THE ROLE OF BUSINESS AND GOVERNMENT IN THE PROVISION OF CHILD CARE ASSISTANCE: A COMPARATIVE ANALYSIS OF THE UNITED STATES AND CANADA

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1. INTRODUCTION

To most U.S. and Canadian citizens, work and family represent the two most important and defining aspects of one's life. For years, however, the realms of the marketplace and the home occupied two distinct and separate spheres. Today, due to drastic changes in the composition of the U.S. and Canadian workforces, the once rigid boundary between these two spheres has dissolved. In response, the business community must now begin to accommodate these social changes and assist employees in integrating the worlds of work and family. For employers across North America, the first step in this direction is to create a comprehensive child care policy in cooperation with the U.S. and Canadian governments.

Canada provides an interesting contrast to the United States in terms of child care policy. Workforces in both countries have undergone dramatic changes that have necessitated increased supplies of child care services.1 Despite its broad array of government-sponsored social service programs, Canada, like the United States, has no national child care program.2 A recent government proposal, however, placed Canada on the cusp of

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1 See infra Section 2 for a discussion of demographic trends in the United States and Canada.

2 See infra Section 3.2 for a discussion of the Canadian social security system.
implementing a breakthrough child care assistance policy. Unlike Canada’s national government, the U.S. government has no plans of creating a universal day care system in the near future. In fact, recent trends in Congress and the 1996 presidential campaign have placed existing U.S. child care programs in a precarious position. As for business initiatives, Canadian private employers have started to follow the lead of U.S. corporations in creating innovative solutions to the child care dilemma.

Section 2 of this paper examines the demographic changes in the U.S. and Canadian workforces that necessitate greater government and employer involvement in the development of permanent child care solutions. Section 3 presents an overview of the existing government-sponsored child care programs in Canada and the United States. Section 4 discusses the current status of private employer involvement in the provision of child care services. In addition, Section 4 outlines the various types of assistance programs that employers implement and presents a cost-benefit analysis of these programs. Section 5 argues in favor of holding the government and private employers jointly responsible for providing child care assistance. Finally, Section 6 presents recommendations for instituting a universal system of child care in the United States.

2. RECENT DEMOGRAPHIC CHANGES IN THE U.S. AND CANADIAN WORKFORCES

In both the United States and Canada, changes in the demography of the workplace over the past quarter-century have necessitated the implementation of universal systems of child care. In 1986, participants in a Harvard University seminar for executives from throughout the United States were asked to estimate how many U.S. families consisted of a working husband and a stay-at-home wife. Estimates by the study’s participants ranged

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3 See infra Section 3.2.4. for a discussion of a new Canadian proposal to implement federal child care funding.

4 See infra Section 3.1.4.1.

5 See infra Section 4 for an analysis of private business provision of child care services in the United States and Canada.

6 See Dana E. Friedman, Child Care for Employees' Kids, HARV. BUS. REV., Mar.-Apr. 1986, at 28.
from 40% to 70%. In reality, however, less than 10% of all families in the United States in 1990 resembled this traditional model of the single breadwinner family. In Canada, less than 40% of all families represent this model.

2.1. The Increasing Presence of Mothers of Young Children in the Workforce

In the United States, mothers of young infants represent the fastest growing sector of the workforce. From 1970 to 1988, the number of married mothers in the workforce who had young children increased by 135.5%. The U.S. Bureau of Labor Statistics reported in 1994 that more than half of all mothers with children under the age of one were either working or looking for work. Additionally, a 1993 study revealed that a majority of the women in the marketplace are in their childbearing years and that most of these women will give birth at some point during their working years. In total, 99% of all women in the United States will at some time work for pay.

In Canada, a similar shift in the makeup of the workforce has occurred. The fraction of Canadian mothers in the workforce

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7 See id.
9 See Susan M. Clark, Mothers and Children: Ensuring Acceptable Standards of Living, in CONTINUITIES AND DISCONTINUITIES: THE POLITICAL ECONOMY OF SOCIAL WELFARE AND LABOUR MARKET POLICY IN CANADA 218, 223 (Andrew F. Johnson et al. eds., 1994) [hereinafter Clark, Mothers] (citing a 1988 Nova Scotia study revealing that 61% of married mothers were in the workforce).
13 See COMMITTEE FOR ECONOMIC DEVELOPMENT, WHY CHILD CARE MATTERS: PREPARING YOUNG CHILDREN FOR A MORE PRODUCTIVE AMERICA 3 (1993) [hereinafter CHILD CARE MATTERS].
with young children has increased from 40% in 1976 to almost 70% in 1991. By 1993, 46% of single mothers in Canada with children under six years old had become part of the paid labor force. In 1995, approximately 78% of all Canadian women between the ages of twenty-five and forty-four worked outside the home.

These demographic changes have triggered a demand for child care services that far exceeds the supply of child care programs currently available to working parents. Every day in the United States, an estimated twenty-six million children need day care services. After school, approximately eleven million children return home to empty houses. According to a 1994 survey, 56% of U.S. female working parents with children under the age of five have difficulty finding affordable day care services.

A similar dearth of child care services exists in Canada. In 1991, only 300,000 licensed day care slots were available for the 2.2 million Canadian children whose parents work or study more than twenty hours per week. In one Canadian study, 93% of single mothers and 81% of married mothers reported that difficulty in obtaining child care was a major barrier to finding employment.

2.2. The Cost of Child Care

As a result of the need to work outside the home, many families, whether headed by one parent or two, must spend a large portion of their income on child care. In the United States, child

17 See Margaret Little, Feds Declare War on Women, CANADIAN DIMENSION, Apr.-May 1995, at 5, 6.
19 See Hauth & Humble, supra note 8, at 11.
20 See id.
21 See WOMEN’S BUREAU, supra note 14, at 3.
23 See Clark, Mothers, supra note 9, at 223.
care is the fourth largest expense for working parents at all income levels, after food, housing, and taxes.\textsuperscript{24} with the price of day care for one child as high as $10,000 per year.\textsuperscript{25} Canadian parents pay equally high child care fees, often spending well over $4000 (Canadian dollars) annually for child care services.\textsuperscript{26}

In both the United States and Canada, fees vary depending on the region in which a particular family lives and the age of the child. According to one survey, the cost of full-time infant day care averages $92.36 a week, and ranges from $150.96 per week in Boston to $60.01 per week in Atlanta.\textsuperscript{27} For full-time care of toddlers, the price drops to an average of just over $82 per week and further decreases to $70.44 per week for preschoolers.\textsuperscript{28} Canadians living in Toronto can expect to spend an average of $127 (Canadian dollars) per week, while residents of Victoria, British Columbia pay fees averaging $70 (Canadian dollars) per week.\textsuperscript{29}

The cost of child care hits poor and single parent families hardest. In most cases, families with the lowest incomes must spend the highest proportions of their incomes on child care.\textsuperscript{30} For example, in the United States, families who earn less than $15,000 annually might spend up to 25\% of their income on child care.\textsuperscript{31} Single mothers often spend more than twice as much of their income on child care as do two-parent families.\textsuperscript{32}

\textsuperscript{24}See CHILD CARE MATTERS, supra note 13, at 2 (citing ELLEN GALINSKY & DANA FRIEDMAN, EDUCATION BEFORE SCHOOL: INVESTING IN QUALITY CHILD CARE 15 (1993)).

\textsuperscript{25} See CARNEGIE TASK FORCE ON MEETING THE NEEDS OF YOUNG CHILDREN, STARTING POINTS: MEETING THE NEEDS OF OUR YOUNGEST CHILDREN 56 (1994) [hereinafter STARTING POINTS].


\textsuperscript{27} See Deborah A. Phillips, Comments on "Public Policy and the Supply of Child Care Services" — A Developmental Psychologist's Perspective, in THE ECONOMICS OF CHILD CARE, supra note 11, at 79, 80.

\textsuperscript{28} See id.

\textsuperscript{29} Linda Kay, Some Respect and a Pay Raise for Day Care, CHI. TRIB., July 31, 1994, § 6, at 1, 9.

\textsuperscript{30} See STARTING POINTS, supra note 25, at 56.

\textsuperscript{31} See id. (noting that this figure is equivalent to what many families spend on housing).

\textsuperscript{32} See id. In 1990, one out of five children lived in single parent homes. See CHILD CARE MATTERS, supra note 13, at 5. By 1993, women headed over 96\% of these families. See id.
More affordable and available child care is necessary because most women in the United States no longer have the luxury of choosing not to work. The majority of women in the marketplace do not work merely for “creative, intellectual, and professional fulfillment,” but rather for economic reasons. In fact, the U.S. Women’s Bureau reported in 1985 that the vast majority of women work due to economic necessity. As of March 1985, approximately two-thirds of the women in the U.S. workforce were single, widowed, divorced, separated, or married to men earning less than $15,000 a year. According to data from the 1990 Census, the average annual income for working single mothers was $13,092, an amount “barely sufficient to raise a family of three out of poverty.” In 1991, 56% of families headed by single mothers lived in poverty.

A high divorce rate and deep cuts in federal family assistance spending have similarly led Canadian women to join the paid labor force for economic reasons. Canadian women living in poverty make up a disproportionately higher percentage of their gender than do poor Canadian men. In addition, single mothers remain the most “poverty prone” group in Canada, with 62% living below the poverty line. A study of seven industrialized nations ranked Canada as one of the worst in terms of

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34 See Christine A. Clark, Comment, Corporate Employee Child Care: Encouraging Business to Respond to a Crisis, 15 FLA. ST. U. L. REV. 839, 842 (1987) [hereinafter Clark, Corporate] (discussing the role of Florida corporations and the Florida state government in the provision of child care services).

35 See id.

36 Hearing Before the Subcomm. on Human Resources of the House Comm. on Ways and Means to Consider Proposals to Strengthen Child Support Enforcement Programs, 104th Cong. 31 (1995) (statement of David T. Ellwood, Assistant Secretary for Planning and Evaluation, Dep’t of Health and Human Services).

37 See id.

38 See Tyler Marshall, A World of Pressures on Parents, Children, L.A. TIMES, July 18, 1995, at 8 (stating that as of 1990, there were over 38 divorces for every 100 marriages in Canada).

39 See infra Section 3.2.

40 See Little, supra note 17, at 5.

41 Id. As of 1986, single parent families accounted for almost 13% of all families in Canada. See Clark, Mothers, supra note 9, at 220. Eighty-two percent of all single parent families were headed by women. See id.
poverty rates for single mothers. As a result of the sub-standard economic status of single mothers, many Canadian children are suffering from the effects of poverty. As of March 1992, 38% of all Canadian welfare recipients were children under the age of eighteen.

3. THE ROLE OF THE GOVERNMENT IN PROVIDING CHILD CARE ASSISTANCE PROGRAMS

According to one commentator, the three possible sources of child care are working parents, employers, and government. In the United States, however, the cost of child care traditionally has been "absorbed by high parent fees and subsidized by the poverty-level wages of daycare workers — a system that conveniently allows business and government to ignore the economic and social necessity of child care." While this statement still holds true for the most part, through the implementation of an assortment of child care assistance programs, the U.S. government has started to respond to the needs of working parents.

3.1. U.S. Government Child Care Policy and Child Care Assistance Programs

To determine the U.S. government's proper role in providing child care assistance, it is important to first review the history of U.S. child care policy and the existing government-sponsored child care programs. For years, the policy of the U.S. government reflected American society's reluctance to define child care as a public responsibility rather than a personal one. Originally, during the Great Depression supporters of the Social Security

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42 See Little, supra note 17, at 5.
43 NATIONAL COUNCIL ON WELFARE, INCENTIVES AND DISINCENTIVES TO WORK 30 (1993).
46 See supra Section 2.2.
47 See infra Sections 3.1.1-3.1.3.
48 See Amy Kaplan, Putting Families First: Need for a National Family Policy, MOTHERING, June 22, 1993, at 94, 94.
system wanted to include child care allowances for every family in the program.\textsuperscript{49} However, in response to claims that such funding would interfere with family privacy and lead to further government control of family matters, these allowances were not incorporated.\textsuperscript{50}

During World War II, the need for women to work in factories to replace men drafted as soldiers prompted the federal government to encourage employers to provide child care services.\textsuperscript{51} During the war, the government gave businesses matching funds for the creation of day care centers\textsuperscript{52} and, as a result, many employers established on-site nurseries.\textsuperscript{53} When the war ended and men returned to their jobs, the day care centers were closed.\textsuperscript{54}

In the early 1970s, the proposed Comprehensive Preschool Education and Child Care Act\textsuperscript{55} encouraged the development of publicly funded day care programs for the benefit of all working parents.\textsuperscript{56} President Richard Nixon vetoed the bill, claiming that day care "weakens families" and that a family-based view of raising children, rather than a community-based one, was proper.\textsuperscript{57} Senator Walter Mondale, an advocate of government-sponsored child care and a proponent of the bill, was widely denounced "as an enemy of traditional values and the nuclear family."\textsuperscript{58}

3.1.1. \textit{The Child Care and Development Block Grant of 1990}

In 1989, during his first speech to Congress regarding the federal budget, President George Bush declared child care to be

\textsuperscript{49} See id.
\textsuperscript{50} See id.
\textsuperscript{53} See Finley, \textit{supra} note 51, at 137.
\textsuperscript{54} See id.
\textsuperscript{55} H.R. 13,520, 91st Cong. (1971).
\textsuperscript{56} See Finley, \textit{supra} note 51, at 135-36.
\textsuperscript{57} Id.
\textsuperscript{58} Id.
“one of the most important issues facing the Nation.” In apparent recognition of this, congressional legislators proposed more than 170 different child care bills between 1987 and 1990. One such proposal was the 1987 Act for Better Child Care Services (“ABC bill”), which was the backbone of a three-year legislative effort that culminated in the enactment of the Child Care and Development Block Grant Act of 1990 (“CCDBG”).

The Senate passed the ABC bill in 1989. Originally, this bill provided for a system of comprehensive child care assistance programs aimed at making child care more affordable for low and middle-income families, increasing the supply of child care services, and improving the quality of these services. To accomplish these goals, the federal government was to establish a matching grant program under which states could use 70% of the federal funding for grants to low-income families to pay for child care expenses. States were authorized to distribute these grants to the child care providers or to the families in the form of vouchers. In addition, the ABC bill required states to give low-interest loans for the establishment of day care centers, grants to day care providers to help them meet state licensing requirements, and incentives to businesses to provide private child care services for employees. The bill also required states to set minimum quality standards for day care centers, including low student-to-teacher ratios and improved health and safety standards.

One year after the Senate passed the ABC bill, Congress passed the CCDBG, which combined the ABC bill with a similar House bill, as part of the Omnibus Budget Reconciliation Act of

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59 Baker, supra note 10, at 239.
60 See id.
64 See Baker, supra note 10, at 259.
65 See S. 5, § 107(e)(4).
66 See id. § 108(a)(1)-(C). Vouchers are equivalent to payment coupons, which the family would give to the child care provider in lieu of cash. See id.
67 See id. § 107(e)(6)(a).
68 See id. § 107(e)(12).
69 The ABC bill was combined with the Early Childhood Education and Development Act, H.R. 3, 101st Cong. (1989). This bill differed only slightly
1990. However, years of debate over the ABC bill’s provisions, and President Bush’s threat to veto it, resulted in the passage of legislation drastically different from the original version of the bill.\(^7\)

President Bush and Republican members of Congress objected to the original ABC bill on the grounds that it was too expensive and “gave Washington an inappropriate role in providing day care.”\(^2\) As a result, Congress ultimately scaled down the child care legislation to provide only tax credits to families with very low income or children with special needs and grants to states to assist low-income families in paying for child care services.\(^3\) Thus, rather than implementing a large scale program to attack the child care problem from a variety of angles, the final version of the CCDBG legislation addresses only the needs of very poor working parents.

Under the CCDBG, the federal government distributes funds to state governments based on the state’s per capita income, the number of children under age five living in the state, and the number of children in the state receiving free or partially subsidized school lunches.\(^4\) States must use 75% of the federal funding to provide child care services to eligible families on a sliding fee scale, “a system of cost sharing by a family based on income and size of the family.”\(^5\) To be eligible, parents must earn less than 75% of the state’s median income for a similarly sized family and have children under the age of thirteen.\(^6\) In addition, either (1) the parent or parents must be working or attending a job training or educational program, or (2) a child must be in need of protective services and not living with a parent

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70 See Advocates Call on Congress to Pass Child Care Bill This Fall, 1990 Daily Lab. Rep. (BNA) No. 182, at A-6 (Sept. 19, 1990) [hereinafter Advocates Call].
73 See id.
74 See id. § 9858m.
75 Id. §§ 9858f(a), 9858c(3)(B)(i), 9858n(12).
76 See id. § 9858n(4)(A)-(B).
who is not receiving occupational or educational training. Eligible parents have two options: they may either enroll their children with a child care provider who has a contract with or a grant from the CCDBG, or receive certificates that can be used to purchase child care from the provider of their choice.

States must utilize at least 20% of the CCDBG funds to improve the quality of child care and to increase the availability of early childhood development programs and before and after-school child care services. States can use this funding to develop referral programs, to assist child care providers in meeting state and local standards, and to train child care workers and increase their salaries. Despite the dramatic changes from the original ABC bill, Senator Christopher Dodd of Connecticut proclaimed the CCDBG legislation to be a major breakthrough, stating that it was "the first child-care policy in the history of the [United States]."

3.1.2. Other Federal Child Care Assistance Programs

In the United States, no government agency oversees the development and regulation of child care assistance programs. Although the federal government has implemented a "wide variety of... programs that subsidize child care," no "coordinated policy at the federal or state level" exists. As of 1991, over forty-six different federal child care assistance programs provided "grants, services, scholarships, tax benefits and agency-related child care activities." In addition to the CCDBG, the major child care assistance programs are the Social Services Block Grant, the Family Support Act, Head Start, the Child and Dependent Care

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77 See id. § 9858n(4)(C)(i).
78 See id. § 9858c(c)(2)(A)(I)(I). All child care providers who receive funding under the CCDBG must be registered with the state, comply with state and local laws, and satisfy certain health and safety standards. See id. § 9858c(c)(2)(E)(I)-(II).
79 See id. § 9858c(c)(2)(A)(I)(II).
80 See id. §§ 9858e, 9858f.
81 See id. § 9858e.
83 See Baker, supra note 10, at 240.
84 Robins, supra note 11, at 14.
85 Id. at 16.
Tax Credit,\textsuperscript{86} and the Dependent Care Assistance Program.\textsuperscript{87}

The Social Services Block Grant ("SSBG"), authorized under Title XX of the Social Security Act of 1976,\textsuperscript{88} allocates federal funds to states to support social service programs for low and middle-income families.\textsuperscript{89} In 1992, the federal government granted approximately $2.6 billion in SSBG funding to thirty states.\textsuperscript{90} The federal government places few restrictions on the use of the grants,\textsuperscript{91} and the states using the grants reported spending approximately 15.3\% of the funding on child care services.\textsuperscript{92} Child care programs funded under the SSBG must meet state and local standards.\textsuperscript{93}

The Family Support Act of 1988 ("FSA") provides child care assistance programs for "needy children and parents . . . to avoid long-term welfare dependence."\textsuperscript{94} Under the FSA, states must guarantee child care to any recipient of Aid to Families with Dependent Children ("AFDC") if child care is necessary for the parent to become employed, retain employment, or participate in an approved education or training program.\textsuperscript{95} The FSA also mandates that states provide child care assistance, for a transitional period of time, to families who stop receiving AFDC due to increased income from work or an increase in the number of hours that a parent works.\textsuperscript{96} In addition, AFDC has its own "Child Care Disregard" system, under which the federal government reimburses recipients for child care payments of up to $200

\textsuperscript{86} See infra Section 3.1.3 for a discussion of the Child and Dependent Care Tax Credit.

\textsuperscript{87} See infra Section 4.3.4 for a discussion of the Dependent Care Assistance Program.

\textsuperscript{88} See Baker, supra note 10, at 254.


\textsuperscript{90} CHILD CARE MATTERS, supra note 13, at 60.

\textsuperscript{91} In 1981, the federal government abolished the requirement that states receiving grants spend a fixed percentage of the funding on child care programs. Baker, supra note 10, at 254. As a result, many states spent less on child care in 1987 than they did in 1981. See id.

\textsuperscript{92} See CHILD CARE MATTERS, supra note 13, at 60.

\textsuperscript{93} See id.


\textsuperscript{95} See CHILD CARE MATTERS, supra note 13, at 60.

\textsuperscript{96} See id. In order to obtain this type of assistance, families must have received AFDC in at least three of the previous six months. See id.
per month for a child under the age of two years, and $175 per month for a child over two.\footnote{97}{See Baker, supra note 10, at 255-56.}

The Head Start program distributes grants from the Department of Health and Human Services to various schools, public agencies, and nonprofit groups for the provision of "nutrition, learning, and health services to low-income children."\footnote{98}{Id. at 255. Head Start targets children from the ages of three to five. See CHILD CARE MATTERS, supra note 13, at 61.} To receive funding, 90% or more of the children in a Head Start program must come from families with incomes at or below the state poverty line.\footnote{99}{See CHILD CARE MATTERS, supra note 13, at 61.} Groups receiving Head Start funding must also reserve 10% of the available slots for children with disabilities.  

3.1.3. The Child and Dependent Care Tax Credit

The federal government's most extensive child care assistance program\footnote{100}{See id.} is the Child and Dependent Care Tax Credit.\footnote{101}{See Baker, supra note 10, at 252.} This credit allows taxpayers to subtract a percentage of the money they spend on child care from their overall tax liability.\footnote{102}{See I.R.C. § 21(a) (1996).} The amount of the credit, which ranges from 20% to 30% of child care expenses, is determined by the amount of the taxpayer's expenses and the taxpayer's adjusted gross income ("AGI").\footnote{103}{See id. Parents must meet certain criteria before they are eligible to receive the benefits of the Child and Dependent Care Tax Credit. For example, an eligible parent must maintain a household for a "qualifying individual," which includes a child under thirteen for whom the parent can claim a dependency exemption. I.R.C. §§ 21(a)(1), 21(b)(1)(A). The taxpayer must also incur employment-related expenses, which include expenses that "enable the taxpayer to be gainfully employed." I.R.C. §§ 21(a)(1), 21(b)(2)(A).} The Child and Dependent Care Tax Credit successfully helps many families reduce child care expenses. Since the credit does not involve the use of federal grants, the government has not placed a cap on the number of families who can receive its...
benefits. The tax credit also allows parents flexibility as it does not restrict the type of child care service a parent may choose for his or her children. In addition, unlike social programs which depend on federal funding, tax credits are not subject to annual appropriation analyses.

The U.S. government's reliance on the tax credit as a primary source of child care assistance, however, has been criticized on many levels. The Child and Dependent Care Tax Credit does nothing to improve the availability or quality of child care services. Moreover, the tax credit applies only after the child care expenses have been paid and thus does not reduce the high fees parents must pay up front. Many low-income families who do not earn enough money to pay taxes receive no relief from the tax credit. As a result, the Child and Dependent Care Tax Credit may be of no help to families in the greatest need of child care assistance.

Other criticisms focus on the limit placed on creditable child care expenditures. The Child and Dependent Care Tax Credit limits eligible expenses to $2400 for one child and $4800 for two or more children. The tax credit cap for one child, however, is lower than the average cost of day care for one child, which ranges from $3000 to $5000 per year. Furthermore, these caps have not been adjusted for inflation in fifteen years. As of 1992, with proper inflation adjustments, the limit should have been raised to $3706 for one child and $7411 for two or more children. In addition, the government has never set forth a justification for its failure to increase the cap for families with

105 See Baker, supra note 10, at 253.
106 See id.
107 See id.
108 See Kathleen A. Murray, Child Care and the Law, 25 SANTA CLARA L. REV. 261, 290-91 (1985) (stating that the Child and Dependent Care Tax Credit is "[t]he single largest public subsidy for child care").
109 See Baker, supra note 10, at 253.
110 See id.
111 See id. at 253-54.
112 See I.R.C. § 21(c).
113 See Baker, supra note 10, at 254.
115 See id.
three or more children. One commentator has noted that the refusal to raise the limit on expenditures for a third child "is a strange place for Congress to be so stingy." The dependency exemption in the Internal Revenue Code allows parents to deduct $2000 for each child regardless of how many children they have and thus treats children as a "given" rather than as a personal consumption choice. According to one commentator, if Congress was consistent in its reasoning, then work-related child care costs would be deductible as business expenses.

3.1.4. Recommendations for Increased U.S. Government Involvement in the Provision of Child Care Assistance Programs

Reviewing the programs together, it is clear that existing government-sponsored child care policies fail to meet the needs of all working parents in the United States. With the exception of the Child and Dependent Care Tax Credit, the programs focus on low-income families and recipients of welfare. As a result, a large group of middle-income families must struggle to balance work and child care without government assistance. To rectify this situation, the U.S. government must strive to create a more comprehensive child care policy. Although the recent reelection of President Clinton promises a White House that will continue to support child care funding, the Republican-controlled Congress could jeopardize any such funding.

3.1.4.1. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996

President Clinton has been an outspoken advocate of government-sponsored child care programs. In his 1996 State of the Union address, Clinton acknowledged the need for the

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116 Cf. id. at 413-14 (speculating on possible explanations).
117 Id. at 414.
118 See I.R.C. § 151(d) (1996). The code also includes a phaseout of this exemption for high-income taxpayers. See id.
119 Zelenak, supra note 114, at 409.
120 See id. at 410.
government to help working mothers with child care costs. The President also indicated that he would be opposed to any welfare reform bill that forced parents to work but failed to provide child care assistance.

On August 22, 1996, Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act, new welfare reform legislation which will provide $14 billion for child care over the next seven years, a $4 billion increase in child care funding. At the signing of the bill, Clinton noted that the increased child care funding was "good because without the assurance of child care it's all but impossible for a mother with young children to go to work." Critics of the new welfare reform law, however, fear that it will negatively impact child care and, in fact, create an even greater need for child care services. As a result, what Clinton has labelled as an increase in child care funding may actually amount to "fewer dollars to care for far more children."

In contrast to the Clinton Administration's support for child care programs, many Republicans in Congress oppose federally funded child care entitlement programs. Former Senator and 1996 Republican Presidential candidate Bob Dole did not set aside any funds for child care in his proposed welfare reform legislation. In addition, Republicans in the House of Representatives, led by Speaker Newt Gingrich, have proposed cutting federal child care

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122 See id.
125 Id.
126 See Claudia Wayne & Marcy Whitebook, The Coming Child-Care Debacle, CHRISTIAN SCIENCE MONITOR, Aug. 30, 1996, at 18. According to these commentators, the welfare reform bill will result in "a system of low-quality care that undermines children's development." Id.
127 Id. President Clinton has noted that the new law is "far from perfect" and that "it's conceivable we could run out of child care money." Remarks, supra note 125. However, he explains that running out of child care funds would be a "high-class problem" because it would indicate that many welfare recipients had found employment. Id.
funding by $2.5 billion over five years.  

A series of recent surveys, however, have indicated that voters in the United States seek a greater governmental role in the provision of child care. In 1994, the Women’s Bureau of the U.S. Department of Labor administered a survey to over 250,000 working women across the United States. The “number one issue” the respondents wanted to bring to the President’s attention was “the difficulty of balancing work and family obligations.” The women surveyed reported that problems with child care were “deep and pervasive, affecting families across the economic spectrum.” For example, 56% of women with children age five and under responding to the survey indicated that finding affordable child care was a serious problem.

A recent study conducted by political science researchers at the University of Texas revealed similar results. In this poll of 459 randomly selected Texans, 57% of the respondents asserted that more government help with child care was needed. Most of the respondents in a 1995 Massachusetts Mutual Life Insurance Company survey of 1000 U.S. adults did not agree that working parents should be “solely responsible for funding child care.” Almost half of the respondents agreed that other entities such as government, employers, and churches were proper sources of child care funding. When the respondents were asked which groups should fund child care programs in their own communities, 27% selected the federal government, 33% the state government, and 27% their local government. In addition, two out of three respondents agreed that the U.S. government has a responsibility to “help improve the quality of family life by

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130 See WOMEN’S BUREAU, supra note 14, at 1.
131 Id. at 2.
132 Id.
133 See id. at 3.
135 Americans’ Wish List for this Election Year: Less Political Talk — More Action on Values, Bus. Wire, Nov. 25, 1995, available in LEXIS, Nexis Library, Curnws File. Only 21% of the respondents agreed that working parents should carry the full burden of child care costs. Id.
136 See id.
137 See id.
providing tax incentives to corporations to encourage them to provide . . . day care centers to their employees.\textsuperscript{138}

In apparent agreement with the respondents to these surveys, many commentators have proposed recommendations for increased U.S. government involvement in the provision of child care. Increased federal legislation concerning child care would potentially "send many Americans back to work, remov[e] them from welfare rolls, increas[e] tax revenues, and inject[ ] life into a shrinking labor pool."\textsuperscript{139} To meet these goals, one pundit recommends that the government create a National Child Care Office to oversee the development and regulation of child care programs and to establish and administer a separate funding system for child care assistance.\textsuperscript{140} Additionally, the child care tax credit should be maintained and the "cap on annual expenditures should be raised to reflect current market realities and the need to pay high salaries to caregivers."\textsuperscript{141} Moreover, direct expenditures could be increased through expansion of the Head Start program and payment of subsidies to parents on a sliding fee scale.\textsuperscript{142} Another commentator suggests a more novel approach, the development of a system of government loans to assist families in the payment of child care expenses.\textsuperscript{143} These loans would be paid back over the duration of the parent’s career.\textsuperscript{144}

Federal, state and local governments in the United States could increase the supply of child care services by supporting the use of

\textsuperscript{138} Id. Seventy-three percent of the 1,011 adults surveyed in a 1996 CNN/Time Magazine poll agreed that the federal government should provide tax incentives to U.S. corporations that invest in child care. See CNN/Time: Majority Would Cut Aid to Illegal Immigrants, Health Line, May 13, 1996, available in LEXIS, News Library, Curnws File.

\textsuperscript{139} Advocates Call, supra note 69, at A-6.

\textsuperscript{140} See Reisman, supra note 33, at 497-98. This separate funding mechanism is necessary to “ensure a stable source of funds, safe from the vagaries of politics.” Id. at 497. Although further research into “appropriate financing alternatives” for child care programs is necessary, funding could potentially come from “general tax revenues or a separate Social Security-like trust fund.” Id. at 497-98.

\textsuperscript{141} Id. at 498.

\textsuperscript{142} See id. at 498-99.


\textsuperscript{144} See id.
public schools for day care programs,\textsuperscript{145} providing free or inexpensive space for child care centers, or changing tort laws to reduce insurance premiums for child care centers.\textsuperscript{146} Many states and municipalities have enacted restrictive land use ordinances that ensure an increased supply of child care spaces by requiring developers to reserve room for child care centers in their office buildings.\textsuperscript{147} In the alternative, the developers can pay a set fee to a city or state fund for the creation of affordable child care.\textsuperscript{148} Such ordinances will not prohibit developers from undertaking projects since the construction cost can be shifted to the building's corporate tenants.\textsuperscript{149}

The U.S. federal government could improve the quality of child care services by using licensing requirements to set minimum standards.\textsuperscript{150} In addition, federal funds could be used to provide training for child care workers.\textsuperscript{151} If the government lowered the age at which children can attend public school, teacher unions might be more likely to view day care workers as teachers and offer them membership, thus permitting them to receive higher salaries.\textsuperscript{152} As a result, child care could become a government-provided service, similar to public education or police protection.\textsuperscript{153} Such a government-sponsored program, however, would merely provide an option for working parents, and would not preclude the use of privately run child care facilities.

The U.S. federal government could also choose to place some of the responsibility for child care on employers. The government could subsidize employers who provide child care assistance to employees, or enact "laws mandating a worktime day care system."\textsuperscript{154} Requiring an employer to provide child care would

\textsuperscript{145} See Reisman, supra note 33, at 500.
\textsuperscript{146} See Liebman, supra note 143, at 360.
\textsuperscript{147} See Caplan, supra note 18, at 1593.
\textsuperscript{148} See id.
\textsuperscript{149} See id. at 1593 n.24.
\textsuperscript{150} See Reisman, supra note 33, at 499.
\textsuperscript{151} See Liebman, supra note 143, at 360.
\textsuperscript{152} See id. at 362. According to 1991 statistics, day care workers in the United States earn an average of $11,800 per year, while in Canada child care workers earn an average of $14,800 (U.S. dollars) annually. Kay, supra note 29, at 9.
\textsuperscript{153} See Liebman, supra note 143, at 365.
\textsuperscript{154} Lofaso, supra note 44, at 490.
not differ much from requiring employers to pay "taxes to establish worker participation in the Social Security system" or to provide other fringe benefits. Alternatively, the government could require employers to pay fees to insurance companies that would be used to cover the cost of child care when such services are used by employees. Instead of requiring employers to pay directly for day care expenses, the government could mandate higher wages for parents of children age five or younger. Eligibility for higher wages could be limited to parents who pay for child care and use licensed child care providers.

3.1.5. Arguments Against U.S. Government Involvement in the Provision of Child Care Services

Opposition to the involvement of the U.S. federal government in the provision of child care services usually is limited to three arguments. First, opponents assert that a federal child care program would interfere with the rights of working parents to choose their own type of day care service. Second, opponents argue that federally funded day care would lead to the destruction of the traditional American family. Proponents of this argument believe that, by allowing women to hold jobs in the marketplace rather than stay at home, a national child care system would reward the choice to work outside the home. As a result, such a system would weaken the role of the traditional nuclear family as the sole caretaker of children and replace it with a concept of communal responsibility for childrearing. Finally, opponents believe that states, rather than the federal government, are better suited to create viable child care programs.

155 Liebman, supra note 143, at 374 n.50.
156 See id. at 374.
157 See id. at 376.
158 See id. at 375.
159 See id.
160 See Baker, supra note 10, at 242.
161 See id. at 242-43.
162 See id. at 243. Proponents of this view "contend that a woman's primary role is as a wife and mother." Id.
163 See id.
and regulations.\textsuperscript{164}

3.2. Child Care Programs Sponsored by the Canadian Government

In 1992 and 1993, the United Nations Human Development Index ranked Canada as "the most desirable place in the world to live."\textsuperscript{165} Canada may have received the top spot in part because the Canadian federal government, unlike the U.S. government, provides its citizens with a broad social assistance safety net.\textsuperscript{166} The comprehensive system of social benefits allotted to Canadians includes an income security system that operates in conjunction with provincial and municipal governments.\textsuperscript{167} This system provides assistance in the form of tax credits and direct expenditures to the elderly, the unemployed, and families with children.\textsuperscript{168} Through its income security programs, the Canadian government also makes large contributions to funding for postsecondary education and health care.\textsuperscript{169} Despite all of its social programs, however, Canada, like the United States, lacks a universal system of child care.\textsuperscript{170}

Recently, as the result of regular budget deficits and a rapidly increasing national debt,\textsuperscript{171} the federal government and advocates of more conservative spending policies have begun to question the continued viability of Canada's costly social security system.\textsuperscript{172}

\textsuperscript{164} See id.

\textsuperscript{165} Michael S. Serrill, \textit{A Nation Blessed, A Nation Stressed}, \textit{TIME}, Nov. 20, 1995, at 20.

\textsuperscript{166} See \textit{Introduction} to \textit{SOCIAL WELFARE POLICY IN CANADA: HISTORICAL READINGS} 1, 7 (Raymond B. Blake & Jeff Keshen eds., 1995). This system of social assistance programs costs the Canadian government almost $130 billion annually. \textit{Id}.


\textsuperscript{168} See id.

\textsuperscript{169} See id.

\textsuperscript{170} See \textit{Gender Politics}, \textit{supra} note 22, at 3 (noting that the only time Canada had a national child care program was during World War II).

\textsuperscript{171} See J.L. Granatstein, \textit{Foreword} to \textit{SOCIAL WELFARE POLICY IN CANADA: HISTORICAL READINGS}, supra note 166, at v. At present, Canada's federal government has a national debt of $407 billion (U.S. dollars) which demands annual repayments of $30 billion. See Serrill, supra note 165, at 20.

\textsuperscript{172} See \textit{Introduction} to \textit{SOCIAL WELFARE POLICY IN CANADA: HISTORICAL READINGS}, supra note 166, at 7.
Throughout Canada, there is "widespread fear that if the social security system is not reformed, it may collapse."\textsuperscript{173} In response to this fear, Canada's federal government has started to make deep cuts in spending for the universal unemployment insurance program and other mainstays of the social security system.\textsuperscript{174} For example, the federal government recently abolished the Canada Assistance Plan ("CAP").\textsuperscript{175} CAP, first introduced in 1966, provided "unlimited 50/50 cost-funding between the federal and provincial governments" for social assistance programs.\textsuperscript{176} Effective April 1, 1996, the federal government replaced CAP with the Canada Health and Social Transfer program.\textsuperscript{177} Under this program, which grants each province a lump sum to spend as it wishes on "health, welfare, and higher education," federal spending will be reduced by $1.5 billion (U.S. dollars).\textsuperscript{178}

The provincial governments have also begun to make sweeping cutbacks in social services spending. In June 1995, voters in Ontario, Canada's wealthiest and most populous province, elected Mike Harris, a premier who ran on an anti-government platform and is known as the "Newt [Gingrich] of the North."\textsuperscript{179} Immediately upon his election, Harris vastly reduced social service spending, cutting welfare payments by 22%, reducing kindergarten subsidies, laying off civil servants, and eliminating job training

\textsuperscript{173} Id. at 1.


\textsuperscript{175} See Notes for an Address by the Honourable Douglas Young, Canada NewsWire, Sept. 23, 1996, \textit{available in} LEXIS, News Library, Curnws File [hereinafter Notes].

\textsuperscript{176} See Little, supra note 17, at 7. Most of the programs funded under CAP were directed at low-income families. \textit{See id.} In 1994, CAP provided assistance to over 3.3 million Canadians and was instrumental in establishing national standards for social service programs. \textit{See id.} One such standard required that social assistance "be available to all those in need regardless of why they are in need." \textit{Id.}


\textsuperscript{178} Serrill, supra note 165, at 20. Despite the "sizable reduction in federal transfer payments to the provinces," the Canada Health and Social Transfer has a "cash floor" which guarantees that the provinces will receive "at least $11 billion each year." Notes, supra note 175; Janigan & Fulton, supra note 177, at 16.

\textsuperscript{179} Anne Swardson, \textit{More Powers to the "Newt of the North"}, WASH. POST, Jan. 30, 1996, at A11. A poll revealed that more Ontario voters would vote for Harris in January 1996 than did during the June 1995 election. \textit{See id.}
programs. Overall, Harris is expected to reduce spending by over $1 billion (Canadian dollars). Because Harris's Progressive Conservative Party controls the Ontario legislature, he encounters no opposition to the implementation of his budget and tax reduction programs.

Ralph Klein, described by one commentator as “Alberta's budget-cutting premier,” was elected in 1993 “on a promise of government downsizing.” Since 1993, Klein has reduced government spending in Alberta by $3.3 billion (Canadian dollars) “by chopping a third of the public service, shutting hospitals, removing thousands from welfare and privatizing anything that could be operated by the business sector.” Nova Scotia has also adopted the Harris/Klein tactic of reducing government spending by slashing social service programs. John MacEachern, Nova Scotia’s Community Services Minister, recently announced a plan to cut back welfare benefits, reduce grants to homeless shelters, and increase the cost of day care. Even in British Columbia, known for having one of the “more liberal provincial governments,” the government is planning to lay off workers and tighten welfare rules.

3.2.1. The Impact of Budget Cuts on Federal and Provincial Child Care and Family Assistance Programs in Canada

Throughout the 1990s, Canadians have debated the issue of whether to implement a universal system of child care. In

180 See id.
182 See Swardson, supra note 179, at A11.
185 Id.
187 See id.
189 See JOHN A. CRANE, DIRECTIONS FOR SOCIAL WELFARE IN CANADA 70 (1994).
both 1991 and 1992, however, the federal government decided to indefinitely postpone the creation of a "national day care service program." \(^{190}\) Recently, the federal government slashed Canada's major family assistance programs. Before 1993, every Canadian family, regardless of its income level, received an annual allowance from the government for each child born into that family. \(^{191}\) Families earning less than $18,000 (Canadian dollars) per year were also eligible for a $200 refundable child tax credit. \(^{192}\) In 1993, federal family allowances and the child tax credit were replaced with a child tax benefit paid monthly to low and middle-income families with children under the age of eighteen. \(^{193}\) Overall, Canadian families enjoy less income support today than they did ten years ago. \(^{194}\)

3.2.2. The Canadian Income Tax Act

Federal budget cuts have not affected the Canadian Income Tax Act ("CITA"). CITA allows working parents to take personal deductions for child care expenses. \(^{195}\) Canadians who work outside the home can deduct $5000 (Canadian dollars) per year for each child under five years of age and $3000 per year for each child over five years of age. \(^{196}\)

In the recent Canadian Supreme Court case *Symes v. Canada*, \(^{197}\) the plaintiff, a female attorney, argued for the right to deduct the entire amount of her child care expenses under the general business expense provision of the Canadian tax code. \(^{198}\) A lower court upheld this right, claiming that even though the

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\(^{190}\) *Id.*

\(^{191}\) *See* EDWARD F. ZIGLER & MARY E. LANG, CHILD CARE CHOICES 220 (1991). Families applied for the allowance, which was taxable as income, at the hospital when their baby was born. *See id.* Parents of adopted children applied at local Income Security Program offices. *See id.* The allowances were paid every year until the child's 18th birthday. *See id.*

\(^{192}\) *See* NATIONAL COUNCIL ON WELFARE, *supra* note 43, at 33.

\(^{193}\) *See* *id.*

\(^{194}\) *See* Grace Macaluso, *Year of the Family: Canada Has Abandoned Child-Care Commitment*, WINDSOR STAR, Mar. 17, 1994, at C1.

\(^{195}\) *See* Gram, *supra* note 26, at A4.


\(^{198}\) *See* *id.* at 474.
woman had spent more than $50,000 dollars over three years (for a nanny for two children), such expenses were reasonable business expenses. The Canadian Supreme Court reversed the lower court in a seven-to-two decision. The majority asserted that three sections of the Canadian Income Tax Act preclude the deduction of child care costs as business expenses. The court argued that: (1) section 18(1)(a) of CITA denies the deduction of expenses not made or incurred “for the purpose of gaining or producing income”; (2) section 18(1)(h) prohibits the deduction of “personal or living expenses”; and (3) section 63 already provides personal deductions for child care costs.

The two dissenting justices in Symes (also the only female justices on the Canadian Supreme Court) argued that the majority’s decision violated women’s rights to sexual equality as guaranteed by the Canadian Charter of Rights and Freedoms. According to the dissent, the decision “simply pay[s] lip service to equality” and “privileges businessmen” while continuing to “deny the business needs of businesswomen with children.” The Symes dissent argues that it is “neither equitable nor socially acceptable to force women to bear the brunt of responsibility for child care at the same time that they are denied public means of support for that work.” One commentator notes that the holding in Symes is “absurd” when “golf club fees, business lunches, and yearly passes to sporting events are routinely and legally written off as business expenses.” Nevertheless, the Symes decision bars certain working parents from legally claiming that child care costs are legitimate or direct costs of employment.

199 See id. at 515-16.
200 See id. at 471.
201 See id.
202 Id.
203 Id.
204 See id.
205 See Symes, 110 D.L.R. 4th at 506; Bindman, supra note 196, at A3.
206 Symes, 110 D.L.R. 4th at 506.
207 Gender Politics, supra note 22, at 3.
208 Id.
209 See id.
3.2.3. **Provincial Child Care Programs**

Canada's ten provincial governments play a large role in the provision of child care. For years, provincial governments have been active in regulating and promoting the development of child care centers and family day care arrangements. Recent budget cuts in the provinces, however, have led to reduced spending for child care programs.

For example, in February 1994, Ontario was on the brink of instituting a universal day care system. Under the proposed system, the Ontario government would have provided every working parent equal access to the 124,000 child care slots available in child care centers throughout the province. In addition, the government had planned to offer subsidies to low-income parents. With the election of Mike Harris, however, working parents lost all hope of seeing these plans become reality. Recently, child care centers in Toronto closed for one day to protest Harris's pending cuts in child care spending.

3.2.4. **A Federal Reprieve for Working Parents?**

During the 1993 elections, Canadian Prime Minister Jean Chrétien promised to create a national child care program and to commit $720 million (Canadian dollars) over three years to create

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210 See Kay, supra note 29, § 6, at 9. The government of Quebec, for example, provides a Parental Wage Assistance Program for low-income working parents. See NATIONAL COUNCIL ON WELFARE, supra note 43, at 35. Under this program, parents receive "up to 33 percent of net earnings and additional sums to defray the cost of child care and housing." Id.

211 See Kay, supra note 29, § 6, at 9. Many provinces formerly provided start-up costs for child care centers to increase the availability of child care for working parents. See id. In Ontario, the government mandated that any school built in the province had to include space for child care. See ZIGLER & LANG, supra note 191, at 204.

212 See Jim Fox, Seniors May Pay More Tax, ST. PETERSBURG TIMES, Feb. 20, 1994, at 20A.

213 See id.

214 See id.

215 See supra Section 3.2.

216 See Schuettler, supra note 181.
150,000 new child care slots for preschoolers.\textsuperscript{217} Since that time, federal funding for child care has been in a state of flux.\textsuperscript{218} The 1994 federal budget originally provided $120 million (Canadian dollars) for the development of new child care centers in 1995-1996 and $240 million for 1996-1997.\textsuperscript{219} This funding, however, eventually disappeared from the federal budget.\textsuperscript{220} In fact, the 1995 budget failed to include any provisions for the development of new child care programs.\textsuperscript{221}

Many commentators have lamented that, despite his promises to do so, Chretien has not made "a universal child care system a key element in [the] economic revitalization" of Canada.\textsuperscript{222} On December 13, 1995, however, Chretien's government renewed its commitment to federal day care funding.\textsuperscript{223} On that date, Human Resources Development Minister Lloyd Axworthy pledged $720 million (Canadian dollars) in federal funding to improve the child care system in Canada.\textsuperscript{224} As part of this program, the government would give $630 million (Canadian dollars) over the next three to five years to the Canadian provinces and territories on a cost-shared basis.\textsuperscript{225} Native Canadians would receive $72 million (Canadian dollars) over three years to build up to 6000 child care areas on reservations throughout Canada and $36 million annually in followup funds.\textsuperscript{226} The government would set aside $18 million (Canadian dollars) for

\begin{itemize}
\item \textsuperscript{217} See Linda Goyette, \textit{Child Care: It Requires A Long Memory}, WINDSOR STAR, June 12, 1996, at A6.
\item \textsuperscript{218} See \textit{Libs Break Promise to Kids}, Canada NewsWire, Mar. 28, 1995, \textit{available in LEXIS}, Nexis Library, Curnws File [hereinafter \textit{Libs Break}].
\item \textsuperscript{219} See id.
\item \textsuperscript{220} See id.
\item \textsuperscript{221} See \textit{News in Brief}, CHI. TRIB., Mar. 12, 1995, at 8.
\item \textsuperscript{222} \textit{Gender Politics}, supra note 22, at 3. See also \textit{Libs Break}, supra note 218 (stating that the federal government's "promise of expanded child care has vanished"); \textit{News in Brief}, supra note 221, at 8 (noting that "[h]opes for a national child-care program in Canada have been dashed"); Little, supra note 17, at 8 (commenting that "affordable child care continues to be a dream rather than a reality for most Canadians"); Clark, \textit{Mothers}, supra note 9, at 226 (stating that the Canadian government has failed to give whole-hearted support for increased day care facilities).
\item \textsuperscript{224} See id.
\item \textsuperscript{225} See id.
\item \textsuperscript{226} See id.
\end{itemize}
research and development and $1.6 million (Canadian dollars) for the establishment of a national clearinghouse and resource center for child care providers and working parents. Provinces were to review the proposal and provide responses to Axworthy by January 1996.

While unveiling the new proposal, Axworthy claimed that federal funding for child care is necessary because "[c]hild care is an ... essential tool [in] the government's job and growth agenda." One child care advocate commended the plan for displaying both "flexibility and vision." Unfortunately, the funds set aside for the latest child care proposal have once again disappeared. Although several provinces were enthusiastic about the plan, others balked at the matching funds provision and were concerned that the federal government was infringing upon provincial jurisdiction. In a major retreat from its December 1995 proposal, the federal government has recently offered to spend approximately $250 million (Canadian dollars) over three years as an "employment tool" to help parents pay for child care and remain in, or return to, the workforce.

In the United States, great debate exists as to whether the government should be involved in the provision of day care services. In contrast, the Canadian debate centers not on whether the government will become involved, but rather on when the government finally will assume its proper role in providing universal access to day care. A July 1996 poll by Insight Canada Research reveals that two-thirds of Canadians are in favor of a national child care program.

While the government has come close to attaining this goal and granting a reprieve to Canadian

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227 See id.
228 See id.
229 Id.
230 Last Chance for Day Care?, Canada NewsWire, Dec. 14, 1995, available in LEXIS, Nexis Library, Curnws File. Another child care advocate, however, has stated that "flexibility" may lead to piecemeal, rather than comprehensive, programs. Hicks, supra note 223.
231 See Wendy Cox, Money's Disappeared, CALGARY HERALD, June 10, 1996, at A2 [hereinafter Cox, Money].
232 See Wendy Cox, Ottawa Defends Role in Day-Care Program, VANCOUVER SUN, June 11, 1996, at A9.
233 Cox, Money, supra note 231, at A2.
234 See Dave Trigueiro, Compromise Sought for Alberta Day Care, CALGARY HERALD, Aug. 10, 1996, at B3.
working parents, at present the day care dilemma remains unresolved. Child care advocates in Canada have recently pressed for the creation of a task force to "negotiate a solution to the impasse between the federal and provincial governments on a new national child-care program."235

4. THE ROLE OF BUSINESS IN PROVIDING CHILD CARE ASSISTANCE

According to one commentator, "childbearing and rearing are crucially important social functions that are connected to and have major impacts on the work world."236 Until relatively recently, however, most employers have avoided paying for the costs of child care.237 The failure of business to provide child care assistance may stem from the fact that U.S. society traditionally has viewed the worlds of work and family as occupying two separate and distinct realms.238 By defining child care as a woman’s private problem, women were barred from becoming integral members of the workforce and, as a result, male-defined needs and interests came to dominate business norms.239 Today, however, the rising number of women in the workforce240 has forced businesses to confront the issue of child care.

4.1. The Current Status of Employer Involvement in the Provision of Child Care Assistance Programs

Throughout the United States and Canada, major businesses have begun to implement child care packages for their employees. At present, approximately 3500 corporations, out of a total of approximately six million, provide some type of child care

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237 See Finley, supra note 51, at 144.
238 See id. at 143.
239 See Finley, supra note 236, at 1119. For example, the typical work schedule does not accommodate the needs of parents, such as attending school functions, taking children to doctor appointments, and other family errands. See id. at 1126-27.
240 See supra Section 2.1.
assistance to U.S. workers.\textsuperscript{241} Employers most likely to provide child care assistance have specialized or highly trained workers, experience a shortage of employees with specific skills (such as nurses), or require employees to work irregular hours.\textsuperscript{242} For example, of the almost 600 employers that have established on-site child care centers, 400 of them are hospitals, which needed the added incentive to lure nurses into their employ.\textsuperscript{243}

In 1992, 109 American companies joined the American Business Collaboration for Quality Dependent Care, the largest corporate collaboration of its kind.\textsuperscript{244} These companies contributed more than $100 million to the partnership, which will offer funding for child care centers, after school care programs, and training for child care professionals in over fifty locations throughout the United States.\textsuperscript{245} At a White House ceremony in 1995, First Lady Hillary Rodham Clinton and Labor Secretary Robert Reich honored the collaboration for its promotion of family-friendly work policies.\textsuperscript{246} Reich stated that these companies "send an important message that helping workers balance work and family is good for business."\textsuperscript{247} Moreover, according to Reich this business collaboration demonstrates that family and business issues are not always separate and distinct from each other.\textsuperscript{248}

Canadian companies, like the majority of U.S. businesses, often treat work and family as "separate worlds."\textsuperscript{249} However, many Canadian employers are now "paying more attention than


\textsuperscript{242} See id.

\textsuperscript{243} See Clark, Corporate, supra note 34, at 839 n.4 (citation omitted).

\textsuperscript{244} See Peter Pitegoff, Child Care Enterprise, Community Development, and Work, 81 GEO. L.J. 1897, 1936 (1993).

\textsuperscript{245} See White House Honors Firms for Child, Elder Care Policies, 22 Pens. & Ben. Rep. (BNA) No. 43, at 2429 (Nov. 6, 1995).

\textsuperscript{246} See id.

\textsuperscript{247} Id.

\textsuperscript{248} See Janet Fullerton, First Lady Urges U.S. Employers to Adopt Family Friendly Policies, ARK. DEMOCRAT-GAZETTE, Nov. 1, 1995, at 8A.

\textsuperscript{249} Catherine Kirchmeyer, Managing the Work-Nonwork Boundary: An Assessment of Organizational Responses, 48 HUM. REL. 515, 530 (1995).
ever to family issues," and as a result of this change in corporate policy, Canadian parents now can “enjoy previously undreamed-of options.” Two well-respected Canadian corporations, Magna International and Canada Life Assurance, have recently opened on-site child care centers in their office buildings, demonstrating a trend that is beginning to spread across North America. According to one observer, the actions of these corporations reflect a “growing recognition among business leaders of their self-interest in supporting child care.”

4.2. Different Types of Employer-Sponsored Child Care

Employers can become involved in child care assistance in a variety of ways. The easiest provisions to implement are flexible employee policies. These policies include flexible scheduling, such as “flextime,” job sharing, part-time work for parents of young children, and flexible leave provisions for parents of newborns. While these policies reduce the working parent’s need for child care, they do not completely abolish the need for such services.

The most common forms of child care assistance, offered by 40% of large companies, are “resource-and-referral” programs. These programs provide workers with lists of potential child care

251 Id.
254 See id. note 254, at 8.
255 See id.
256 See Julia Lawlor, Bottom Line on Work-Family Programs, WORKING WOMAN, July 1996, at 54. Information and referral services are relatively inexpensive, with costs ranging from $8 to $30 annually per employee. See id.
providers and other resources in their community. Such referral services can be provided by either in-house staff or outside contracted agencies. Often, several businesses join together to create more comprehensive child care referral networks. Since information and referral programs make an array of child care services available to employees, employers can take an initial step by offering them.

Child care reimbursement programs offer assistance which calls for limited employer involvement. Under these programs, the employer can pay child care providers directly or simply reimburse employees who have used day care services. Some employers offer vouchers to their employees as a "direct form of subsidy" for child care costs. In such cases, employers may restrict the type of service workers can use or permit employees to select the type of child care provider. A similar policy allows employees to authorize their employers to set aside a certain amount of their salary for payment of child care costs, which then becomes nontaxable income. These company reimbursement programs are highly responsive to changes in the rate of usage of child care services by employees.

At times, employers opt to sponsor already existing day care services in their communities. In return for providing corporate support or services to these programs, company employees obtain preferential admission status, or free or discounted child care. The corporate funding may serve to extend the hours of the center's operation, add space for new age groups of children, improve the overall quality of the program, or establish transportation services. Other employers choose to organize family day care providers, "neighborhood people who care for up to six

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259 See BURUD ET AL., supra note 254, at 9.
260 See id.
261 See id.
262 See id.
263 Friedman, supra note 6, at 32.
264 See BURUD ET AL., supra note 254, at 9.
265 See id. at 10.
266 See id. at 9.
267 See id. at 10.
268 See id.
children in their homes.\textsuperscript{269} Through funding or “in-kind service donations,” a corporation may ensure cheaper fees for employees or provide additional resources, such as backup child care professionals when the primary provider becomes ill or is otherwise unavailable.\textsuperscript{270} Some corporations may also coordinate family day care centers as “satellites,” or extensions, to their company or community-based child care system.\textsuperscript{271}

4.2.1. On-Site Day Care Centers

Perhaps the most visible form of employer-assisted child care is the establishment of an on-site day care center.\textsuperscript{272} Three main avenues exist for the creation of an employer-sponsored child care center. First, employers can set up the center as a department or subsidiary of the corporation.\textsuperscript{273} Second, employers can contract with an outside firm to operate the center.\textsuperscript{274} Third, employers can form nonprofit organizations to administer the child care center, with a board of directors consisting of the corporation’s representatives.\textsuperscript{275}

Some employers provide limited funds to cover only the initial start-up costs of the center or to partially subsidize the center’s operating costs.\textsuperscript{276} Others provide more extensive funding to cover nearly all of the costs incurred in the creation and operation of the day care site.\textsuperscript{277} Employers can limit enrollment to company employees or open the center to children from the community.\textsuperscript{278} Although the establishment of an on-site center may be the most expensive form of child care assistance, it also provides the company with maximum returns in terms of recruiting new employees, retaining current employees, and

\textsuperscript{269} Friedman, supra note 6, at 29.
\textsuperscript{270} See BURUD ET AL., supra note 254, at 11.
\textsuperscript{271} See id.
\textsuperscript{272} See id. Employees usually pay to use on-site centers “according to a salary-based, sliding-fee scale.” Friedman, supra note 6, at 29.
\textsuperscript{273} See BURUD ET AL., supra note 254, at 10.
\textsuperscript{274} See Friedman, supra note 6, at 29.
\textsuperscript{275} See BURUD ET AL., supra note 254, at 10.
\textsuperscript{276} See id.
\textsuperscript{277} See id.
\textsuperscript{278} See id.
improving the corporation's public image.\textsuperscript{279}

On-site centers provide working parents with the greatest access to their children. Parents can spend lunch hours and other breaks with their children, allowing them to personally administer any necessary medications or otherwise provide for their children's needs.\textsuperscript{280} Child care professionals are nearby and, as a result, parents can readily meet with them to discuss the child's progress and development. Corporations may be able to employ more well-trained and committed child care workers by hiring them as company employees who are eligible for company benefits.\textsuperscript{281}

In addition to the on-site center, corporations may provide special services for employees with newborn, school age, or sick children. Companies are beginning to offer breast-feeding programs and infant nursing areas for lactating mothers.\textsuperscript{282} When children become sick, rather than forcing an employee to miss work to care for the child, some corporations offer on-site infirmaries as adjuncts to on-site child care centers.\textsuperscript{283} Other corporations provide trained and licensed nurses to care for the sick child in the employee's own home.\textsuperscript{284}

Employers offer a range of services for employees with school age children. The "three o'clock syndrome" is a documented business phenomenon in which productivity is sharply reduced and more employee errors are committed during the hour when most children return home from school.\textsuperscript{285} To combat this "syndrome," some companies offer "warm lines" — telephone hotlines for use by children to call their working parents directly and free of charge when they arrive at home after school.\textsuperscript{286} Another company-sponsored program for school age children is the operation of summer day camps on nearby company or

\begin{footnotes}
\footnotetext[279]{See id. at 10-11.}
\footnotetext[280]{See Friedman, supra note 6, at 29.}
\footnotetext[281]{See id.}
\footnotetext[282]{See Mendels, supra note 12, at A74. There is a strong incentive for companies to offer these programs because infants raised on breast milk, as opposed to formula, become sick less often and thereby reduce parent absenteeism. See id.}
\footnotetext[283]{See Friedman, supra note 6, at 29.}
\footnotetext[284]{See id.}
\footnotetext[285]{See id. at 28.}
\footnotetext[286]{See id. at 29.}
\end{footnotes}
community-owned property. These camps are particularly beneficial for divorced parents who only have custody during school vacations, and thus have no regular day care provider.

4.3. Methods to Reduce the Costs of Corporate Child Care Programs in the United States

Despite the benefits of on-site programs, it often is not a feasible or appropriate option for many corporations. The high cost of renting prime office space for child care centers, low numbers of employees who need the service, and varying employee commuting patterns are common reasons why employers may decide against providing on-site services. However, plans to develop corporate-sponsored day care centers or to provide other child care assistance programs should not be dismissed easily in light of the numerous ways to defray the costs. For example, smaller companies could consider providing child care services on a joint basis with other businesses in their area.

4.3.1. Child Care Costs as Deductible Business Expenses

For profit companies may deduct child care expenditures as business expenses when they aim to benefit the company by increasing productivity and thereby reducing employee turnover, absenteeism, and training costs. Noncapital expenditures in the form of employee subsidies, payments to day care providers, or costs incurred in operating a corporate child care center, are normally deductible in the year in which they are incurred. Portions of capital costs, such as funding for the construction of a day care center, are deductible over the course of several years.

\[\text{id.}\]
\[\text{id.}\]
\[\text{id.}\]
\[\text{infra} \text{ Sections 4.3.1-4.3.5.}\]
\[\text{infra} \text{ note 6, at 29.}\]
\[\text{Rev. Rul. 73-348, 1973-2 C.B. 31. The costs would be deductible as "ordinary and necessary" business expenses under Section 162 of the Internal Revenue Code. Id.}\]
\[\text{I.R.C. § 162.}\]
under the Accelerated Cost Recovery System.\textsuperscript{294} The capital costs incurred in constructing an on-site day care center may be eligible for sixty-month rapid amortization if the center is established under a funded welfare plan.\textsuperscript{295} To be eligible, the center must serve the primary purpose of assisting employees, be located on depreciable property, and be located within the United States.\textsuperscript{296}

4.3.2. Voluntary Employees’ Beneficiary Associations

Employers may establish Voluntary Employees’ Beneficiary Associations ("VEBAs") as an additional way to reduce the cost of providing child care assistance.\textsuperscript{297} VEBAs are tax-exempt entities that provide "for the payment of life, sick, accident or other benefits to [their] members . . . or their dependents."\textsuperscript{298} VEBAs specifically provide for the establishment of "child-care facilities for preschool and school-age dependents" as a type of employee benefit.\textsuperscript{299}

4.3.3. Charitable Contributions to Nonprofit Child Care Centers

Under certain circumstances, employers may deduct gifts to child care programs as charitable donations.\textsuperscript{300} The program receiving the gift (regardless of whether it is a child care center, referral agency, or community organization) must be a qualified tax-exempt organization.\textsuperscript{301} For a child care program to qualify as tax-exempt, it must provide "substantially all of its care" for the purpose of "enabling individuals to be gainfully employed" and must provide services that are "available to the general public."\textsuperscript{302}

\textsuperscript{294} See I.R.C. § 168.
\textsuperscript{295} See I.R.C. § 419.
\textsuperscript{296} See I.R.C. § 419(c)(3)(C)(ii).
\textsuperscript{297} See Murray, supra note 108, at 301.
\textsuperscript{298} I.R.C. § 501(c)(9).
\textsuperscript{299} Treas. Reg. § 1.501(c)(9)-3(e) (1996).
\textsuperscript{300} See BURUD ET AL., supra note 254, at 66.
\textsuperscript{301} See I.R.C. §§ 170, 501(k).
\textsuperscript{302} I.R.C. § 501(k)(1)-(2).
4.3.4. Dependent Care Assistance Programs

Employers evaluating the possibility of instituting child care assistance programs should be aware of the Dependent Care Assistance Program ("DCAP"). DCAPs, defined in Section 129 of the Internal Revenue Code, authorize employers to distribute child care assistance to employees as a tax-free benefit.\(^{303}\) The child care benefits granted to an employee under the DCAP provisions are not included in the employee's gross income for determining the amount of the employee's tax liability.\(^{304}\) DCAPs cover situations in which employers provide on-site day care, contract with outside agencies for the provision of child care services, or reimburse employees for child care fees.\(^{305}\)

To receive the tax benefits offered by a DCAP, an employer must comply with a set of strict guidelines. First, the employer must create a written plan and convey this plan to the employees.\(^{306}\) The plan cannot discriminate in favor of "highly compensated employees" or their dependents.\(^{307}\) Second, the employer cannot spend more than 25% of the total child care costs on shareholders or owners who own more than 5% of the corporation's stock, capital, or profits.\(^{308}\) The amount of assistance an employee may receive under a DCAP is capped at the level of earned income of the employee if unmarried, or at the salary level of the spouse with the lowest income.\(^{309}\) A DCAP may be one of the benefits offered to an employee in a cafeteria-style benefit plan, in which an employee selects from two or more benefits.\(^{310}\)

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\(^{303}\) See I.R.C. § 129. The amount that an employee may exclude under a DCAP cannot exceed $5000 in a taxable year. See I.R.C. § 129(a)(2)(a). According to the provisions of the Family Support Act, taxpayers must reduce the amount they claim under the dependent care tax credit by the amount they receive under the DCAP. See Giselle Sered, Student Paper, Day Care and Tax Policy, 12 AM. J. TAX POL'Y 159, 193 (1995).

\(^{304}\) See I.R.C. § 129(a).

\(^{305}\) See I.R.C. § 129(e)(1), (8); BURUD ET AL., supra note 254, at 67.

\(^{306}\) See I.R.C. § 129(d)(1), (6).

\(^{307}\) I.R.C. § 129(d)(2).

\(^{308}\) See I.R.C. § 129(d)(4). This requirement may effectively preclude small companies from partaking in the program. See Murray, supra note 108, at 293.

\(^{309}\) See I.R.C. § 129(b).

\(^{310}\) See Sered, supra note 303, at 193.
4.3.5. State Tax Credit Programs

Some states in the United States have also begun to implement tax credit programs to provide incentives for employers to become involved in the provision of child care assistance. For example, Connecticut provides its businesses with a tax credit for 40% of money invested "for planning, site preparation, construction, renovation or acquisition of facilities for the purposes of establishing a child day care facility to be used primarily by the children of such business firm’s employees."311 Legislation recently proposed in Wisconsin would provide employers who provide or subsidize day care that is either on-site or close to the work-place with a tax credit equal to 50% of the employer’s cost of providing the child care program.312 In addition, the Wisconsin proposal would “encourage[] small companies to pool their resources with other small firms nearby and create child-care facilities together."313

4.4. A Case Study: AT&T’s Model Corporate Child Care Program

AT&T has been described as a company "on the leading edge of family care benefits."314 In 1989, in response to employee demands for family care benefits, AT&T offered a generous package including flexible work policies, parental leave, and child care assistance.315 Under this plan, all AT&T office locations can tailor their work hours to meet employee needs, and some offices have considered implementing a four day work week.316 AT&T also gives its employees an annual eight-hour “Flexible Excused Workday,” which employees can use in two-hour increments for personal emergencies without prior approval from supervisors.317

312 See Stephen J. Siegel, Kobl’s Proposal Would Upgrade Availability of Child Care; Senator Advocates Granting Incentives to Employers, WIS. ST. J., Sept. 18, 1996, at 4A.
313 Id.
314 Hauth & Humble, supra note 8, at 13.
315 See id.
316 See id.
317 See id.

https://scholarship.law.upenn.edu/jil/vol17/iss4/5
As for child care, AT&T initiated an information and referral service that works with over 270 community agencies to help employees locate and evaluate child care programs.\textsuperscript{318} During the first year of its implementation, AT&T assisted 6000 employees in finding child care in their local communities.\textsuperscript{319} AT&T also offers employees the opportunity to set aside up to $5000 per year in non-taxable income to pay for child care fees.\textsuperscript{320} Employees seeking to adopt children are granted a $2000 subsidy toward the costs of adoption.\textsuperscript{321}

In addition, AT&T established a Family Care Development Fund that set aside $10 million for employees to spend within a three-year period on plans and programs to improve the quality and quantity of community child care services.\textsuperscript{322} Some employees used these funds to create a "resource center" that lends toys, books, and educational equipment to community child care centers in their community.\textsuperscript{323} Other employees have used these funds to expand and improve already existing child care programs.\textsuperscript{324}

4.5. A Cost-Benefit Analysis of Employer-Sponsored Child Care

Results of studies examining the benefits and overall profitability of employer-sponsored child care programs strongly indicate that employer-sponsored child care assistance programs have positive effects on turnover rates, absenteeism, productivity, morale, and recruitment.\textsuperscript{325} One recent study of Canadian

\textsuperscript{318} See id.
\textsuperscript{319} See id.
\textsuperscript{320} See id.
\textsuperscript{321} See id.
\textsuperscript{322} See id.
\textsuperscript{323} See id. at 14.
\textsuperscript{324} See id.
\textsuperscript{325} See Women's Bureau, U.S. Dep't of Labor, Pamphlet No. 23, Employers and Child Care: Establishing Services Through the Workplace (1982); John P. Fernandez, Child Care and Corporate Productivity (1986); see also Burud et al., supra note 254, at 21-48. Sixty-five percent of the companies in this study reported that employer-sponsored child care centers had a positive effect on the reduction of employee turnovers; in fact, the study found that employees who took advantage of the child care services had a 25% lower turnover rate. See id. One company reported annual savings of $2 million in reduced turnover after opening a child care center near its plant. See id. at 39-40. In addition,
managers revealed that companies that “treat[ed] work and nonwork as related worlds” had higher rates of employee loyalty and commitment than companies that “maintain[ed] an inflexible and impermeable boundary between work and nonwork.”

Moreover, in the United States new research has revealed that implementation of family-friendly work policies can “bolster profits” and “dramatically improve a company’s fortunes.”

5. THE NEED FOR GOVERNMENT AND BUSINESS TO WORK TOGETHER TO CREATE CHILD CARE SOLUTIONS

If child care is framed as a public responsibility, debate exists as to whether government or business should be held primarily accountable for providing such assistance. If child care is deemed an employment service for working parents, it appears that employers should be held responsible. If viewed as a child development and education service, however, day care looks

corporate child care was found to have a positive effect on absenteeism rates for 53% of the companies surveyed. See id. at 26. One business reported an annual savings of 15,000 work hours, while another claimed an eight dollar return in reduced absenteeism rates for every dollar spent on an in-house breast-feeding program. See id. at 26, 46. Almost 50% of the businesses claimed that the provision of child care services improved productivity, and one company was even able to reduce its production workforce by 15-25%. See id. at 25. Child care services boosted morale in 90% of the companies, and 85% of percent of the companies reported positive effects on recruitment and public image. See id. at 23, 24. One company asserted that 95% of its job applicants applied as a result of the company’s child care program, and another reduced its recruitment efforts by 80% after introducing child care services. See id.

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326 Kirchmeyer, supra note 249, at 530.
327 Lawlor, supra note 258, at 54 (discussing recent studies by the Ford Foundation, the Boston consulting firm Work/Family Directions, the Family and Work Institute, the University of Chicago and Michigan State University). Evelyn Murphy, Executive Vice President of Corporate Affairs at Blue Cross and Blue Shield of Massachusetts, states that although “benefits like an on-site day care center often cost money up front, the initial investment by a company is returned over and over again. . . . It’s hard to find another investment to deliver that kind of return.” Blue Cross and Blue Shield of Massachusetts Among 100 Best Companies for Working Mothers, Bus. Wire, Sept. 11, 1995, available in LEXIS, Nexus Library, Curnws File. In addition, the introduction of a “kitchen-sink-load” of family programs at a Tennessee bank contributed to a 55% profit gain over a two-year period. Keith H. Hammonds, Balancing Work and Family, BUS. WK., Sept. 16, 1996, at 74, 74.
328 See Finley, supra note 51, at 132.
329 See id.
more like a government responsibility. Due to the severity of the day care dilemma, the best answer lies in holding business and government jointly responsible.

Arguments against government involvement in the provision of child care assistance do not contemplate the present reality of the day care dilemma. In most families throughout the United States and Canada, both parents need to work for economic reasons. Single parents, as sole providers, have no choice but to work in the marketplace. Thus, government-sponsored child care is necessary to strengthen, not weaken, families and also to prevent more families from dipping below the poverty line. A federal, rather than state, government response is essential if child care is to be defined as a serious social problem deserving of comprehensive solutions.

Government involvement in the provision of child care is also necessary since without a coherent federal child care policy, most employers will lack the incentive to fund and develop child care programs for employees. Placing complete responsibility for child care assistance on employers would lead to vast discrepancies in the assistance provided to each individual, since the level of assistance would depend on the policies implemented by particular employers. In addition, struggling companies would be likely to terminate or reduce child care programs, leaving working parents without any viable options. Thus, by providing businesses with proper incentives, the U.S. and Canadian federal governments can stimulate greater accessibility and availability of child care programs.

Business involvement in the provision of child care assistance is necessary because work and family “are not discrete phenomena.” In light of the fact that work and family are two of the most important, and necessarily overlapping, aspects of an

330 See id.
331 See id.
332 See supra Section 3.1.5.
333 See supra Section 2.2; Baker, supra note 10, at 240.
334 See Kathryn Branch, Note, Are Women Worth as Much as Men?: Employment Inequities, Gender Roles, and Public Policy, 1 DUKE J. GENDER L. & POL’Y 119, 152 n.142 (1994).
335 See Liebman, supra note 143, at 375.
336 See Branch, supra note 334, at 152.
337 Hammonds, supra note 327, at 74.
individual's life, employers should assist employees in successfully integrating their work and family lives. Employers also need to recognize the fact that the true cost of hiring a person with young children includes the cost of hiring a caretaker for the children in order to enable the parent to devote his or her time to work outside the home.\textsuperscript{338} Moreover, the rising number of women in the workforce calls for employers to dismantle traditional, male-defined workplace norms by building "consideration of family issues into job design, work processes, and organizational structures."\textsuperscript{339}

Although employers cite several reasons for their reluctance to become involved in the provision of child care services,\textsuperscript{340} most of these excuses do not withstand scrutiny. First, due to the increased participation of women in the workforce, employers can no longer rely on the public-private distinction to validate the lack of child care assistance programs. Second, claims of prohibitive costs as a deterrent to employer involvement fail in light of the numerous ways such costs can be defrayed\textsuperscript{341} and findings that implementation of family-friendly policies may lead to increased profits.\textsuperscript{342} Third, these excuses obscure the fact that employers traditionally have provided benefits designed "to supplement . . . the family contribution of the wage earner."\textsuperscript{343} Employers should provide child care assistance just as they provide insurance, pension plans, and other benefits to accommodate the personal needs of their employees.\textsuperscript{344}

\textsuperscript{338} See Finley, \textit{supra} note 51, at 144. In 1981, the U.S. Commission on Civil Rights identified the connection between child care and barriers to employment for women as a "crucial and relatively overlooked policy issue." \textit{Id.} at 144-45.

\textsuperscript{339} Hammonds, \textit{supra} note 327, at 74.

\textsuperscript{340} Employers claim the potential for large implementation and operation costs, as well as "complex insurance arrangements, obligations incurred by referrals, parental complaints, quality control, and equity issues," as deterrents to their involvement in the provision of child care assistance. Hauth & Humble, \textit{supra} note 8, at 12. \textit{See also} Friedman, \textit{supra} note 6, at 29.

\textsuperscript{341} See \textit{supra} Section 4.3.

\textsuperscript{342} See \textit{supra} Section 4.5.

\textsuperscript{343} Clark, \textit{Corporate, supra} note 34, at 843.

\textsuperscript{344} See \textit{id.}
6. SPECIFIC PROPOSALS FOR CHANGE IN U.S. CHILD CARE POLICY

In the United States, the increased need for child care caused by recent changes in the workforce will not abate in the near future. As a result, U.S. child care policy should aim to provide permanent, not patchwork, solutions to the current child care crisis. In formulating this policy, it is important to remember that child care is of little use to working parents "if they cannot afford it, if the hours do not correspond to their working day, if it is not convenient to either home or workplace, or if it is not reliable." Only by working together to ensure the affordability, availability, and reliability of child care will the U.S. government and businesses implement a child care policy that truly meets the needs of all working parents.

To achieve this goal, the federal government should first create a national child care agency to oversee the implementation and regulation of child care programs. By monitoring existing programs, and analyzing the need for additional ones, this office would ensure that no group of working parents is left unassisted. The office would also be responsible for maintaining nationwide standards for child care services through a system of licensing requirements.

In addition, this national child care office would work directly with businesses to facilitate the establishment of employer-sponsored child care services. The office would instruct those corporations with sufficient resources on how to implement a broad array of large scale child care programs and defray the costs of such programs. To encourage collaborative efforts among smaller businesses, the office would maintain lists of businesses and child care resources in every community. The office would also provide a set of matching funds, limited to initial startup costs, for smaller businesses to create child care programs for

345 The U.S. Bureau of Labor Statistics projects that by the year 2000 women will account for 62% of the net growth in the work force. See CHILD CARE MATTERS, supra note 13, at 3.
346 Id. at 2.
347 See Reisman, supra note 33, at 497. For a brief discussion of possible funding sources for this proposed agency, see supra note 140.
348 See Reisman, supra note 33, at 497-99.
parents working irregular shifts or hours.

Second, because it is the major child care assistance program for the middle class,\textsuperscript{349} the U.S. government should maintain the Child and Dependent Care Tax Credit. The caps on expenses eligible for the tax credit should, however, be properly adjusted for inflation. Moreover, the government should increase the caps for every child born into a family and not limit the cap at the same amount for two or more children.

National tax policy can effectively advance the interests of child care in other ways as well. Child care expenses are incurred for the purposes of gaining income from business; therefore, child care costs should also be deductible as business expenses. To further stimulate employer involvement in the provision of child care, the federal government should provide tax relief to corporations implementing family-friendly work policies. In addition, the federal government should encourage states to provide this type of tax incentive to businesses.

Third, the federal government should coordinate its child care programs with those offered by local schools, churches, and nonprofit organizations. For example, a program entitled the “School of the 21st Century” is currently being tested in several states across the nation.\textsuperscript{350} This program, proposed by Dr. Edward Zigler, Yale University professor of child psychology, provides child care for three to five-year-old children at schools, along with before and after-school and vacation child care for five to twelve-year olds.\textsuperscript{351} Teachers in this program are certified in early childhood education to ensure developmentally appropriate care. Parents are charged on a sliding fee scale.\textsuperscript{352} Since schools are established institutions within the community and are readily accessible to parents, this type of program makes sense.\textsuperscript{353} The federal government should encourage and promote similar community-based child care initiatives.

7. CONCLUSION

In the United States and Canada, demographic changes in the

\textsuperscript{349} See supra Section 3.1.3.
\textsuperscript{350} See, e.g., CHILD CARE MATTERS, supra note 13, at 54-55.
\textsuperscript{351} See id.
\textsuperscript{352} See id.
\textsuperscript{353} See id. at 55.
workforce have led to an increased need for child care services.\textsuperscript{354} To ensure that all working parents have access to quality, affordable child care, universal child care systems should be implemented in both countries. Due to the severity of the child care crisis, however, the efforts of the government and private employers must be coordinated in order to achieve the goal of universal child care.

In Canada, the federal government has illustrated its willingness to implement a national child care program.\textsuperscript{355} Efforts to establish universal child care, however, have failed as a result of funding conflicts between the national and provincial governments and cutbacks in social services spending.\textsuperscript{356} If the Canadian government were to link its efforts with financial assistance and other contributions from private employers, it would greatly enhance the potential for the enactment of a universal child care system.

In the United States, the federal government should follow the lead of its Canadian counterpart. The U.S. government already addresses a wide variety of social needs, including "education, transportation, communication, public safety, defense, food quality and availability, and housing safety, availability, and cost."\textsuperscript{357} Thus, a comprehensive child care system would be a natural addition to these existing programs.\textsuperscript{358} Moreover, by reducing dependency on welfare, alleviating the overall stress of working parents, and providing children with a safe and stable environ-

\textsuperscript{354} See supra Section 2.
\textsuperscript{355} See supra Section 3.2.4. The Canadian government's 1995 proposal to implement a vast program of child care funding was in large part due to the existence of a large and vocal pro-child care constituency. See NATIONAL COUNCIL ON WELFARE, supra note 43, at 41 (noting that "every major social policy group has called on the government to increase the supply of spaces for children in licensed day care centers and licensed family homes and for more generous government subsidies to put licensed child care within the reach of all . . . working parents").
\textsuperscript{356} See id.
\textsuperscript{357} Finley, supra note 51, at 139.
\textsuperscript{358} One commentator has labeled the United States "the least family-orient-ed society in the world." Kaplan, supra note 48, at 94. According to Edward Zigler, it is not just "that we are not doing anything, it's that we're perfectly satisfied in this country to every day put children in settings that compromise their growth and development. It's a tragedy, and the cost to this country down the track is going to be immense." See id.
A universal child care system would promote a happier, more productive society.\(^{359}\)

Since the resources of the Canadian and U.S. governments are limited, it is critical that private employers in both countries contribute to the development of universal systems of child care. Employers must recognize the long term nature of recent changes in the workforce and the potential benefits of providing child care assistance programs to their employees. By treating child care as a basic employee benefit, employers can promote a more productive workforce, improve their competitiveness, and potentially increase their profits.\(^{360}\) In addition, employers will ensure that the workers of tomorrow are better prepared than their present-day counterparts. Furthermore, by collaborating with the U.S. and Canadian governments, private employers can help guarantee that all working parents will have access to the quality, affordable child care they require.

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\(^{359}\) In 1988, the National Child Care Staffing Survey described 70% of all day care services as "barely adequate." Baker, supra note 45, at 26. In 1993, the U.S. Department of Health and Human Services reported that licensed day care centers "consistently violate health and safety regulations by exposing children to raw sewage, scalding water, and household chemicals." Id.

\(^{360}\) See CHILD CARE MATTERS, supra note 13, at 2-5.

\(^{361}\) See supra Section 4.5.