration and most congressional Democrats have supported extending the ARP's CTC expansion.<sup>47</sup> A temporary expansion of the ARP CTC

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36. *Id.*

37. See WHAT IS THE CTC?, *supra* note 12.

38. American Rescue Plan Act § 9611.

39. *Id.*

40. Because the ARP was implemented mid-year, only half of this amount was distributed monthly—from July through December. Families also had the option to opt out of monthly payments and choose to receive the full credit when they filed their taxes instead. See Megan Leonhardt, *IRS Releases Tool to Let Families Opt Out of Advanced Child Tax Credit*, CNBC (June 22, 2021, 2:32 PM), <https://www.cnbc.com/2021/06/22/advanced-child-tax-credit-irs-releases-tool-to-opt-out.html>.

41. See, e.g., JONATHAN MORDUCH & RACHEL SCHNEIDER, *THE FINANCIAL DIARIES: HOW AMERICAN FAMILIES COPE IN A WORLD OF UNCERTAINTY*, PRINCETON UNIV. PRESS 47, 47–84 (2017) (describing the level of volatility in the incomes of low- and middle-class families and how inconsistent income makes it more difficult to meet regular expenses and plan and save for the future).

42. See WHAT IS THE CTC?, *supra* note 12.

43. E.g., Deepa Shivaram, *The Expanded Child Tax Credit Expires Friday After Congress Failed to Renew It*, NPR (Dec. 30, 2021, 2:03 PM), <https://www.npr.org/2021/12/30/1069143123/expanded-child-tax-credit-expires-friday-congress>.

44. See WHAT IS THE CTC?, *supra* note 12.

45. *Id.*

46. *Id.*

47. See, e.g., Megan Leonhardt, *Lawmakers Push to Make \$3,000 Child Tax Credit Permanent, but Biden Only Commits to 4 More Years*, CNBC (Apr. 28, 2021, 3:10 PM), <https://www.cnbc.com/2021/04/28/child-tax-credit-biden-4-years-democrats-permanent.html>; *The Child Tax Credit*, THE WHITE HOUSE, <https://www.whitehouse.gov/child-tax-credit/> (last visited Apr. 16, 2023) (“President Biden strongly believes that we should extend the new Child Tax Credit for years and years to come.”).

was included in most iterations of Democrats' "Build Back Better" plan, including the bill passed by the House in November 2021.<sup>48</sup> However, the bill failed to pass in the Senate.<sup>49</sup> It garnered no support from Republicans and was doomed by opposition from Democratic senator and frequent Senate swing vote Joe Manchin of West Virginia.<sup>50</sup> In addition to broader disagreement with the bill, Manchin opposed providing the CTC to non-working families<sup>51</sup> and reportedly expressed concern that parents would spend the money on drugs.<sup>52</sup> Democrats<sup>53</sup> and Republicans<sup>54</sup> proposed other child benefit policies, and think tanks proposed compromise CTC reforms,<sup>55</sup> but consensus could not be reached on any one plan and the 117th Congress failed to pass a CTC expansion.<sup>56</sup> With Republicans now in control of the House, the passage of a CTC expansion that again extends the credit to the lowest-income families is unlikely.<sup>57</sup>

### III. CHILD POVERTY HARMS CHILDREN AND SOCIETY BUT CAN BE MITIGATED THROUGH EFFECTIVE GOVERNMENT INTERVENTION

Section III.A describes the extent of child poverty in the United States and how poverty harms children. Section III.B explores poverty alleviation programs' ability to reduce child maltreatment. Section III.C explains why government investment is necessary to alleviate child poverty. Section III.D shares the successes of the ARP's CTC expansion in reducing child poverty and material

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48. Build Back Better Act, H.R. 5376 (2021), <https://www.congress.gov/bill/117th-congress/house-bill/5376>.

49. See, e.g., Ezra Klein, *America Has Turned Its Back on Its Poorest Families*, N.Y. TIMES (Apr. 17, 2022), <https://www.nytimes.com/2022/04/17/opinion/biden-child-tax-credit.html>.

50. See Press Release, Joe Manchin, Manchin Statement on Build Back Better Act (Dec. 19, 2021), <https://www.manchin.senate.gov/newsroom/press-releases/manchin-statement-on-build-back-better-act>.

51. E.g., Joseph Zeballos-Roig, *Joe Manchin Digs in on Cutting the Poorest Parents out of the Biden Child Tax Credit as Build Back Better Looks Dead in the Water*, BUS. INSIDER (Jan. 4, 2022, 2:51 PM), <https://www.businessinsider.com/manchin-digs-in-biden-child-tax-credit-work-requirement-2022-1>.

52. Rebecca Shabad et al., *Manchin Privately Raised Concerns that Parents Would Use Child Tax Credit Checks on Drugs*, NBC NEWS (Dec. 20, 2021, 2:11 PM), <https://www.nbcnews.com/politics/congress/manchin-privately-raised-concerns-parents-would-use-child-tax-credit-n1286321>.

53. Press Release, Rashida Tlaib, Representatives Tlaib & Jones Introduce Universal Child Benefit to Cut Child Poverty by Nearly Two-Thirds (Feb. 3, 2022), <https://tlaib.house.gov/posts/representatives-tlaib-jones-introduce-universal-child-benefit-to-cut-child-poverty-by-nearly-two-thirds-2>.

54. See Press Release, Mitt Romney, Romney Offers Path to Provide Greater Financial Security for American Families (Feb. 4, 2021), <https://www.romney.senate.gov/romney-offers-path-provide-greater-financial-security-american-families/>. See also Press Release, Josh Hawley, Senator Hawley Introduces Parent Tax Credit—Historic Relief for Working Families (Apr. 26, 2021), <https://www.hawley.senate.gov/senator-hawley-introduces-parent-tax-credit-historic-relief-working-families>.

55. See, e.g., Samuel Hammond & Robert Orr, *Bipartisan Reform Options for the Child Tax Credit*, NISKANEN CTR. (Apr. 13, 2022), <https://www.niskanencenter.org/bipartisan-reform-options-for-the-child-tax-credit/>.

56. E.g., Tami Lunby, *Child Tax Credit Enhancement Fails to Make it into Federal Spending Bill*, CNN (Dec. 20, 2022), <https://www.cnn.com/2022/12/20/politics/child-tax-credit-spending-bill/index.html>.

57. *Id.*

hardship, and Section III.E explains how administering anti-poverty benefits through the tax code makes them difficult to access for many low-income families.

*A. The United States' High Child Poverty Rate and Its Toll on Children*

In 2019, roughly twelve million children in the U.S. were poor,<sup>58</sup> and many more faced financial hardships.<sup>59</sup> No other country with a comparably advanced economy allows so many of its children to face poverty.<sup>60</sup> The burden of child poverty is not equally distributed in the U.S.; Black and Native American children are three times more likely to be poor than white children, and Hispanic children are also disproportionately likely to grow up in poverty.<sup>61</sup> Single-parent-led households are also significantly more likely to have incomes below the federal poverty threshold,<sup>62</sup> and young children are more likely to live in poor households than older children.<sup>63</sup>

Poverty is associated with a broad range of negative lifetime experiences, particularly when it is experienced in early childhood, for a prolonged period, or at deeper levels.<sup>64</sup> Socioeconomic status is correlated with factors including healthy brain development and mental health, with poorer children tending to face more challenges.<sup>65</sup> Low-income children are more likely to have inadequate housing, food, and medical care.<sup>66</sup> On average, poorer children do not perform as well in school as their wealthier classmates and make less money later in life.<sup>67</sup> Furthermore, studies have found that individuals who grow up in poverty are more likely to engage in risky, delinquent, and criminal behavior in adolescence and adulthood.<sup>68</sup>

Preventing children from growing up in poverty promotes healthy brain development and reduces toxic stress, leading to lifelong benefits.<sup>69</sup> In addition to

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58. *Children in Poverty by Race and Ethnicity in the United States*, *supra* note 3.

59. Sherman, *supra* note 1.

60. *See Poverty Rate*, OECD, <https://data.oecd.org/inequality/poverty-rate.htm> (last visited Apr. 16, 2023).

61. *Children in Poverty by Race and Ethnicity in the United States*, *supra* note 3.

62. *See* Gretchen Livingston, *The Changing Profile of Unmarried Parents*, PEW RSCH. CTR. (Apr. 25, 2018), <https://www.pewresearch.org/social-trends/2018/04/25/the-changing-profile-of-unmarried-parents/>.

63. AREEBA HAIDER, CTR. FOR AMERICAN PROGRESS, *THE BASIC FACTS ABOUT CHILDREN IN POVERTY* 6 (Jan. 12, 2021), [www.americanprogress.org/issues/poverty/reports/2021/01/12/494506/basic-facts-children-poverty/](http://www.americanprogress.org/issues/poverty/reports/2021/01/12/494506/basic-facts-children-poverty/).

64. *E.g.*, NASEM REPORT, *supra* note 4.

65. *E.g.*, *id.*; LISA A. GENNETIAN, *WHAT WE KNOW ABOUT POVERTY'S EFFECTS: THE IMPETUS FOR THE BABY'S FIRST YEARS STUDY*, LAB REPORT 22, 26 (2022) (describing research that found higher levels of brain activity among low-income infants whose families received higher levels of cash assistance).

66. *E.g.*, NASEM REPORT, *supra* note 4.

67. *E.g.*, *id.*

68. *E.g.*, *id.*

69. *See, e.g.*, *Child Tax Credit Expansion is a Win for Babies' Early Development*, ZEROToTHREE (June 21, 2021), <https://www.zerotothree.org/resources/4066-child-tax-credit-expansion-is-a-win-for-babies-early-development>.

keeping families from having to experience hardships such as homelessness and hunger, these benefits include improved academic performance, better physical and mental health, higher earnings later in life, and reduced odds of criminal involvement.<sup>70</sup>

### B. Child Poverty and Neglect

There is a significant correlation between child poverty and child neglect.<sup>71</sup> However, many child neglect cases arise because parents lack the resources to care for their children rather than willfully harming them or ignoring their needs.<sup>72</sup> For example, reports are made to Child Protective Services (CPS) for reasons such as a child wearing dirty clothes when their parents cannot afford more clothing, being left at home alone when their parents must work and cannot afford child care, lacking sufficient food, or not having stable housing.<sup>73</sup> An estimated “75% of founded incidences of child maltreatment result from neglect” and “64% of those incidences somehow relate to poverty.”<sup>74</sup> An emerging consensus among child welfare leaders and advocates have warned against “confusing poverty with neglect.”<sup>75</sup> Rather than surveilling parents and punishing those who struggle to provide for their children, the government should be supporting them without the threat of unwarranted and harmful family separation.<sup>76</sup>

The confusion of poverty and neglect and disproportionate scrutiny that child protection agencies often apply to lower-income families and families of color<sup>77</sup> make it difficult to determine the extent to which children in low-income households are truly more likely to be maltreated. However, based on official measures, children in poverty are three times more likely to face substantiated cases of maltreatment.<sup>78</sup> Income instability is also a risk factor for child maltreatment beyond

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70. NASEM REPORT, *supra* note 4.

71. *See, e.g.*, WEINER ET AL., *supra* note 5, at 2.

72. *See, e.g., id.*; David Kelly & Jerry Milner, *It's Time to Stop Confusing Poverty With Neglect*, IMPRINT (Jan. 17, 2020, 5:12 AM), <https://imprintnews.org/child-welfare-2/time-for-child-welfare-system-to-stop-confusing-poverty-with-neglect/40222>.

73. *See, e.g.*, Kendra Hurley, *When Child Welfare Cases Police Women in Their Homes*, BLOOMBERG CITYLAB (June 11, 2020, 9:09 AM), <https://www.bloomberg.com/news/articles/2020-06-11/how-child-welfare-cases-surveil-parents-of-color>.

74. David Kelly & Jerry Milner, *High-Quality Legal Representation is Critical to Creating a Better Child Welfare System*, ABA: CHILD LAW PRAC. TODAY (July 16, 2019), [https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/january--december-2019/high-quality-legal-representation-is-critical-to-creating-a-bett/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january--december-2019/high-quality-legal-representation-is-critical-to-creating-a-bett/).

75. *See* Kelly & Milner, *supra* note 72.

76. *See, e.g.*, Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. REV. L. & SOC. CHANGE 523, 524 (2019).

77. *See, e.g.*, Hurley, *supra* note 73.

78. BRETT DRAKE & MELISSA JONSON-REID, POVERTY AND CHILD MALTREATMENT, HANDBOOK OF CHILD MALTREATMENT 131,133 (Richard Krugman & Jill Korbin eds., 2014), [https://link.springer.com/chapter/10.1007/978-94-007-7208-3\\_7](https://link.springer.com/chapter/10.1007/978-94-007-7208-3_7). This report also states that “there is no evidence suggesting that bias explains a large proportion of the observed 3:1 or higher differential between the poor and the non-poor in observed or reported child maltreatment.” *Id.* at 135. *But see* DOROTHY ROBERTS, TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD 40–50 (2022).

the influence of poverty.<sup>79</sup> Given the history of discrimination and unequal economic opportunity in the U.S., the connection between poverty and child welfare investigations is a significant contributor to the stark racial disparities in the number of Black children who are subject to investigation, removed from their families, and placed in foster care.<sup>80</sup>

Research has demonstrated that more generous government aid to lower-income families reduces child maltreatment and family separation.<sup>81</sup> Some states have their own Earned Income Tax Credit (EITC) programs, which provide cash assistance to low-income families, and depending on the state, may be refundable.<sup>82</sup> One study found that a state-level refundable EITC “was associated with an 11[%] decrease in foster care entries compared to states without a state-level EITC,” equating to nearly fifty fewer foster care entries per 100,000 children.<sup>83</sup> Another study found a \$1,000 increase in family income corresponded with a 3–4% decrease in neglect and an 8–10% decrease in involvement with Child Protective Services.<sup>84</sup>

Researchers have found similar effects when examining varying state policies regarding the administration of Temporary Assistance for Needy Families (TANF), another program that provides cash assistance for low-income families.<sup>85</sup> States that did not allow non-working families to receive TANF funds saw a “12[%] increase in child maltreatment victims, a 23.3[%] increase in neglect victims, and a 12.7[%] increase in foster care placements.”<sup>86</sup> Similarly, states that prevented individuals from receiving TANF benefits for more than five years “saw a 34.4[%] increase in child maltreatment victims and a 37.3[%] increase in victims of neglect.”<sup>87</sup>

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79. Emma Kahle Monahan, *Income Instability and Child Maltreatment: Exploring Associations and Mechanisms*, 108 CHILDREN AND YOUTH SERVS. REV. 1, 1 (Jan. 2020), <https://www.sciencedirect.com/science/article/abs/pii/S0190740919308527>.

80. See, e.g., Frank Edwards, et al., *Contact with Child Protective Services is Pervasive but Unequally Distributed by Race and Ethnicity in Large U.S. Counties*, PROC. OF THE NAT'L ACAD. OF SCI. OF THE USA 1, 1–3 (2021), <https://www.pnas.org/content/118/30/e2106272118>; ROBERTS, *supra* note 78, at 49–50.

81. See, e.g., WEINER ET AL., *supra* note 5.

82. Meaning families can still receive the benefit if its value is greater than their tax liability, benefitting those with no or little income. See *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> (last visited Apr. 16, 2023).

83. E.g., Whitney L. Rostad et al., *Reducing the Number of Children Entering Foster Care: Effects of State Earned Income Tax Credits*, 25 CHILD MALTREATMENT 393, 393 (2020).

84. Lawrence M. Berger et al., *Income and Child Maltreatment in Unmarried Families: Evidence from the Earned Income Tax Credit*, 15 REV. OF ECON. OF THE HOUSEHOLD 1345, 1357–58 (2017).

85. See DONNA GINTHER & MICHELLE JOHNSON-MOTOYAMA, DO STATE TANF POLICIES AFFECT CHILD ABUSE AND NEGLECT? 14–15 (2017), [https://www.econ.iastate.edu/files/events/files/ginther\\_johnsonmotoyama\\_appam.pdf](https://www.econ.iastate.edu/files/events/files/ginther_johnsonmotoyama_appam.pdf).

86. *Id.*

87. *Id.* at 15. See also Michelle Johnson-Motoyama et al., *Association Between State Supplemental Nutrition Assistance Program Policies, Child Protective Services Involvement, and Foster Care in the US, 2004-2016*, JAMA PEDIATRICS (July 2022), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2794169> (“State [food stamp] policies that improve and stabilize household resources appear to be associated with reductions in [Child Protective Services] involvement and use of foster care.”).

### C. *The Need for Government Assistance to Prevent Child Poverty*

Fundamental family and market dynamics make government aid necessary to prevent child poverty.<sup>88</sup> The birth of a child is the addition of someone to the household who costs money to care for, but who cannot earn money for many years. Additionally, young children require near-constant supervision. This requires parents to either forgo income by working less to care for their children, or to arrange for someone else to care for their children, often at great expense, while they work.<sup>89</sup>

Government intervention is also necessary to address the mismatch between peak reproductive years and peak earning years. Because of human biology and societal norms, most parents begin having children between their twenties and early thirties.<sup>90</sup> This gives most individuals only a few years of full-time work before facing the significant costs of raising children.<sup>91</sup> At this point, parents have not had years to save money.<sup>92</sup> They have not had the time to earn substantial promotions and raises.<sup>93</sup> Many are saddled with student debt.<sup>94</sup> It is unreasonable to expect parents to wait until they are financially capable of providing for their children's needs when human fertility provides a fairly narrow window by which relatively few potential parents can reach a position of financial comfort.<sup>95</sup>

Furthermore, the high costs and limited availability of child care make it difficult for many parents to work their way out of poverty.<sup>96</sup> The average annual price of licensed child care is roughly \$11,000 for an infant, \$10,000 for a toddler, and \$9,000 for a preschooler.<sup>97</sup> Thus, licensed child care for two children too young for elementary school costs more than what a caregiver would earn from a year of working a minimum-wage job.<sup>98</sup> While some programs help low-income

88. See, e.g., MATT BRUENIG, PEOPLE'S POLICY PROJECT, FAMILY FUN PACK (2019), <https://www.peoplespolicyproject.org/projects/family-fun-pack/>.

89. See, e.g., Sarah Jane Glynn & Katie Hamm, *The Economics of Caregiving for Working Mothers*, CTR.FOR AM. PROGRESS (Dec. 10, 2019), <https://www.americanprogress.org/article/economics-caregiving-working-mothers/>.

90. E.g., BRUENIG, *supra* note 88.

91. E.g., *id.*

92. E.g., *id.* Many are also likely to face other significant expenses around this stage of life, such as purchasing a home or car.

93. E.g., *id.*

94. See, e.g., Kery Murakami, *Parents, Loans and Fairness*, INSIDE HIGHER ED (Jan. 28, 2021), <https://www.insidehighered.com/news/2021/01/28/large-debate-looms-over-canceling-parents-debt-student-loans>.

95. BRUENIG, *supra* note 88.

96. See, e.g., Leila Schochet, *The Child Care Crisis Is Keeping Women Out of the Workforce*, CTR. FOR AM. PROGRESS (Mar. 28, 2019), <https://www.americanprogress.org/article/child-care-crisis-keeping-women-workforce/>.

97. CHILD CARE AWARE OF AMERICA, THE US AND THE HIGH PRICE OF CHILD CARE: AN EXAMINATION OF A BROKEN SYSTEM 44 (2019), [https://cdn2.hubspot.net/hubfs/3957809/2019%20Price%20of%20Care%20State%20Sheets/Final-TheUSandtheHighPriceofChildCare-AnExaminationofaBrokenSystem.pdf?utm\\_referrer=https%3A%2F%2Fwww.childcareaware.org%2F](https://cdn2.hubspot.net/hubfs/3957809/2019%20Price%20of%20Care%20State%20Sheets/Final-TheUSandtheHighPriceofChildCare-AnExaminationofaBrokenSystem.pdf?utm_referrer=https%3A%2F%2Fwww.childcareaware.org%2F).

98. *Id.* Someone working for the federal minimum wage of \$7.25 per hour who worked 40 hours per week every week would earn \$15,080 per year. *What Are the Annual Earnings for a Full-time*

parents pay for child care, only about one in six eligible families receive child care subsidies.<sup>99</sup> Even if parents can afford child care, they might not be able to find a program that can enroll their child. Roughly half of the country lives in a “child care desert”—a census tract in which there are more than three children younger than five for each slot of licensed child care.<sup>100</sup> The licensed child care supply shortage is particularly bleak for infants and toddlers.<sup>101</sup>

While the increase of women entering the workforce over the past century has benefitted millions,<sup>102</sup> the traditional American arrangement of having one parent stay at home with young children has become increasingly untenable for less positive reasons. Nearly a quarter of children in the U.S. are raised in single-parent households,<sup>103</sup> and relative wage declines compared to the costs of raising children have made it more difficult for families to raise children on one salary.<sup>104</sup> Grandparents, other family members, and friends provide an important source of free or cheap child care for many families, but many Americans do not live near family members who can provide full-time, unpaid child care.<sup>105</sup> Given the challenges posed by child care, work is simply not worth it for many lower- to middle-income caregivers, particularly if they have multiple young children.<sup>106</sup>

The consequences of placing the burden of child-rearing expenses on parents are significant, both to families and the broader economy.<sup>107</sup> America’s birth rate has fallen below replacement rate, meaning its population will decline without

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*Minimum Wage Worker?*, U.C. DAVIS CTR. FOR POVERTY & INEQUALITY (last updated Jan. 12, 2018), <https://poverty.ucdavis.edu/faq/what-are-annual-earnings-full-time-minimum-wage-worker>.

99. NINA CHIEN, FACTSHEET: ESTIMATES OF CHILD CARE ELIGIBILITY & RECEIPT FOR FISCAL YEAR 2015 1 (Office of the Assistant Sec’y for Plan. and Evaluation) (Jan. 6, 2019), [https://aspe.hhs.gov/sites/default/files/migrated\\_legacy\\_files/185621/CY2015ChildCareSubsidyEligibility.pdf](https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/185621/CY2015ChildCareSubsidyEligibility.pdf).

100. RASHEED MALIK ET AL., AMERICA’S CHILD CARE DESERTS IN 2018, CTR. FOR AM. PROGRESS (Dec. 6, 2020), <https://www.americanprogress.org/issues/early-childhood/reports/2018/12/06/461643/americas-child-care-deserts-2018/>.

101. Steven Jessen-Howard et al., *Costly and Unavailable: America Lacks Sufficient Child Care Supply for Infants and Toddlers*, CTR. FOR AM. PROGRESS (Aug. 4, 2020), <https://www.americanprogress.org/issues/early-childhood/reports/2020/08/04/488642/costly-unavailable-america-lacks-sufficient-child-care-supply-infants-toddlers/>.

102. See, e.g., Janet Yellen, *The History of Women’s Work and Wages and How it Has Created Success for Us All*, BROOKINGS GENDER EQUAL. SERIES (May 2020), <https://www.brookings.edu/essay/the-history-of-womens-work-and-wages-and-how-it-has-created-success-for-us-all/>.

103. Stephanie Kramer, *U.S. Has World’s Highest Rate of Children Living in Single-Parents Households*, PEW RSCH. CTR. (Dec. 12, 2019), <https://www.pewresearch.org/fact-tank/2019/12/12/u-s-children-more-likely-than-children-in-other-countries-to-live-with-just-one-parent/>.

104. See, e.g., Matthew Yglesias, *What the Inflation Contrarians Get Right and How to Fix It*, SLOW BORING (Jan. 19, 2021), <https://www.slowboring.com/p/inflation-contrarians> (explaining that price changes in recent decades have disproportionately burdened families with children, particularly given the rising costs of child care, education, health care, and housing).

105. See, e.g., LINDA LAUGHLIN, WHO’S MINDING THE KINDS? CHILD CARE ARRANGEMENTS: SPRING 2011 (U.S. Census Bureau, 2013), <https://www2.census.gov/library/publications/2013/demo/p70-135.pdf>.

106. See, e.g., CHILD CARE AWARE OF AMERICA, *supra* note 97, at 14–15.

107. See, e.g., GLYNN & HAMM, *supra* note 89.

increased immigration.<sup>108</sup> The falling birth rate has corresponded with Americans having fewer children than they say that they want and intend to have.<sup>109</sup> Surveys have found that concerns about the costs of raising a child are the most commonly cited reason parents say they are not having as many children as they would like.<sup>110</sup> Economic concerns are also a significant contributor to abortion in the U.S.<sup>111</sup> Half of the women who got an abortion in 2014 lived in poverty,<sup>112</sup> and one study found that the most common reasons given by women for seeking abortion were financial.<sup>113</sup> Researchers have found that child allowance policies in other countries and policies that improved child support enforcement in the U.S. reduced abortions where they were implemented.<sup>114</sup>

In addition to ensuring that parents can afford to have as many children as they desire, countering falling birth rates would better promote a well-functioning society.<sup>115</sup> Maintaining birth rates near replacement level is important to support a working-age population who can pay into benefit programs, care for older generations, occupy professions involving manual labor, serve in the military, and fulfill other roles that society's oldest members cannot.<sup>116</sup> Immigration can also help meet those needs, but does not solve the problem of parents having fewer children than they would like. Moreover, current immigration trends and political realities make it unlikely that the United States will welcome enough immigrants to meet the gap caused by lowering birth rates.<sup>117</sup> Children also provide hope and

108. Claire Cain Miller, *Americans Are Having Fewer Babies. They Told Us Why*, N.Y. TIMES (July 5, 2018), <https://www.nytimes.com/2018/07/05/upshot/americans-are-having-fewer-babies-they-told-us-why.html>.

109. Lyman Stone, *How Many Kids Do Women Want?* INST. FOR FAM. STUD. (June 1, 2018), <https://ifstudies.org/blog/how-many-kids-do-women-want>.

110. Miller, *supra* note 108 (finding young adults' most commonly cited factor for having fewer than their ideal number of children was "Child care is too expensive," and that "Worried about the economy," "Can't afford more children," and "Waited because of financial instability" were the third, fourth, and fifth most cited factors respectively).

111. See, e.g., M. Antonia Biggs et al., *Understanding Why Women Seek Abortions in the U.S.*, 13 BIOMED CENTRAL WOMEN'S HEALTH 1, 5–6 (2013), <https://bmcmwomenshealth.biomedcentral.com/articles/10.1186/1472-6874-13-29>.

112. Sabrina Tavernise, *Why Women Getting Abortions Now Are More Likely to Be Poor*, N.Y. TIMES (July 9, 2019), <https://www.nytimes.com/2019/07/09/us/abortion-access-inequality.html>.

113. Biggs et al., *supra* note 111, at 11.

114. See Lyman Stone, *Child Allowances Reduce Abortion*, AM. ENTER. INST. (Feb. 25, 2021), <https://www.aei.org/articles/child-allowances-reduce-abortion/>.

115. See, e.g., Lyman Stone & W. Bradford Wilcox, *Empty Cradles Mean a Bleaker Future*, NEWSWEEK (June 24, 2020, 4:17 PM), <https://www.newsweek.com/empty-cradles-means-bleaker-future-opinion-1513214>; Stein Emil Vollset et al., *Fertility, Mortality, Migration, and Population Scenarios for 195 Countries and Territories from 2017 to 2100: A Forecasting Analysis for the Global Burden of Disease Study*, 396 LANCET 1285, 1301–03 (July 14, 2020), <https://www.thelancet.com/action/showPdf?pii=S0140-6736%2820%2930677-2>.

116. *Id.*

117. See, e.g., Jason Schachter et al., *New Population Estimates Show COVID-19 Pandemic Significantly Disrupted Migration Across Borders*, U.S. CENSUS BUREAU (Dec. 21, 2021), <https://www.census.gov/library/stories/2021/12/net-international-migration-at-lowest-levels-in-decades.html>; Julian Resendiz, *Senate Republicans Can Shut Door on Immigration Reform with Filibuster*, BORDER REPORT

motivation to preserve the planet and strive toward future human flourishing.<sup>118</sup>

Cash assistance policies for children have succeeded elsewhere in the world.<sup>119</sup> Many European countries, Canada, and Australia have a child allowance or similar policy, and these policies proved to reduce material hardship for children and families.<sup>120</sup> After the United Kingdom passed a package of family support policies, including dramatically increased cash assistance for children, child poverty fell by more than half in a decade.<sup>121</sup> It is thus unsurprising that the U.S. has the thirty-fourth highest child poverty rate out of thirty-nine OECD countries, sandwiched in the rankings between Bulgaria and Chile.<sup>122</sup>

Finally, action to prevent child poverty is justified by basic morality. Children have no say about the circumstances into which they are born. The utilitarian and retributive justifications for not providing government assistance to poor adults do not apply to children, who cannot work, and have no fault or agency in their family's economic situation. Furthermore, given poverty's negative effects on brain development, educational attainment, and employment, allowing children to grow up poor harms their ability to independently escape poverty later in life.<sup>123</sup>

#### *D. The Positive Impact of the ARP CTC*

The assistance provided by the ARP's expanded CTC successfully reduced child poverty and many of its negative impacts on children.<sup>124</sup> The first payment of the ARP CTC alone kept three million children out of poverty.<sup>125</sup> By December 2021, the credit was lifting nearly four million children out of poverty, cutting child poverty in the U.S. by more than a third.<sup>126</sup> Families described the expanded CTC funds as a lifeline to pay bills, reduce stress, and invest in their

(Jan. 22, 2021, 1:56 AM), <https://www.borderreport.com/hot-topics/immigration/senate-republicans-can-shut-door-on-immigration-reform-with-filibuster/>.

118. See, e.g., Sigal Samuel, *Having Fewer Kids Will Not Save the Climate*, VOX (Feb. 13, 2020, 8:10 AM), <https://www.vox.com/future-perfect/2020/2/13/21132013/climate-change-children-kids-anti-natalism>.

119. See, e.g., Dylan Matthews, *Sweden Pays Parents for Having Kids — and It Reaps Huge Benefits. Why Doesn't the US?*, VOX (May 23, 2016, 9:00 AM), <https://www.vox.com/2016/5/23/11440638/child-benefit-child-allowance> [hereinafter *Sweden Pays*].

120. See Dylan Matthews, *Democrats Have United Around a Plan to Dramatically Cut Child Poverty*, VOX (May 2, 2019, 11:08 AM), <https://www.vox.com/future-perfect/2019/3/6/18249290/child-poverty-american-family-act-sherrod-brown-michael-bennet>.

121. *Id.*

122. *Poverty Rate*, *supra* note 60.

123. E.g., NASEM REPORT, *supra* note 4.

124. E.g., MEGAN A. CURRAN, REIMAGINING POVERTY AND POLICY POST-PANDEMIC, THE LAB REPORT 17, 18–19 (2022).

125. *Id.* at 19.

126. *Id.* But see Jeehoon Han et al., *Real-Time Poverty, Material Well-Being, and the Child Tax Credit* 1, 1–3, 25 (Nat'l Bureau of Econ. Rsch., Working Paper No. 30371, 2022) (using a different model of measuring real-time poverty to estimate that the actual reduction in poverty caused by the CTC was significantly smaller).

children's futures.<sup>127</sup> Food insufficiency for families with young children fell by 25%.<sup>128</sup> Fewer parents had to take out payday loans or sell plasma.<sup>129</sup> These results accord with the advantages child allowance policies provide in other countries.<sup>130</sup> While the complete and long-lasting effects of the ARP CTC are not yet knowable, results thus far have overwhelmingly demonstrated the CTC had a significant and positive impact on America's children and families.<sup>131</sup>

### E. Tax Credit Implementation Issues

Families are often denied access to government benefits they are eligible for because of administrative burdens.<sup>132</sup> These burdens can require low-income individuals to sacrifice their time, money, and dignity, and subtract from the value of needed benefits.<sup>133</sup> In many ways, government benefits such as the CTC that are administered through the tax code pose fewer administrative obstacles than other welfare programs.<sup>134</sup> Establishing eligibility for the CTC involves a relatively small amount of paperwork, and does not require drug tests, medical examinations, or, in most circumstances, anything that cannot be completed online.<sup>135</sup>

Nonetheless, anti-poverty programs administered through the tax code often fail to reach the neediest individuals because they are not required to file taxes and are unaware they must do so to receive benefits to which they are entitled.<sup>136</sup> The federal EITC is one of the U.S.'s most significant anti-poverty programs, yet roughly one in five eligible Americans fail to claim it, resulting in approximately \$7 billion of unclaimed benefits annually.<sup>137</sup> This "non-filer" problem also hampered the ARP CTC. Most families regularly pay taxes, and thus did not have to take any additional steps to receive CTC benefits.<sup>138</sup> However, many of the poorest families do not owe any taxes and are not required to file them.<sup>139</sup> This

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127. See, e.g., Tiffanie Drayton, "I Can't Tell You How Relieved I Was," VOX (July 21, 2021, 10:00 AM), <https://www.vox.com/first-person/22585804/child-tax-credit-parents-spend-money>.

128. Parolin et al., *supra* note 7, at 14–15.

129. Arthur Delaney, *Child Tax Credit Payments Helped Parents Avoid Selling Plasma, Taking Payday Loans*, HUFFPOST (Apr. 18, 2022), [https://www.huffpost.com/entry/child-tax-credit-bills\\_n\\_6256d6ebe4b06c2ea325a5c9](https://www.huffpost.com/entry/child-tax-credit-bills_n_6256d6ebe4b06c2ea325a5c9).

130. See, e.g., *Sweden Pays*, *supra* note 119; Matthews, *supra* note 120.

131. See, e.g., CURRAN, *supra* note 124, at 21.

132. See, e.g., Annie Lowrey, *The Time Tax*, ATLANTIC (July 27, 2021), <https://www.theatlantic.com/politics/archive/2021/07/how-government-learned-waste-your-time-tax/619568/>.

133. See, e.g., *id.*

134. Annie Lowrey, *\$100 Million to Cut the Time Tax*, ATLANTIC (Apr. 25, 2022), <https://www.theatlantic.com/ideas/archive/2022/04/code-for-america-time-tax/629655/>. Take, for example, Louisiana's 26-page, 8,350-word application for the Supplemental Nutrition Assistance Program, commonly known as food stamps.

135. See, e.g., Annie Lowrey, *Cash for Kids Comes to the United States*, ATLANTIC (July 14, 2021), <https://www.theatlantic.com/politics/archive/2021/07/cash-kids-child-tax-credit-biden/619439/>.

136. See, e.g., *Do All People Eligible for the EITC Participate?*, TAX POL'Y CTR., <https://www.taxpolicycenter.org/briefing-book/do-all-people-eligible-eitc-participate> (last visited Apr. 16, 2023).

137. *Id.*

138. See, e.g., *The Child Tax Credit*, *supra* note 47.

139. See e.g., Parolin et al., *supra* note 7, at 4–5.

prevented the IRS from automatically sending non-filers their CTC benefits and placed the burden on those families to act.<sup>140</sup>

Before the ARP's advance monthly CTC benefits began, the IRS created a non-filer portal to help such families receive their payments.<sup>141</sup> However, many families faced barriers to accessing benefits through that portal. They needed to know about the benefit, that they were eligible for it, and that the portal existed. A significant portion of lower-income families missed out for those reasons.<sup>142</sup> Additionally, to use the portal successfully, families needed access to a computer and the internet, the ability to speak English or use a translator, and knowledge of the information requested by the portal.<sup>143</sup> Beginning with the third month of expanded CTC payments, the government addressed some of those problems by partnering with Code for America to launch a new, more user-friendly online filer portal that was available in Spanish and on mobile devices.<sup>144</sup>

To ensure that families were aware of the benefit and able to access their CTC benefits, the White House, IRS, Congressional offices, community organizations, and volunteers conducted awareness campaigns and other forms of outreach.<sup>145</sup> While these efforts helped the CTC reach more eligible families, they also came with significant costs.<sup>146</sup> If the benefits were automatically administered to all eligible families and the tools to access them were easier to use, then

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140. *See id.*

141. The original non-filer portal website is no longer available. For images of what it looked like and analysis of its shortcomings, see Paul E. Williams, *The Child Tax Credit Non-Filer Tool is a Mess*, PEOPLE'S POL'Y PROJECT (June 18, 2021), <https://www.peoplespolicyproject.org/2021/06/18/the-child-tax-credit-non-filer-tool-is-a-mess/>.

142. Michael Karpman & Elaine Maag, *Lack of Awareness and Confusion over Eligibility Prevented Some Families from Getting Child Tax Credit Payments*, URB. INST. (Aug. 3, 2022), <https://www.taxpolicycenter.org/publications/lack-awareness-and-confusion-over-eligibility-prevented-some-families-getting-child-tax/full>.

143. Williams, *supra* note 141.

144. *See* David Neville & Gabriel Zucker, *GetCTC Helped Thousands of Families This Tax Season. How Do We Help Even More Next Year?*, CODE FOR AM. (Nov. 17, 2021), <https://codeforamerica.org/news/getctc-2021-update/>.

145. *See, e.g., FACT SHEET: Biden-Harris Administration Whole-of-Government Effort to Ensure Child Tax Credit Reaches All Eligible Families*, THE WHITE HOUSE (Sep. 15, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/15/fact-sheet-biden-harris-administration-whole-of-government-effort-to-ensure-child-tax-credit-reaches-all-eligible-families/> [hereinafter *Whole-of-Government Effort to Ensure CTC Reaches Eligible Families*]; Steven Jessen-Howard, *Philly Has Helped Families Access the Child Tax Credit, But We Need Congress' Help*, TEMP. L. & PUB. POL'Y BLOG (Apr. 18, 2022), <https://www2.law.temple.edu/lppp/philly-has-helped-families-access-the-child-tax-credit-but-we-need-congress-help/>.

146. *See, e.g.,* Lowrey, *supra* note 132 (describing how establishing eligibility for government programs costs potential beneficiaries their time, harms their well-being, and decreases trust in government, as well as requiring "businesses, charities, legal-aid groups, and civic-technology organizations to perform public administration on behalf of the government."). *See also* *Whole-of-Government Effort to Ensure CTC Reaches Eligible Families*, *supra* note 145 (listing federal government CTC outreach efforts, which required funding to implement).

those groups and the individuals they were helping could have dedicated their time and resources to other important pursuits.<sup>147</sup>

The administration of the CTC through the tax code likely resulted in millions of families missing out on their benefits.<sup>148</sup> The Department of Treasury reports that about 83% of children in the U.S. received the second CTC payment, roughly 90% of those eligible.<sup>149</sup> However, surveys found that only about two-thirds of children lived in households that reported receiving the credit, closer to 75% of those who were eligible.<sup>150</sup> The lowest-income families were most likely to report that they did not receive the CTC.<sup>151</sup>

#### IV. PROPOSED REFORM: THE UNIVERSAL CHILD BENEFIT

An easily accessible and substantial child allowance available to every family in the U.S. could end deep child poverty and significantly improve child well-being in the U.S. Section IV.A outlines the proposal for such a benefit and addresses some of the most common arguments against it. Section IV.B offers potential strategies to fund the UCB. Section IV.C examines the political context and advantages of the UCB.

##### *A. The UCB Proposal*

The poorest families benefitted greatly from the ARP's expanded CTC and have struggled since its expiration.<sup>152</sup> However, Congress can go beyond merely extending the ARP's CTC changes and should provide more robust support for families. They can do so by enacting a Universal Child Benefit (UCB). The UCB would be sent to every child in the U.S. and would provide \$700 monthly for all children younger than six, and \$400 monthly for all children between six and

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147. See Lowrey, *supra* note 132 (describing how the “time tax” “[wastes] countless precious hours of people’s time,” particularly for the “neediest-people short on time, money, and mental bandwidth,” as well requiring significant amounts of time and effort from others such as non-profit organizations, social workers, and physicians). See also Jessen-Howard, *supra* note 145 (citing the amount of money and time the city of Philadelphia and non-profits have spent trying to ensure eligible residents can access their CTC benefits).

148. See Parolin et al., *supra* note 7, at 5. Although, many families likely would have missed out regardless of how the program was administered, particularly given factors such as how little time there was between its proposal, passage, and implementation, the number of other initiatives the government was attempting to quickly implement simultaneously, and the challenges posed by the pandemic.

149. See *id.* at 24. That number likely increased slightly as more families were reached with later payments.

150. See *id.* This does not necessarily mean that the Treasury numbers are overstating how many children actually received payments but is likely due to a combination of factors leading to survey respondents underreporting receipt. These may include parents being unaware they received CTC benefits, a different caregiver receiving the payments for their children, or sampling bias. See *id.* at 11 for further discussion.

151. *Id.* at 24.

152. E.g., Sarah McCammon et al., *The Child Tax Credit Was a Lifeline. Now Some Families Are Falling Back into Poverty*, NPR (Apr. 8, 2022, 5:00 AM), <https://www.npr.org/2022/04/08/1091418380/child-tax-credit-return-inflation-food-gas-prices>.

seventeen. It would be automatically distributed by the SSA as a monthly payment to the primary caregiver of each child.

The UCB would be universal, meaning that all children would qualify. By making the child payment universal, most of the existing CTC's implementation problems would be eliminated. No one will have to prove their eligibility, file a tax return, or be aware that they qualify in order to receive their benefits. This change will prevent the neediest individuals from falling through the cracks and will save time and prevent stress for millions of caregivers.

While a universal benefit would provide generous financial assistance to many families who do not need it, the program can remain progressive by being funded through tax increases on wealthier families. Making the CTC universal would not require a significant expansion of the ARP's CTC recipient base, as fewer than 10% of children were ineligible.<sup>153</sup> Expanding eligibility to that relatively small group is worth eliminating the costs, time, and potential for mistakes created by requiring recipients to prove their income eligibility. Additionally, making the program universal would build its political resiliency and eliminate stigma among recipients.<sup>154</sup> This program would bolster a shared national identity that affirms the importance of investing in children and caregiving work.

Rather than being administered as a tax credit and distributed by the IRS, the UCB would be distributed through monthly checks or direct deposits sent by the SSA. The UCB would essentially be "Social Security for Kids." The SSA has the experience and organization to distribute these monthly checks to children's households, similar to their current administration of social security and disability benefits.<sup>155</sup> As part of the UCB, funding for the SSA would be increased to reflect the increased demand on the agency.<sup>156</sup> However, the needed increase in staff and funding for the agency would be miniscule in comparison to the size of the benefit, especially compared to other government programs that require government employees to routinely interact with benefit recipients or exercise discretion within bureaucratic processes.<sup>157</sup>

Removing the child benefit from the tax code would eliminate the income eligibility standards that prevent many families from receiving the benefit, but it would not fully solve the problems posed by the relationship and residency tests. Additional eligibility changes are required to ensure that children involved in the

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153. See WHAT IS THE CTC?, *supra* note 12.

154. See, e.g., Ryan Cooper, *The Road to Hell is Paved with Means-Testing*, WEEK (Apr. 25, 2017), <https://theweek.com/articles/694240/road-hell-paved-meanstesting> (using Social Security as an example to argue that universal programs are politically stronger and more responsive to beneficiaries).

155. See, e.g., Jeff Madrick & Ellie Kaverman, *Where Should the Administrative Home for the Child Tax Credit Be?*, CENTURY FOUND. (Mar. 16, 2021), <https://tcf.org/content/commentary/administrative-home-child-tax-credit/>.

156. *Id.* The IRS received \$400 million in funding to help with the administrative costs posed by the expanded CTC and other ARP programs.

157. See, e.g., @MichaelBennet, TWITTER (Jan. 20, 2020, 8:29 PM), <https://twitter.com/MichaelBennet/status/1219431712545034240>; Lowrey, *supra* note 135.

child welfare and juvenile justice systems, youth experiencing homelessness, and other vulnerable populations are able to benefit from the UCB.<sup>158</sup>

The UCB would replace the relationship and residency tests with a primary caregiver standard.<sup>159</sup> This approach would give the UCB to a child's primary caregiver, someone who lives with a child and is responsible for things like supervising their activities and needs, regardless of their legal relationship to the child.<sup>160</sup> A child's primary caregiver could be updated monthly.<sup>161</sup> In the significant majority of cases, the UCB benefit would be paid to a child's birth parents, as the CTC currently is, but the more flexible primary caregiver standard would make it easier for benefits to follow children who live with non-family members or move around to different households.<sup>162</sup> The UCB would also allow the credit to be divided among a child's parents or legal guardians.<sup>163</sup> Furthermore, sixteen- and seventeen-year-olds who do not reside with any adult caregiver in a given month would also be permitted to receive their UCB money directly.<sup>164</sup> While this provision would not apply to many children, it could provide a lifeline for vulnerable youth in the child welfare and juvenile justice systems and LGBTQ youth without supportive families.<sup>165</sup>

The size of the UCB would also provide a substantial increase from the current CTC. While the expanded CTC significantly reduced child poverty, it still left millions of children facing poverty and its negative side effects.<sup>166</sup> In order to further reduce child poverty and provide additional support for all families, the UCB would expand the CTC to provide \$700/month (\$8,400/annually) for children under age six and \$400/month (\$4,800 annually) for children ages six through seventeen.<sup>167</sup> The amount would be indexed to inflation, to prevent

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158. See TO REACH EVERY CHILD, *supra* note 26.

159. *Id.* This primary caregiver standard is largely drawn from the proposal outlined by CDF & CSSP.

160. *Id.*

161. *Id.* Ideally, updating the caregiver through an easily accessible online portal.

162. *Id.*

163. *Id.*

164. See *id.* Although such payments may still need to be distributed, at least initially, through a caseworker, school official, or other trusted adult.

165. See *id.*

166. See Parolin et al., *supra* note 7, at 5.

167. The exact amount of the UCB would depend on what is politically feasible and how the proposal is funded. A larger credit would be justified if more of its funding comes from consolidating other benefit programs, and vice versa. The amount for older children is inspired by the difference in the official poverty measure between households with and without a child, similar to the approach taken by the End Child Poverty Act. Matt Bruenig, *Members Tlaib and Jones Introduce the End Child Poverty Act*, PEOPLE'S POL'Y PROJECT (Feb. 3, 2022), <https://www.peoplespolicyproject.org/2022/02/03/members-tlaib-and-jones-introduce-the-end-child-poverty-act/> ("the child allowance contained in this bill fully eliminates what we might call the *child component of poverty*, meaning that, after its enactment, no family would ever find themselves below the official poverty line solely because they have children.") (emphasis in original). The reasoning behind providing an additional \$300 per month for younger children is based in part on the difference in average child care expenses between these age groups. See Brian Knop & Abinash Mohanty, *Child Care Costs in the Redesigned Survey of Income and Program Participation (SIPP): A Comparison to the Current Population Survey Annual Social and*

erosion of its value. This structure better reflects the costs of raising children, with higher payments for children too young for school.<sup>168</sup> This is important given younger children face higher poverty rates, as they require most parents to pay for child care or sacrifice labor earnings.<sup>169</sup> To limit the program's costs, the amount a household could receive through the UCB would be capped at \$2,500/month.

In addition to reducing poverty, the UCB would provide a massive benefit for middle-class families. Families could afford things that otherwise may have been out of reach, such as higher-quality child care programs, family vacations, tutoring, more nutritious food, or saving for college. The universality of the UCB would also guarantee a safety net for families that would help them afford necessities in the event of a sudden job loss, health problem, or natural disaster.

The impact of the UCB on child maltreatment and child welfare involvement is difficult to estimate quantifiably. However, providing this level of financial support for families and changing eligibility rules to promote easier access for at-risk families is likely to lead to a significant reduction in the scope of child welfare agency involvement and neglect cases.<sup>170</sup> The increased financial stability provided by the UCB would allow parents to meet their children's basic needs and reduce other maltreatment risk factors such as stress.<sup>171</sup> The UCB has the added benefit of being administered separately from any agency that has the power to investigate parents or take custody of children, helping it avoid the suspicion that often comes with family support programs administered through such agencies.<sup>172</sup>

A child benefit of this size would more closely approach the costs of child care,<sup>173</sup> but should not be seen as a replacement for public funding for child care programs or other family support policies. While it would help families afford child care, it would not solve the other problems facing the child care system, such as staffing shortages.<sup>174</sup> In order to ensure that children have high-quality child care options at which they can use their UCB money, public investment in

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*Economic Supplement (CPS ASEC)* 1, 11 (Soc. & Econ. Hous. Div., Working Paper No. 2018-21, 2018), <https://www.census.gov/content/dam/Census/library/working-papers/2018/demo/Child%20Care%20Cost%20Paper.pdf>.

168. See, e.g., Rasheed Malik, *Investing in Infant and Toddler Child Care to Strengthen Working Families*, CTR. FOR AM. PROGRESS (Oct. 21, 2019), <https://www.americanprogress.org/issues/early-childhood/reports/2019/10/21/475867/investing-infant-toddler-child-care-strengthen-working-families/> (finding that expenses increase and earnings decrease in the months immediately before and after families have a child, and that the costs of child care are highest for the youngest children).

169. See *id.*

170. See, e.g., WEINER et al., *supra* note 5, at 5–6.

171. *Id.*

172. See, e.g., Jeanette Vega & Bianca Shaw, *Expand Support for Families, But Not Inside the Child Welfare System*, IMPRINT (June 4, 2021, 3:00 AM), <https://imprintnews.org/opinion/expand-support-for-families-but-not-inside-the-child-welfare-system/55650>.

173. See, e.g., CHILD CARE AWARE OF AMERICA, *supra* note 97, at 43–44.

174. See, e.g., Emma Mayer, *Day Care Centers Struggle to Find Teachers as Child Waitlists Mount Across U.S.*, NEWSWEEK (Jan. 25, 2022, 1:49 PM), <https://www.newsweek.com/day-care-centers-struggle-find-teachers-child-waitlists-mount-across-us-1672433>.

the sector is necessary.<sup>175</sup> Similarly, additional income does not prevent someone from being called into work the day after giving birth and being forced to choose between time with a newborn or missing their salary.<sup>176</sup> This benefit is not enough to fully replace income for most families.<sup>177</sup> Accordingly, paid family leave is still a necessity.

Much of the opposition to the expanded CTC has centered around concerns that it will disincentivize work,<sup>178</sup> but these concerns are mostly misguided. The evidence from other countries that have implemented similar policies indicates that the impact on employment is likely to be small, and that it could even increase parental employment.<sup>179</sup> Similarly, U.S. data indicates that the ARP's expanded CTC did not lead parents to leave the workforce.<sup>180</sup> In fact, the employment rate among CTC recipients fell from 72.4% to 68.3% after the expanded CTC expired.<sup>181</sup> Cash benefits help parents afford child care, transportation, education, and other hurdles that may have kept them out of the workforce.<sup>182</sup> While increasing the amount of cash assistance to the levels proposed in the UCB is likely to have a more significant impact on workforce participation than the ARP's CTC expansion, the benefit's structure would minimize that effect. Unlike the much-criticized structure of the pre-welfare-reform-era Aid to Families with

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175. See, e.g., Hailey Gibbs & M.K. Falgout, *The American Rescue Plan Shored Up Child Care, But a Long-Term Solution Is Necessary*, CTR. FOR AM. PROGRESS (Mar. 21, 2022), <https://www.americanprogress.org/article/the-american-rescue-plan-shored-up-child-care-but-a-long-term-solution-is-necessary/>.

176. See, e.g., Lorie Konish, *Paid Family Leave Could Become Law. Families Share How It Could Change Things for Them*, CNBC (Oct. 2, 2021, 10:00 AM), <https://www.cnbc.com/2021/10/02/paid-family-leave-could-become-law-families-share-what-it-would-mean.html>.

177. See generally EMILY A. SHRIDER ET AL., U.S. CENSUS BUREAU, P60-273, INCOME AND POVERTY IN THE UNITED STATES: 2020 (2021), <https://www.census.gov/library/publications/2021/demo/p60-273.html>.

178. See, e.g., Press Release, Marco Rubio, Rubio, Lee Statement on Child Tax Credit (Feb 4, 2021), <https://www.rubio.senate.gov/public/index.cfm/2021/2/rubio-lee-statement-on-child-tax-credit> (Republicans who had been among the lead supporters of expanding the CTC in the TCJA stating they oppose expanding the CTC to include non-working parents.); Hugo Dante & Rachel Sheffield, *Child Tax Credits Should Promote Work, Not Undermine It*, U.S. CONG. JOINT ECON. COMM. (2021), <https://www.jec.senate.gov/public/index.cfm/republicans/2021/11/child-tax-credits-should-promote-work-not-undermine-it>.

179. See, e.g., Gene Sperling, *Will Biden's Tax Plan Discourage Work? We Already Know the Answer*, POLITICO (Feb. 10, 2021, 4:30 AM), <https://www.politico.com/news/magazine/2021/02/10/biden-tax-plan-work-child-tax-credit-labor-sperling-468183>.

180. STEPHEN ROLL ET AL., WASH. UNIV. IN ST. LOUIS SOC. POL'Y INST., EXPANDED CHILD TAX CREDIT PAYMENTS DID NOT REDUCE EMPLOYMENT 1–2 (2022), <https://cpb-us-w2.wpmucdn.com/sites.wustl.edu/dist/a/2003/files/2022/04/CTC-and-Employment-March-18-2022.pdf>. See generally ELIZABETH ANANAT ET AL., CTR. ON POVERTY AND SOC. POL'Y AT COLUM. U., EFFECTS OF THE EXPANDED CTC ON EMPLOYMENT OUTCOMES (2021), <https://www.povertycenter.columbia.edu/publication/2021/expanded-child-tax-credit-impact-on-employment>. But see Han et al., *supra* note 126, at 3 (finding a relative decline in employment among parents with a high school education or less shortly after the ARP's passage that disappeared by early 2022).

181. ROLL ET AL., *supra* note 180, at 1.

182. See, e.g., Sperling, *supra* note 179.

Dependent Children program, the UCB would not disincentivize work, as the amount a family receives would not decrease with increased earnings.<sup>183</sup>

Furthermore, concerns about a child benefit's impact on employment fail to consider whose employment status would be impacted by this change, and whether the relevant trade-offs would yield net positives for children, families, and the country.<sup>184</sup> The group most likely to leave the workforce because of these payments would probably be parents working undesirable jobs for little pay who would prefer to stay at home to care for their children.<sup>185</sup> The UCB recognizes the value of caregiving and provides financial support to allow parents who would prefer to serve as full-time caregivers for their children to do so rather than work out of the home. For those who prefer to work outside of the home, the UCB will help them afford child care. Additionally, the massive benefits provided by ending child poverty would far exceed the potential downsides of a small decrease in parental labor force participation.<sup>186</sup>

Another frequently cited concern that lacks empirical support is that parents will spend benefit money on "temptation goods" such as alcohol or drugs rather than on their children's well-being.<sup>187</sup> The opposite is true. Research has shown that cash transfers actually reduce spending on such products.<sup>188</sup> The safety net that these monthly checks provide prevents stress, reducing demand for temptation goods.<sup>189</sup> Additionally, research indicates that these funds being designated and marketed as specifically for children leads recipients to use that money primarily to support their children.<sup>190</sup> Surveys indicate that recipients of the ARP CTC, particularly low-income families, overwhelmingly spent their CTC benefits

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183. See, e.g., Matthew Yglesias, *The Expanded Child Tax Credit Won't Kill Work*, SLOW BORING (July 19, 2021), <https://www.slowboring.com/p/cic-work>.

184. See, e.g., DANILO TRISO & IFE FLOYD, CTR. ON BUDGET & POL'Y PRIORITIES, BENEFITS OF EXPANDING CHILD TAX CREDIT OUTWEIGH SMALL EMPLOYMENT EFFECTS (Mar. 1, 2021), <https://www.cbpp.org/research/federal-tax/benefits-of-expanding-child-tax-credit-outweigh-small-employment-effects>.

185. See Yglesias, *supra* note 183; *Home Building Survey Part II: Supporting Families*, AM. COMPASS (Feb. 18, 2021), <https://americancompass.org/essays/home-building-survey-part-2/> (finding that lower-, working-, and middle-class adults are most likely to prefer an arrangement where one parent works full-time and the other stays at home).

186. See, e.g., TRISO & FLOYD, *supra* note 184, at 2; Yglesias, *supra* note 183; Irwin Garfinkel et al., *The Benefits and Costs of a U.S. Child Allowance* 1, 38 (Nat'l Bureau of Econ. Rsch., Working Paper No. 29854, 2022).

187. E.g., Samuel Hammond & Audrey Xu, *Lead Us Not into Temptation: How the Child Tax Credit Creates Healthier Families*, NISKANEN CTR. BLOG (July 15, 2021), <https://www.niskanencenter.org/the-child-tax-credit-reduces-spending-on-alcohol-and-tobacco/>.

188. E.g., David Evans & Anna Popova, *Cash Transfers and Temptation Goods*, 65 ECON. DEV. & CULTURAL CHANGE 189, 190 (2019) ("Across 50 estimates from 19 studies, we find that almost without exception, studies find either no significant impact or a significant negative impact of transfers on expenditures on alcohol and tobacco. Moreover, our meta-analysis for those studies reporting impacts of transfers on total temptation good expenditure yields a negative, significant average effect.").

189. Hammond & Xu, *supra* note 187.

190. *Id.*

on basic needs.<sup>191</sup> Food was the most commonly cited use of the CTC, and 91% of families making less than \$35,000 reported spending the CTC on food, utilities, housing, clothing, and/or education costs.<sup>192</sup>

### B. Funding the UCB

The price tag for this program would be steep, roughly \$500 billion per year.<sup>193</sup> This cost would be worth it. Research indicates that the societal benefits generated by the expanded CTC are eight times greater than its costs.<sup>194</sup> Nevertheless, many of these benefits will take decades to realize, and budget reconciliation rules and political realities will likely require the program to be at least mostly paid for by increased taxes or decreased spending in other areas.<sup>195</sup> This Note does not go into depth about funding the UCB, nor recommend a particular approach beyond placing the funding burden primarily on wealthier individuals. Instead, it offers a few feasible options for funding sources that could be adopted either on their own or in combination.

#### 1. Raise Taxes on the Wealthy

Funding the UCB through taxes on richer Americans is particularly important because the benefit would not be means-tested. This means that significant sums would be spent on families who do not particularly need government assistance. Furthermore, allotting the same amount of money for the poorest and richest families limits the UCB's impact on inequality. However, these flaws can be addressed by funding the proposal, at least in part, through progressive tax increases. Those at the very top of the income distribution should see a larger increase in their taxes than in their benefits. For example, a family earning \$5,000,000/year that has a 4-year-old and a 7-year-old would receive \$13,200

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191. STEPHEN ROLL ET AL., WASH. UNIV. IN ST. LOUIS SOC. POL'Y INST., HOW ARE AMERICAN FAMILIES USING THEIR CHILD TAX CREDIT PAYMENTS? (Sep. 2021), <https://cpb-us-w2.wpmucdn.com/sites.wustl.edu/dist/a/2003/files/2021/09/CTC-National-Analysis.pdf>; Claire Zippel, *Nine in Ten Families With Low Incomes Are Using Child Tax Credits to Pay for Necessities, Education*, CBPP OFF THE CHARTS BLOG (Oct. 21, 2021), <https://www.cbpp.org/blog/9-in-10-families-with-low-incomes-are-using-child-tax-credits-to-pay-for-necessities-education>.

192. Zippel, *supra* note 191.

193. Calculations made using tool available for download at *Build Your Own Child Tax Credit 2.0*, COMM. FOR A RESPONSIBLE FED. BUDGET (Jan. 6, 2022), <https://www.crfb.org/blogs/build-your-own-child-tax-credit-2.0>. Model inputs include \$4,800 size of base credit, \$3,600 bonus credit for ages zero to five, increasing the max age from sixteen to seventeen, indexing the credit for inflation, extending the full credit beyond 2025, having no phase-out threshold, including a Lookback/Safe Harbor provision, repealing the SSN requirement, and making the credit fully refundable. This estimate does not consider the savings of replacing the existing Child Tax Credit or any other programs, nor does it take into account the \$2,500 monthly family cap.

194. Garfinkel et al., *supra* note 186, at 38.

195. See H. COMM. ON THE BUDGET, BUDGET RECONCILIATION: THE BASICS (Aug. 11, 2021), <https://democrats-budget.house.gov/sites/democrats.budget.house.gov/files/documents/Budget%20Reconciliation%20The%20Basics%20-%20Final%202021.pdf>; Press Release, Joe Manchin, *supra* note 50.

yearly through the UCB. However, that could correspond with a tax increase of \$15,000 per year.

Congress and the Biden administration have proposed raising a number of taxes on the wealthy.<sup>196</sup> These proposed changes include raising the top marginal income-tax rate from 37% to its pre-TCJA rate of 39.6%, raising the top tax rate on long-term capital gains to 39.6%, raising the corporate tax rate, which disproportionately impacts the wealthiest,<sup>197</sup> from 21% to 28%, and increasing tax enforcement aimed at the highest earners.<sup>198</sup>

## 2. Expand the Federal Estate & Gift Taxes

The current federal estate tax exempts the first \$11.7 million dollars that an heir inherits.<sup>199</sup> Generationally wealthy heirs inheriting millions of dollars tax-free provide a compelling juxtaposition with the millions of children born into poverty. Lowering this threshold and making changes such as imposing a capital gains tax at death, as the Biden administration has proposed,<sup>200</sup> could be modes of funding the UCB that further promote equality of opportunity.

## 3. Institute a Carbon Tax

Climate change is a pressing issue that could jeopardize living standards for future generations of children who will benefit from the UCB.<sup>201</sup> A carbon tax could be one means of slowing climate change while also generating revenue to fund the UCB, thus promoting a better future for the UCB's beneficiaries.<sup>202</sup> This approach has some support from moderate conservatives and pro-natalists who may support the UCB.<sup>203</sup>

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196. See Erica York et al., *Tracking the 2021 Biden Tax Plan and Federal Tax Proposals*, TAX FOUND. (June 16, 2021), <https://taxfoundation.org/biden-tax-plan-tracker/>.

197. See, e.g., HUAQUN LI & KYLE POMERLEAU, TAX FOUND., *THE DISTRIBUTIONAL IMPACT OF THE TAX CUTS AND JOBS ACT OVER THE NEXT DECADE* (June 28, 2018), <https://taxfoundation.org/the-distributional-impact-of-the-tax-cuts-and-jobs-act-over-the-next-decade/>.

198. See York et al., *supra* note 196.

199. See generally CONG. BUDGET OFF., *UNDERSTANDING FEDERAL ESTATE AND GIFT TAXES* (2021), <https://www.cbo.gov/publication/57272>.

200. See Greg Iacurci, *Higher Taxes for the Rich Edge Closer as Democrats Pass \$3.5 Trillion Budget Outline*, CNBC (Aug. 11, 2021, 1:36 PM), <https://www.cnbc.com/2021/08/11/democrats-3point5-trillion-budget-plan-would-raise-taxes-for-the-rich.html>.

201. See, e.g., Brad Plumer & Henry Fountain, *A Hotter Future Is Certain, Climate Panel Warns. But How Hot Is Up to Us.*, N.Y. TIMES (Aug. 10, 2021), <https://www.nytimes.com/2021/08/09/climate/climate-change-report-ipcc-un.html>.

202. See, e.g., ALEXANDER R. BARRON ET AL., BROOKINGS, *POLICY INSIGHTS FROM COMPARING CARBON PRICING MODELING SCENARIOS 1* (2019), [https://www.brookings.edu/wp-content/uploads/2019/05/ES\\_20190507\\_Morris\\_CarbonPricing.pdf](https://www.brookings.edu/wp-content/uploads/2019/05/ES_20190507_Morris_CarbonPricing.pdf) (“Across all models and policy scenarios, the study finds that carbon pricing leads to significant reductions in CO2 emissions.”).

203. See Joshua L. Sohn, *Can Pro-Natalists and Environmentalists Find Common Ground?*, INST. FOR FAM. STUD. BLOG (Jan. 23, 2020), <https://ifstudies.org/blog/can-pro-natalists-and-environmentalists-find-common-ground>.

#### 4. Consolidate Other Benefit Programs

Eliminating overlapping support programs would reduce the complexity of navigating and administering the social safety net and ease political pressure about significant social spending.<sup>204</sup> This strategy has limitations, as there must be an increase in net support to families for them to benefit from the UCB, and removing funding from other family support programs is counterproductive to that goal. However, several family benefit programs could be replaced by a more generous UCB, including TANF. In most states, TANF benefits are at “their lowest value since the program was created,” and only a small and diminishing portion of TANF funds go towards direct cash assistance to families in need.<sup>205</sup> Other such programs include the Child and Dependent Care Tax Credit (CDCTC) and EITC benefits for children. Similar to the CTC, the impact of these programs is limited by their implementation through the tax code, and folding them into the UCB would reduce complexity for recipients.<sup>206</sup> These funding mechanisms should not result in childless adults being made worse off; if they are incidentally harmed by cuts aimed at redundant supports for children, those cuts should be offset through other measures.

#### *C. The Politics of the UCB*

The UCB is designed to draw support from across political coalitions and may benefit from recent changes in political attitudes towards policies providing cash assistance to the poor. While a robust debate as to the comparative substantive and political merits of universal and means-tested programs exists, many recognize that universal social service programs are more politically resilient.<sup>207</sup> Government programs that exclusively serve the poor tend to be stigmatized.<sup>208</sup> Furthermore, universal programs create a broad constituency of direct beneficiaries who are invested in continuing to receive their benefits.<sup>209</sup> This helps defend such programs from repeal attempts, as more people have a direct stake in the

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204. See, e.g., Erica York & Garrett Watson, *Sen. Romney's Child Tax Reform Proposal Aims to Expand the Social Safety Net and Simplify Tax Credits*, TAX. FOUND. BLOG (Feb. 5, 2021), <https://taxfoundation.org/child-allowance-romney-tax-proposal/>; Press Release, Joe Manchin, *supra* note 50.

205. See GINA AZITO THOMPSON ET AL., CTR. ON BUDGET & POL'Y PRIORITIES, INCREASES IN TANF CASH BENEFIT LEVELS ARE CRITICAL TO HELP FAMILIES MEET RISING COSTS (Feb. 3, 2023), <https://www.cbpp.org/research/income-security/increases-in-tanf-cash-benefit-levels-are-critical-to-help-families-meet-0>.

206. *Do All People Eligible for the EITC Participate?*, *supra* note 136.

207. See, e.g., Cooper, *supra* note 154.

208. *Id.*

209. E.g., Dylan Matthews, *A Political Scientist Explains the Real Reason Obamacare Repeal is So Hard*, VOX (July 28, 2017), <https://www.vox.com/2017/3/24/14953202/obamacare-repeal-ryan-trump-paul-pierson-retrenchment> (“[I]t’s a lot harder to get the toothpaste back in the tube once it’s out. People who are receiving benefits, they’re going to react pretty strongly to that being taken away from them. A taxpayer is paying for a lot of stuff and cares a little bit about each thing, but the person who’s receiving the benefits is going to care enormously about that.”).

political outcome.<sup>210</sup> While this was not enough to extend the ARP CTC, the program was only in place for a few months, and could become more firmly established over a longer timeline.<sup>211</sup> A fully universal program also may be more politically resilient; low-income individuals, particularly parents, typically have less time, money, and institutional influence to impact political outcomes,<sup>212</sup> but universal programs include wealthier, better-connected beneficiaries.<sup>213</sup> Increasing the political capital of government program recipients also tends to improve the quality of administration of benefit programs.<sup>214</sup>

The popularity of the stimulus checks passed in response to the COVID-19 pandemic provided hope for a changing status quo that no longer views unconditional cash aid as taboo.<sup>215</sup> A growing backlash to unconditional cash aid to the poor, often rooted in racist stereotypes, followed President Johnson's "War on Poverty."<sup>216</sup> This contributed to welfare reform that made it much more difficult for individuals to receive no-strings-attached cash from the government, particularly without working.<sup>217</sup> The political aversion to unconditional cash aid continued beyond the welfare reform of the 1990s, as evidenced by the fiscal stimulus passed in response to the 2008 recession, which was implemented through tax cuts and spending programs rather than checks sent directly to individuals.<sup>218</sup> The major relief bills passed during the COVID-19 pandemic broke from this approach, including stimulus payments for all but higher-income Americans, with no work requirements or restrictions on how they could be spent.<sup>219</sup> These highly visible payments were overwhelmingly popular across

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210. *Id.* ("[If] you are talking about taking away benefits from probably tens of millions of people over time. Politically, that's a very, very difficult thing to do.")

211. *See, e.g.*, Dylan Matthews, *The Child Tax Credit Is Blowing Up on TikTok. That Should Tell Lawmakers Something*, VOX (July 19, 2021, 11:00 AM), <https://www.vox.com/future-perfect/2021/7/19/22580472/child-tax-credit-biden-tiktok-memes>.

212. *See generally* Martin Gilens, *Inequality and Democratic Responsiveness*, 69 PUB. OP. Q. 778 (2005), [https://scholar.princeton.edu/sites/default/files/mgilens/files/inequality\\_and\\_democratic\\_responsiveness.pdf](https://scholar.princeton.edu/sites/default/files/mgilens/files/inequality_and_democratic_responsiveness.pdf).

213. *See, e.g.*, Cooper, *supra* note 154.

214. *See, e.g., id.* ("Make a program part of the fundamental infrastructure of life for everyone, and it will generally be high-quality. As the transit nerds say, you can tell a public transit system is really good if it is used by rich and poor alike."); Lowrey, *supra* note 132 ("Taken as a whole, the time tax is regressive. Programs for the wealthy tend to be easy, automatic, and guaranteed. You do not need to prostrate yourself before a caseworker to get the benefits of a 529 college-savings plan. . . many high-income people, unlike poor folks, never even realize they are benefiting from government programs.")

215. *See* Kalena Thomhave, *Undoing Welfare Reform*, AM. PROSPECT (May 24, 2021), <https://prospect.org/infrastructure/building-back-america/undoing-welfare-reform-child-tax-credit/>.

216. *See, e.g.*, Rachel Black & Aleta Sprague, *The Rise and Reign of the Welfare Queen*, NEW AMERICA (Sep. 22, 2016), <https://www.newamerica.org/weekly/rise-and-reign-welfare-queen/>.

217. *Id.*

218. *See* Kimberly Amadeo, *Obama's Stimulus Package and How Well It Worked*, THE BALANCE (July 9, 2021), <https://www.thebalance.com/what-was-obama-s-stimulus-package-3305625>.

219. *See, e.g.*, Thomhave, *supra* note 215.

ideological lines, potentially demonstrating updated political attitudes surrounding such benefits.<sup>220</sup>

Nonetheless, the expanded CTC did not generate the level of political support that many expected.<sup>221</sup> Polling of the program has not demonstrated it to be overwhelmingly popular.<sup>222</sup> Observers expected recipients of the expanded CTC to provide greater political backlash to the program's expiration.<sup>223</sup> The reason why that backlash never came is not entirely clear. Confusion about the program and how it fit in with other pandemic support programs is likely one factor.<sup>224</sup> The initial support for cash assistance programs appears to have reflected the unique circumstances of the pandemic rather than a new political consensus around welfare policy.<sup>225</sup> Ballooning inflation in late 2021 and 2022 also eroded support for continuing expensive cash assistance programs.<sup>226</sup> Other factors could include older and childless voters resenting the expenditure on a program that does not directly benefit them, increased political polarization and focus on non-economic issues making it harder to sway voters through improving their material standards of living, or the relatively small increase in the CTC payment amount providing insufficient motivation for its recipients to fight to keep its expansion.<sup>227</sup>

The UCB proposal would likely receive significant Democratic support, as all but one Democratic member of Congress voted for the ARP.<sup>228</sup> However, a program as large as the UCB would likely have to overcome greater discontent than the ARP CTC expansion because of its higher cost and the permanent eligibility of wealthier and non-working families.<sup>229</sup> To get the necessary votes, the UCB payment amount may need to be reduced, and Congress may need to make the UCB a means-tested program that excludes wealthier families. Unfortunately,

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220. See Claire Williams, *Democratic and Republican Voters Agree: Direct Payments Are Most Popular Part of \$1.9 Trillion Stimulus Package*, MORNING CONSULT (Mar. 17, 2021, 6:00 AM), <https://morningconsult.com/2021/03/17/stimulus-package-measures-support-poll/>.

221. See, e.g., Annie Lowrey, *The Child Tax Credit Was a Little Too Subtle*, ATLANTIC (Dec. 22, 2022), <https://www.theatlantic.com/ideas/archive/2022/12/child-tax-credit-democrats-inflation-post-materialism/672543/>; Ian Prasad Philbrick, *Why Isn't Biden's Expanded Child Tax Credit More Popular?*, N.Y. TIMES (Jan. 5, 2022), <https://www.nytimes.com/2022/01/05/upshot/biden-child-tax-credit.html>.

222. E.g., Philbrick, *supra* note 221.

223. See Lowrey, *supra* note 221.

224. See *id.*

225. See Philbrick, *supra* note 221.

226. See Lowrey, *supra* note 221.

227. See *id.*; Philbrick, *supra* note 221.

228. The Democrat who voted against the package called the CTC expansion a sensible policy that he would be likely to support as standalone legislation. See Press Release, Rep. Jared Golden, Golden Statement on Vote Against \$1.9 Trillion Legislative Package (Feb. 27, 2021), <https://golden.house.gov/media/press-releases/golden-statement-vote-against-19-trillion-legislative-package>.

229. See, e.g., Bill Scher, *Can Democrats Make Child Checks Permanent?*, REAL CLEAR POL. (Mar. 15, 2021), [https://www.realclearpolitics.com/articles/2021/03/15/can\\_democrats\\_make\\_child\\_checks\\_permanent\\_145403.html](https://www.realclearpolitics.com/articles/2021/03/15/can_democrats_make_child_checks_permanent_145403.html).

the inclusion of families with no income—the most important poverty reduction aspect of the proposal—may also pose its most significant political hurdle.<sup>230</sup>

While attracting much Republican support for a government benefit as large as the UCB would be difficult, there are several reasons Republicans may be inclined to support the proposal. Rural areas primarily represented by Republicans would see the largest proportional benefit from the UCB.<sup>231</sup> The nine states receiving the greatest benefit per capita from the ARP's CTC expansion all voted for Donald Trump by a double-digit margin in both 2016 and 2020.<sup>232</sup> Furthermore, the ARP's expanded CTC was popular with many Republicans: one poll found that Trump voters who received an expanded CTC payment supported the program by a margin of fifty-one points, and supported making it permanent by thirty-seven.<sup>233</sup>

From an ideological standpoint, many conservatives are concerned by America's falling birth rate and have expressed support for pro-natalist, pro-family policies.<sup>234</sup> Several center-right organizations and writers have endorsed child allowance policies, emphasizing such concerns.<sup>235</sup> The proposal's likely impact on abortions would also appeal to Republicans.<sup>236</sup> After *Roe v. Wade* was overturned, many Republicans have faced increasing pressure from within and outside their political coalitions to promote life by providing more generous benefits to low-income families.<sup>237</sup> Furthermore, the structure of the UCB takes a libertarian,

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230. See, e.g., Patrick Brown, *Why Working-Class Parents Don't Buy What D.C. Is Selling*, N.Y. TIMES (Sep. 14, 2021), <https://www.nytimes.com/2021/09/14/opinion/child-tax-credit-biden.html>.

231. See SAMUEL HAMMOND & ROBERT ORR, NISKANEN CTR., MEASURING THE CHILD TAX CREDIT'S ECONOMIC AND COMMUNITY IMPACT 4 (Aug. 2021), <https://www.niskanencenter.org/wp-content/uploads/2021/08/Measuring-the-Child-Tax-Credits-Economic-and-Community-Impact.pdf>.

232. *Id.*; 2016 Presidential Election Results, N.Y. TIMES (Aug. 9, 2017, 9:00 AM), <https://www.nytimes.com/elections/2016/results/president>; *Presidential Election Results: Biden Wins*, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-president.html> (last visited Apr. 16, 2023).

233. Press Release, Fighting Chance for Families, NEW POLL: Parents Who Have Received the Expanded Child Tax Credit Strongly Support Permanent Extension, Including Trump Voters (Aug. 10, 2021), <https://www.fightingchanceforfamilies.org/press-releases/new-poll-parents-who-have-received-the-expanded-child-tax-credit-strongly-permanent-extension-including-trump-voters>. *But see, e.g.*, Eli Yokley, *Voters Are Divided Over One-Year Extension of Expanded Child Tax Credit*, MORNING CONSULT (Dec. 20, 2021), <https://morningconsult.com/2021/12/20/child-tax-credit-support-poll-build-back-better/> (finding voters closely split on whether they support a temporary extension of the credit, and a majority opposed to making it permanent).

234. See, e.g., Simon Montlake, *As Birthrates Dip, Some Conservatives Warm to the Child Tax Credit*, CHRISTIAN SCI. MONITOR (July 16, 2021), <https://www.csmonitor.com/Business/2021/0716/As-birthrates-dip-some-conservatives-warm-to-the-child-tax-credit>.

235. See generally SAMUEL HAMMOND & ROBERT ORR, NISKANEN CTR., THE CONSERVATIVE CASE FOR A CHILD ALLOWANCE (Feb. 2021), <https://www.niskanencenter.org/wp-content/uploads/2021/02/The-Conservative-Case-for-a-Child-Allowance.pdf>.

236. See, e.g., Patrick Brown, *The Pro-Family Agenda Republicans Should Embrace After Roe*, N.Y. TIMES (May 7, 2022), <https://www.nytimes.com/2022/05/07/opinion/republican-policy-after-ro.html>.

237. *E.g., id.*; Jeff Stein, *With Roe at Risk, GOP Faces Pressure to Support Families After a Birth*, WASH. POST (May 3, 2022, 5:39 PM), <https://www.washingtonpost.com/us-policy/2022/05/03/gop-families-ro-wade/>.

non-paternalistic approach to addressing child poverty. Rather than creating new regulations or bureaucracy, the program would simplify eligibility verification procedures and allow families to use their money however they see fit. This approach would help to avoid charges of government intrusion into the family that have previously stalled child care legislation and stoked modern culture war controversies.<sup>238</sup>

Finally, although they were later diluted, two proposals from Republican senators in 2021 resembled the key provisions of the UCB.<sup>239</sup> Mitt Romney initially proposed a child allowance policy that, like the UCB, would have no minimum income threshold or work requirement, and would be administered monthly through the SSA.<sup>240</sup> However, when other Republicans and Joe Manchin opposed such a policy benefitting non-working parents, Romney updated the plan to phase-in so that parents would not receive the full credit until they have \$10,000 in annual income.<sup>241</sup> Adjacently, Josh Hawley proposed a non-refundable tax credit that would be even more valuable than the UCB for married parents.<sup>242</sup> However, the bill attracted no co-sponsors, and no similar bill has been re-introduced.<sup>243</sup> Given that Republicans introduced a bill that would create a child allowance structured similarly to the UCB and one that would have similar costs to the UCB, it is possible that the UCB or similar legislation could receive bipartisan support. However, that seems unlikely in the near future, particularly given that the changing circumstances of the pandemic and national economy have made the politics of UCB policy more difficult.<sup>244</sup>

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238. See, e.g., Jack Rosenthal, *President Vetoes Child Care Plan as Irresponsible*, N.Y. TIMES (Dec. 10, 1971), <https://www.nytimes.com/1971/12/10/archives/president-vetoes-child-care-plan-as-irresponsible-he-terms-bill.html>; Ronald Brownstein, *Why Schools Are Taking Center Stage in the Culture Wars*, CNN (Feb. 15, 2022, 9:35 AM), <https://www.cnn.com/2022/02/15/politics/schools-covid-politics/index.html>. This approach also heeds the concerns of state intrusion into the family regarding child welfare policy because it would avoid exposing low-income families and families of color that are disproportionately targeted by child welfare investigations from unnecessary scrutiny from child protective services. See ROBERTS, *supra* note 78, at 160–64.

239. See Press Release, Mitt Romney, *supra* note 54; Press Release, Josh Hawley, *supra* note 54.

240. See York & Watson, *supra* note 204.

241. Press Release, Senators Romney, Burr & Daines, *The Family Security Act 2.0: A New National Commitment to Working American Families* (June 15, 2022), [https://www.romney.senate.gov/wp-content/uploads/2022/06/updated\\_family-security-act-2.0\\_one-pager\\_appendix.pdf](https://www.romney.senate.gov/wp-content/uploads/2022/06/updated_family-security-act-2.0_one-pager_appendix.pdf).

242. The proposal would provide married parents with \$12,000 annually for qualifying children under 13, and half that amount for single parents. Press Release, Senator Hawley Introduces Parent Tax Credit—Historic Relief for Working Families (Apr. 26, 2021), <https://www.hawley.senate.gov/senator-hawley-introduces-parent-tax-credit-historic-relief-working-families>.

243. *S. 1426 – Parent Tax Credit Act: Cosponsors*, CONGRESS.GOV, <https://www.congress.gov/bill/117th-congress/senate-bill/1426/cosponsors> (last visited Apr. 16, 2023).

244. See generally Lydia DePillis, *With Surge in July, U.S. Recovers the Jobs Lost in the Pandemic*, N.Y. TIMES (Aug. 5, 2022), <https://www.nytimes.com/2022/08/05/business/economy/july-jobs-report-gains.html>; Manchin, *supra* 50.

## V. CONCLUSION

Millions of children in the richest nation in the world do not have enough food to eat or a safe place to live;<sup>245</sup> the magnitude and importance of this failure cannot be overstated. The immediate and dramatic reduction in child poverty facilitated by the ARP and its expansion of the CTC proved that poverty can be solved through policy.<sup>246</sup> To ignore the evidence and allow the expanded credit to expire was unconscionable. The expansion also demonstrated that, although effective, the current model is not without flaws. The CTC's eligibility requirements and administration through the tax code caused many families to miss out.<sup>247</sup> Instituting a UCB would ensure that every family receives help to meet the expenses of raising children. While its cost would be high, the benefits of reducing child maltreatment, promoting children's development and well-being, and ensuring Americans can afford to have the families they desire would far outweigh them.<sup>248</sup> Congress should institute a UCB to make child poverty a historical relic, ushering in a more prosperous and more just era for the nation.

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245. *E.g.*, HAIDER, *supra* note 63.

246. Dylan Matthews, *The Big Drop in American Poverty during the Pandemic, Explained*, VOX (Aug. 11, 2021, 8:00 AM), <https://www.vox.com/22600143/poverty-us-covid-19-pandemic-stimulus-checks>.

247. Parolin et al., *supra* note 7, at 7.

248. *E.g.*, Garfinkel et al., *supra* note 186, at 38.