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CORPORATE EMPLOYEE CHILD CARE: ENCOURAGING BUSINESS TO RESPOND TO A CRISIS

CHRISTINE A. CLARK

THE DRAMATIC increase in the demand for quality, affordable child care has created a crisis for Florida families. Although Florida is providing subsidized child care for over 33,000 eligible children through Title XX programs run by the Department of Health and Human Services,¹ another 26,000 children are on waiting lists for these programs.² The need for high quality, affordable, and conveniently located child care is also great for middle-class families who do not qualify for Title XX.³

The business community has been slow to respond to this need. In 1986, only 3,000 businesses nationwide were providing child care assistance for their employees.⁴ In Florida, less than ninety businesses assist their employees with child care.⁵ This slow response is

1. *Subsidized Child Care Program—Number of Children Served*, Dep't HRS, June 1987 (In Florida during FY 86-87, 33,601 children were receiving subsidized child care, while 26,362 were on HRS' waiting list).

2. *Id.* The child care crisis became a personal tragedy for Linda Grant whose two children were on the waiting list. While she was at work one day, the children were killed when they climbed into the clothes dryer looking for a cozy place to read. When they closed the door, the dryer started and burned them to death. Grant had thought about going on welfare, but she was earning more working only five hours a day than she would have on welfare and she wanted to work. Lee, *2 Children Who Died in Dryer were on Day-Care Waiting List*, Miami Herald, Nov. 8, 1986, 2B, col. 3.

3. Two authors have suggested that the availability of child care may influence demand for it. "Unfortunately, there is no commonly agreed upon definition of availability. Should it be defined in terms of cost of care, access to care, or the adequacy or quality of care?" Hofferth & Phillips, *Child Care in the United States, 1970 to 1995*, 49 J. OF MARRIAGE AND THE FAM. 564 (Aug. 1987).

4. Chapman, *The number one cause of Executive Guilt: Who's Taking Care of the Children and how will they turn out?*, FORTUNE, Feb. 16, 1987, at 30, 33 (3,000 businesses participating in child care represents a 50% increase over 1984). Cf. BLANK & WILKINS, *Child Care: Whose Priority? A State Child Care Fact Book*, CHILDREN'S DEFENSE FUND 15 (1985).

To date, approximately 2,000 employers out of 6 million provide any type of child care assistance to their employees, and in some cases it is minimal. The benefits in the 2,000 companies range from operating an on-site child care center to sponsoring noon-time seminars for employees to help them with parenting. While almost 600 employers sponsor on-site child care centers, 400 of them are hospitals, which viewed child care as an incentive for recruiting nurses. When child care is provided at an on-site center but employees are charged, its costs are often beyond the reach of lower-paid employees if the program does not include a sliding fee scale.

Id. at 15-16 (emphasis in original).

5. *List of Corporations Sponsoring Child Care*, compiled by the Dep't of HRS, 1986. The list includes 53 on-site centers, 14 information and referral service programs, 14 voucher systems and 7 other various contributions to child care maintained by corporations. Of the on-site centers, 17 are run by hospitals and 16 are run by colleges or universities. *Id.*

probably due to the long-standing business practice of segregating work and family. The workplace has traditionally functioned on the assumption that employees—typically males—had no need for child care benefits since they had wives or mothers at home providing for the family's needs. However, in today's business world that "assumption" is no longer valid: 6 out of 10 husbands have wives who work,⁶ and 6 out of every 10 mothers with children under the age of eighteen are in the workforce.⁷

The federal government has responded to this crisis by enacting several programs, including Title XX⁸ which is geared towards families at the poverty level. However, Title XX funding was cut by 21% in 1981, and Congress also eliminated the requirement that states spend \$1 of their own funds for every \$3 of Title XX federal dollars they receive.⁹ In 1985, twenty-two states were spending less for child care than in 1981, and if the figures are adjusted for inflation, thirty-five states are spending less for child care funded through Title XX.¹⁰ The most expensive federal program is the Dependent Care Tax Credit,¹¹ which allows a credit for a variable percentage of child care expenses depending on the taxpayer's adjusted gross income.¹² For example, a single mother with \$10,000 taxable income per year would be allowed a tax credit of 30%¹³ on any child care expenses up to \$2,400 for one child.¹⁴ However, in order to receive the maximum credit, she would have to spend the \$2,400 limit, one fourth of her gross adjusted income. Since the law imposes no upper limit on income,¹⁵ the real benefit

6. Friedman, *Corporate Financial Assistance for Child Care*, THE CONFERENCE BOARD RESEARCH BULLETIN 5 (1985). In addition to men with wives who are working, child care is a major concern for the uncounted single working men with children. *Id.*

7. WOMEN'S BUREAU, OFFICE OF THE SECRETARY, U.S. DEP'T OF LABOR, FACTS ON WOMEN WORKERS, FACT SHEET No. 86-1, No. 17 (1986).

8. Social Services Block Grant, Social Security Act, 42 U.S.C. § 602(a)(1982).

9. *Id.*

10. BLANK & WILKINS, *supra* note 4, at 7.

11. 26 U.S.C. § 21 (Supp. 1985). Tax credit expenses rose from about \$956 million in 1980 to over three billion dollars in 1985. BLANK & WILKINS, *supra* note 4, at 7.

12. 26 U.S.C. § 21(a)(1) (Supp. 1985). The dependent must be under 15 years of age; the child care expenses must enable the taxpayer to be gainfully employed; and the dependent care center must meet state and local regulations. *Id.* at § 21(b)(1)(A) - (b)(2)(C).

13. *Id.* at § 21(a)(2). The term "applicable percentage" means 30% reduced by 1 percentage point (but not below 20%) 67 for each \$2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds \$10,000. *Id.*

14. 26 U.S.C. § 21(c)(2). For two or more dependents, qualifying expenses may not exceed \$4,800. *Id.*

15. *Id.*

of the Dependent Care Tax Credit falls to upper-middle income taxpayers, those who can afford to pay for child care.

Many states also provide individual income tax credits for child care expenses to benefit those who do not qualify for Title XX subsidies.¹⁶ The Children's Defense Fund found that California spent \$3,200,000 in 1983 for state dependent care tax credits while Georgia's estimated expenditures for dependent care tax credits for the same year was approximately \$4,000,000.¹⁷ Because Floridians do not pay a personal income tax,¹⁸ the Florida Legislature has taken other measures to alleviate the child care crisis in Florida.¹⁹

In this Comment, the author will discuss the demographic changes which necessitate new family support systems and the initiatives taken to date by businesses to assist families. She will discuss selected federal and state statutes dealing with child care, and then analyze existing Florida statutes designed to encourage corporate participation. The author will examine the tax credit and grant schemes that were proposed in the 1987 Session and will explore additional options for supporting child care in future legislation.

I. THE CHANGING DEMOGRAPHICS OF THE WORKFORCE

The traditional perception of the nuclear family comprises both parents and two or three children. Historically, divisions of labor within the family were clearly defined—father providing the family's financial security and mother staying at home caring for the children and the other domestic needs of the family. But according to Jerome Rosow, president of the Work in America Institute,

16. See, e.g., **Alaska**: ALASKA STAT. § 43.20.013 (2)(b) (1983) (Individual tax credit equal to 16% of the federal credit (IRC § 44A) for dependent care expenses paid within the state of Alaska); **California**: CAL. REV. & TAX CODE § 17052.6 (West 1987) (Individuals earning under \$20,000 are allowed a credit against their "net tax" of 10% of the credit allowable for federal income tax purposes for dependent care expenses. Individuals earning over \$20,000 are allowed a 5% credit.); **New Mexico**: N.M. STAT. ANN. § 7-2-18.1(c) (1986) (Individuals are allowed a credit against taxes imposed in an amount equal to 40% of the actual compensation paid to the provider subject to limits of \$8 per day and a maximum credit for \$480 for each qualifying dependent and a total of \$1,200 for all qualifying dependents. Individuals are ineligible if modified gross income exceeds \$13,936.).

17. BLANK & WILKINS, *supra* note 4, at 239.

18. FLA. CONST. art. VII, § 5.

19. Florida has implemented three primary programs which are discussed later in the text.

fewer than 10% of our population today live in the "classic" family headed by a male breadwinner.²⁰

Traditional family dynamics have dramatically changed. In 1940, only 8.6% of mothers with children under eighteen years of age were in the workforce.²¹ But in 1985, 62% of these mothers were working.²² Women with very young children represent the greatest increase among categories of women entering the workplace. In 1986, 54% of mothers with children under six years of age were working outside the home compared to 30% in 1970.²³ In Florida, one in six children under age eighteen lives in families headed by a single mother.²⁴ This demographic shift in the workforce is the driving impetus behind the child care crisis: dual-career families and single working mothers lack the family support systems relied on by their predecessors. Consequently, they must seek child care outside the family home. Frequently these women are single heads of households whose incomes do not stretch to cover both basic necessities and child care.²⁵ Child care costs vary between \$1,500 and \$10,000 per year, but most experts believe the average expenditure per child to be approximately \$3,000.²⁶

The Women's Bureau of the United States Department of Labor has found that the majority of women work because of economic necessity. As of March 1985, "[n]early two-thirds of all women in the labor force were either single, divorced, widowed, separated or had husbands whose 1984 earnings were less than \$15,000."²⁷ Between 1970 and 1985, the number of families maintained by women grew by almost 90%.²⁸ The Women's Bureau attributes this increase to the escalating divorce rate and to the increase in

20. BUREAU OF NATIONAL AFFAIRS, WORK & FAMILY: A CHANGING DYNAMIC 230 (1986). Jerome M. Rosow was one of the speakers at a national conference from which the above-mentioned book grew. The conference was co-sponsored by the Bureau of National Affairs (BNA) and the United States Department of Labor in April of 1986. His remarks in BNA's book were drawn from his convention presentation.

21. *Id.* at 15.

22. WOMEN'S BUREAU, OFFICE OF THE SECRETARY, U.S. DEP'T OF LABOR, FACTS ON WOMEN WORKERS 3 (1986) (Fact Sheet No. 86-1, No. 17).

23. H.R. SELECT COMM. ON CHILDREN, YOUTH, AND FAMILIES, 100TH CONG., 1ST SESS., U.S. CHILDREN AND THEIR FAMILIES: CURRENT CONDITIONS AND RECENT TRENDS, 1987, 19 (Comm. Print 1987).

24. *Id.*

25. The median income for mother-only families in 1985 was \$9,472. *Id.* at 26.

26. BLANK & WILKINS, *supra* note 4, at 3.

27. WOMEN'S BUREAU, OFFICE OF THE SECRETARY, U.S. DEP'T OF LABOR, FACTS ON WOMEN WORKERS 2 (1986) (Fact Sheet No. 86-1, No. 9).

28. WOMEN'S BUREAU, OFFICE OF THE SECRETARY, U.S. DEP'T OF LABOR, WOMEN WHO MAINTAIN FAMILIES (1986) (Fact Sheet No. 86-2).

unwed mothers having children.²⁹ Although these families have the greatest need for quality child care, financial constraints make it difficult for them to afford child care, even when it is available.

Poverty in families headed by women is a source of increasing public concern. In 1984, the number of these families with income below poverty level exceeded the number of married-couple families in poverty. . . . Families maintained by women have a poverty rate which is three times that of all families and five times the rate for married-couple families. Moreover, almost 55 percent of related children under 18 in families with a female householder in 1984 lived below the poverty level.³⁰

Consequently, for many families, affordable, quality child care is unattainable.

A. *Practical Problems and Concern of Working Parents*

One practical problem for many working parents is getting their child to a child care provider and still arriving at work on time. Commuting to a distant child care center increases the likelihood of arriving late and adds to the worker's stress. The care must also be affordable without sacrificing quality. Finding the right combination of these features in one provider is often difficult.

Businesses may be slow in responding to the crisis because women are reluctant to mention problems with child care to employers because of the unspoken rule that business is not concerned with personal problems. Yet the standard benefits given by most companies have always been in response to the "personal" needs of employees. Standard benefits include insurance, pension plans and various forms of worker's compensation. These benefits are designed to supplement, and at times substitute for, the family contribution of the wage earner: support for the family. The traditional model of the separation between business and personal concerns is a product of the time when the labor force consisted primarily of men, married or single. Now that women are in the workforce, the family contribution they typically made—child

29. *Id.* In 1985, an estimated 11.2 million children under the age of 18 were living in a family headed by a woman. More than two-fifths of these children had divorced mothers and more than one-fifth had a mother who had never married. *Id.* at 2-3.

30. *Id.* at 3.

care—needs to be addressed by benefit programs.³¹ Yet, the benefits offered by businesses often still reflect the financial needs of that single or married man of the 1940's workforce.

Fathers with working wives are also concerned with the effect dual-careerism has upon family life according to a survey taken by *Fortune* magazine.³² *Fortune* conducted the survey in collaboration with the Gallup Organization and New York's Bank Street College of Education.³³ The survey found that fathers are

almost as likely as mothers to say that the job interferes with family life. And they were even more inclined to sacrifice career opportunities that would cost them time away from their family. Nearly 30% of the men in the survey said that they had refused a new job, promotion, or transfer because it would have meant less family time.³⁴

Many of the 3,000 companies currently providing child care report lower absenteeism and turnover of personnel, and improved productivity.³⁵ These companies offer a wide variety of child care options and in analyzing the benefits of these programs, each should be examined for its effects on the availability, quality, affordability and proximity of child care.³⁶

B. An Overview of Child Care Options

The primary concern of corporations considering on-site care or any other type of child care is whether it is cost effective. Some studies suggest that productivity, recruitment, morale and retention of employees improves when child care assistance is provided

31. Federal law also compels employers to take into account the parental needs of their employees. See *California Fed. Sav. and Loan Ass'n v. Guerra*, 107 S. Ct. 683 (1987) (Pregnancy Discrimination Act amendment to Title VII allows state to require employers to reinstate women after a reasonable pregnancy leave).

32. Chapman, *supra* note 4, at 30. The FORTUNE survey showed that "fathers are sharing not only family responsibilities but also the worry, stress, and guilt associated with leaving the child in someone else's care." *Id.*

33. *Id.* The survey interviewed 400 parents with children under the age of 12. "[O]ne of three parents of infants, and one of four parents of 3- to 5-year-olds, reported that finding care was difficult." *Id.* at 32.

34. *Id.*

35. *Id.* "Many claim that their child-care programs have increased productivity, although the impact is hard to measure." *Id.* The studies which have been done regarding the effects of child care have been generally surveys of the impressions of workers and their supervisors. See *infra* notes 49-50.

36. See generally Kahn & Kamerman, *Child Care: Facing the Hard Choices* (1987).

by the employer.³⁷ Yet most of the studies are based on the impressions of employers and parents, and not on empirical data.³⁸

Nyloncraft Inc. of Indiana was one of the first companies in the United States to provide child care since World War II.³⁹ In 1978, the company discovered that every job in the plant had turned over three times. "Training costs and loss in productivity were 'astronomical.'"⁴⁰ Nyloncraft opened its on-site child care center in 1981. Today absenteeism is less than 3% and turnovers are minimal.⁴¹ The company pays about half of the child care tuition for employees, and for those who work overtime, care is free. The problem of latchkey children, who return to an empty home after school, is also addressed by Nyloncraft, which transports children from school to the center.⁴²

Although the center operates at a \$20,000 loss each year, Nyloncraft believes that reduced absenteeism and turnover along with improved morale and recruitment more than compensate for the loss. Nyloncraft believes the child care center has also boosted sales. Prospective buyers who tour the plant are impressed that Nyloncraft offers child care as a benefit and decide to do business

37. See BUREAU OF NATIONAL AFFAIRS, *supra* note 20, at 44-45. Studies on improved productivity, absenteeism, and recruitment have been based on the impressions of employees and their employers. There is a lack of "hard data" to support these impressions. One difficulty is in establishing the reason for each absence—was a child having problems in child care, or did the car break down. The analysis necessary for reliable statistics would require extremely detailed recording and an atmosphere of trust between employees and researchers. Otherwise, employees might be reluctant to give genuine reasons for the absence or tardiness.

38. For a criticism of child care studies, see Miller, *The Effects of Employer-Sponsored Child Care on Employee Absenteeism, Turnover, Productivity, Recruitment or Job Satisfaction: What is Claimed and What is Known*, 37 PERSONNEL PSYCHOLOGY 277 (1984).

Although the data confirm that married women were absent from work more than single women, that women with young children had lower job satisfaction than those without young children, and that women more than men changed jobs or left the job market because of family responsibilities, child care problems may not have been the necessary causal antecedent. Authors suggested that differences in absenteeism and job satisfaction could be explained by lower attachment to work or need for wages among married women whose husbands were employed and by the likelihood that women with children held poorly paying low-prestige jobs.

Id. at 281. Miller's article includes detailed recommendations for systematic empirical research. But see Friedman, *Child Care for Employees' Kids*, HARV. BUS. REV., Mar.-Apr. 1986, at 4 (although conclusions of managers offered "as impressions rather than measured results, the reasonableness of the survey results rings true").

39. Selsor, *Does your Boss have any business looking after your children?*, *Corporate Child Care*, JACKSONVILLE TODAY, Aug. 1987, at 24.

40. *Id.*

41. *Id.*

42. *Id.*

with a company employing both a progressive policy and a stable workforce.⁴³

Near-site child care is provided by Hill Holliday Connors Cosopolus, Inc., an advertising and public relations firm in Boston, Massachusetts. The firm's nonprofit child care center is located in a church about three blocks from the firm's main office in the John Hancock Tower.⁴⁴ Fees for child care are determined on a sliding scale basis, depending on the employee's income and the age of the child.⁴⁵

Since 1971, Polaroid has offered a voucher system which subsidizes an employee's child care costs.⁴⁶ Payments are made either directly to the provider or as reimbursement to employees for a set dollar amount or as a percentage of the expenses.⁴⁷ The percentage is determined by a sliding scale based on the employee's income. For example, a single mother with two children in child care who earned \$20,000 would have approximately 20% of her child care bill paid by Polaroid.⁴⁸ Under section 129 of the Internal Revenue Code, the cost of the vouchers are deductible by the employer as an employee benefit expense, and nontaxable for the employee.⁴⁹

Cafeteria-style benefit plans offer employees the opportunity to tailor benefits to their specific needs.⁵⁰ The cafeteria "menu" may include salary reduction benefits without causing employees who do not need this plan to feel unfairly treated.⁵¹ Under salary reduction and flexible account programs, employees can ask their employers to set aside a specified amount of their salary for a variety of benefits including child care costs. This money is treated under the law as an employer-provided benefit and not subject to taxation as part of the employee's income.⁵² Employers may even save

43. *Id.*

44. BUREAU OF NATIONAL AFFAIRS, *supra* note 20, at 42.

45. *Id.*

46. *Id.* at 44-45.

47. Velleman, *A Benefit to Meet Changing Needs: Child-Care Assistance*, COMPENSATION AND BENEFITS REV. 55 (May-June 1987).

48. *Id.*

49. *Id.*

50. 26 U.S.C. § 125 (1982). The statute disallows discrimination in a benefits program in favor of highly compensated individuals. *Id.* at (b) and (e).

51. See generally Velleman, *supra* note 47, at 55-56; Friedman, *Corporate Financial Assistance for Child Care*, THE CONFERENCE BOARD RESEARCH BULLETIN (1985).

52. BLANK & WILKINS, *supra* note 4, at 16:

Employers are increasingly offered child care assistance through 'salary reduction plans,' which cost the company little or nothing but which subsidize child care by giving the employees an income tax advantage. Such plans are most beneficial to higher income employees. Typically, a family must earn approximately \$20,000 to

money under this plan since they do not have to pay social-security or federal unemployment-insurance taxes on the amount of salary reduced.⁵³

Another child care benefit offered by many companies is an information and referral service which assists parents in finding appropriate child care. The company can provide a central information bank to facilitate the often difficult process of locating quality child care. While looking for information about available child care in the Washington, D.C. area, one committee found it took eight phone calls just to find the right place to obtain information. Even then, the information given at that number was eight months out-of-date.⁵⁴

In February of 1983, the Metropolitan Washington Child Care Network began to operate an areawide referral service. Area employers were solicited to contribute \$1,000 or more. Government contributed \$15,000 of public funds, and the program started with a budget of \$40,000.⁵⁵ The Network publishes a booklet which contains the phone numbers of agencies in the area dealing with child care, a description of the services provided and general pointers on choosing child care. The Network distributes the booklets free of charge in grocery stores and public libraries. All of the child care providers listed with the Network are licensed and comply with the regulations of the locale.⁵⁶

IBM contracts with the Network for specialized services.⁵⁷ Under the specialized services contract, an employee of IBM can call the Network and describe his or her personal child care needs. The Network will find three appropriate providers for the employee to choose from. If none of those providers meets with the employee's approval, the Network will repeat the process until the

\$25,000 to gain any significant benefit from such an approach, and it benefits most those in the highest tax brackets.

Id. But see Velleman, *supra* note 48, at 57, which states:

While the tax credit is generally more advantageous than the salary reduction for people in lower salary levels (generally under \$24,000 in 1988 under the Tax Reform Act of 1986), the salary reduction may prove more beneficial to lower-paid employees who have other family income or whose child-care expenses are in excess of the tax credit limits.

Id.

53. See generally *Child Care Programs: Corporate Benefit As Well As Employee Benefit*, SMALL BUSINESS REPORT, Apr. 1986, at 62.

54. BUREAU OF NATIONAL AFFAIRS, *supra* note 20, at 47.

55. *Id.*

56. *Id.* at 47-48.

57. *Id.*

employee locates the child care that best suits his needs and expectations.⁵⁸

Information and referral services are also used to create new child care openings in an area by identifying the needs of the community and sponsoring child care training. The Metropolitan Washington Child Care Network is expanding its work to recruit and train new child care providers. The Gannett Foundation has given the Network a grant to promote child care as a career through television and radio advertising.⁵⁹

Improving and expanding child care makes good business sense to some of America's leading companies. Corporations such as IBM, American Express and Polaroid are involved in child care for more than philanthropic reasons. They are realizing present benefits in productivity and morale. They also understand that quality child development provided today will result in a better workforce tomorrow. As businesses expand and population growth slows, the number of available workers will decrease. If that workforce also contains fewer literate, competent workers due to inadequate childhood care and training, business and society as a whole will pay the price. Consequently, strengthening family support systems through corporate-sponsored child care is in the best interest of private business.

II. CHILD CARE INCENTIVES IN OTHER STATES

While many states provide Title XX assistance and aid to individuals through income tax credits for child care expenditures,⁶⁰ only Florida, Connecticut, Maine and Rhode Island have enacted tax incentives for businesses.⁶¹ In 1981, Connecticut passed a statute granting businesses up to a 25% credit on total expenditures spent on planning, renovation, or acquisition of a child care facility, provided that it was a licensed center and was operated with-

58. *Id.*

59. *Id.* at 49.

60. For example, California allows individuals earning under \$20,000 a credit against their "net tax" of 10% of the credit allowable for federal income tax purposes for child care. Individuals earning over \$20,000 are allowed a 5% credit. As for the federal credit, allowable expenses may not exceed \$2,400 for one child and \$4,800 for two or more dependents. CALIF. REV. & TAX CODE § 17052.6 (West Supp. 1987).

61. **Connecticut:** CONN. GEN. STAT. ANN. § 12-217h and § 17-31bb, cc (West Supp. 1987); **Florida:** FLA. STAT. §§ 220.03, 220.12 (1985); **Maine:** 1987 Me. Legis. Serv. ch. 343 § 8 (enacting MRSA § 2524.6463); **Rhode Island:** 1987 R.I. Pub Laws, Ch. 87-477 (to be codified at R.I. GEN. LAWS § 44-47-1 (1987)).

out profit.⁶² The statute limited the amount of tax credit allowable to a business firm to \$10,000.⁶³ However, it expressly allowed businesses to share the cost of establishing child care facilities, with each business receiving its respective share of the tax credit. In 1983, the legislature increased the maximum credit from 25% to 40% and increased the amount of tax credit allowed in any income year to \$20,000.⁶⁴

In addition to the start-up cost tax credit, Connecticut created a 50% tax credit for business subsidization of child care.⁶⁵ The statute requires businesses to apply to the Commissioner of Human Resources, indicating the cost of the child care provided, the salary of each employee receiving a subsidy, the number of children of each employee, the name and address of the licensed or registered child care providers, and the weeks during which the children will be under the care of the provider.⁶⁶ The commissioner must approve child care subsidy tax credit proposals in advance of the expenditures.⁶⁷ The total amount of tax credits the state will allow to all business firms is limited to \$250,000 per fiscal year.⁶⁸

During the first year that the 50% tax credit was offered, only \$75,000 in credits were claimed by corporations. Pat Marlin, administrative assistant to the director of the Bureau of Grants Management, suggested that firms may have been hesitant to begin making child care contributions for fear that the cap would prevent them from realizing the full benefit of the credits.⁶⁹ Connecticut has instituted new rules for the tax credit in hopes of motivating corporations to participate.⁷⁰

62. 1981 Conn. Acts 469.

63. *Id.*

64. 1983 Conn. Acts 453 (Reg. Sess.).

65. CONN. GEN. STAT. ANN. § 17-31bb (West 1987).

66. *Id.* at § 17-31bb(b). *See also id.* § 17-31dd (the decision of the commissioner to approve or disapprove the child care proposal shall be in writing).

67. *Id.* § 17-31bb(b)(2).

68. *Id.* § 17-31bb(d). *But see infra* note 70 (the total amount of credits available to all businesses was raised to \$1 million).

69. Telephone interview with Pat Marlin, Admin. Ass't Bureau of Grants Mgt. (Oct. 5, 1986).

70. 1987 Conn. Acts. 87-429 (Reg. Sess.). In 1987, the legislature revised the tax credit scheme in the following ways:

1. The credit is to be advertised in an annual mailing to all businesses;
2. The total amount available to all businesses for one year was raised from \$250,000 to \$1,000,000, while individual taxpayers may claim up to \$75,000 in credits;
3. Any credits not claimed in one tax year may be carried forward or backwards for five years;

The Maine tax credit is available to employers for both start-up and ongoing costs of child care, including resource and referral services and vouchers.⁷¹ The total credit for each employer may not exceed \$5,000 and is computed by determining the lowest of three figures:

- A. Five thousand dollars;
- B. Twenty percent of the costs incurred by the taxpayer in providing day care service for children of employees of the taxpayer; or
- C. One hundred dollars for each child of an employee of the taxpayer enrolled on a full-time basis, or each full-time equivalent, throughout the taxable year in day care service provided by the taxpayer or in the first year that the taxpayer provides day care services, for each child enrolled on a full-time basis, or each full-time equivalent, on the last day of the year.⁷²

While the Maine statute imposes quite a low limit on the tax credits available, it also affords employers and employees greater flexibility in selecting the child care that best meets their needs. In addition, it imposes fewer documentation requirements than the Connecticut statute.

In Rhode Island, the state legislature recently amended the taxation section of its general laws to include "The Child Day Care Assistance and Development Tax Credit."⁷³ This act provides a tax credit to employers who provide child care services for their employees and to landlords who provide child care services for their commercial tenants.⁷⁴ The statute provides credit for up to 30% of child care expenditures and lost rental from space given to child care. The "amount expended" under a voucher type system is limited to 60% of the cost of child care purchased for each child.⁷⁵ Rhode Island also caps total credits for each taxpayer at \$30,000,

4. Preference is to be given to low income workers (55% of state median income which for 1988 has been calculated at \$11,174 per year); and

5. Businesses apply for credit prior to the year of making expenditures between Oct. 1 and Dec. 1. The Commissioner of Human Resources shall approve proposals in the order in which they are received in his office. Based on data in the application, the Commissioner allocates a specific amount of credit to the taxpayer for the upcoming year.

71. 1987 Me. Legis. Serv. 343 § 8(1)(B) (enacting 36 MRAS § 2524).

72. *Id.*

73. 1987 R.I. Pub. Laws Ch. 87-477 (to be codified at R.I. GEN. LAWS § 44-47-1 (1987)).

74. *Id.* § 44-47-1(a). The statute also includes a tax credit to a taxpayer who provides real property or "dedicates rental space for child care services." *Id.*

75. *Id.* § 44-47-2.

and allows carry-over of any unused credits except for voucher-type expenditures. If the credits earned for voucher-type expenditures reduces the tax due to \$100 or less, then any excess credit may not be carried over to any subsequent taxable year.⁷⁶

III. CURRENT FLORIDA INCENTIVES FOR CORPORATE CHILD CARE

States are finding that paying for preschool child care and education saves public money which would otherwise be spent for abuse programs, remedial training and delinquency. Florida's State Comprehensive Planning Committee determined that for every dollar spent on quality preschool programs for high-risk children the state saves seven dollars.⁷⁷ In recognition of the need to assist families in breaking the welfare cycle, Governor Bob Martinez has started Project Independence, which will provide child care, transportation and other support systems to help mothers on welfare train for and hold down jobs.⁷⁸ For a fraction of the cost of welfare, the state can insure quality child care and development for its children and at the same time expand its tax base.

Despite the cutbacks in Title XX funding under the Reagan administration,⁷⁹ Florida has increased its share of Title XX funds, doubling the number of children receiving care between 1981 and 1986.⁸⁰ In 1985, the Florida Legislature passed three measures to stimulate the creation of additional child care facilities. The larg-

76. *Id.* § 44-47-1.

77. Final Report of the State Comprehensive Plan Committee to the State of Florida, Feb. 1987, at 21. The report further found that:

The percentage of Florida's children living in poverty increased from 17 percent in 1980 to 25 percent in 1986. . . . [Q]uality preschool education and safe, accessible, affordable, quality day care are out of reach for the working poor in Florida. Fifty thousand poor preschool children in Florida are waiting for openings in "Head Start" that —because of recent cutbacks—don't exist. About twenty-two thousand children in Florida are on waiting lists for subsidized day care. Thousands of children spend all or part of each day in makeshift facilities operated by untrained adults. Many more are left home alone while their parents work—sometimes with tragic results.

Id. at 20.

78. Florida Employment Opportunity Act, Ch. 87-94, 1987 Fla. Laws 274 (to be codified at FLA. STAT. § 409.029 (1987)).

79. In 1981, Congress amended Title XX to create the Social Services Block Grant; federal funding for all Title XX services was cut from \$3.1 billion to \$2.4 billion, and a requirement for a minimum expenditure for child care by all states was also eliminated. Social Services Block Grant, Social Security Act, 42 U.S.C. § 602(a) (1982).

80. Florida passed a \$10 million increase in Title XX child care funds for fiscal year 1986, raising the number of children provided for by 10,000. In addition, the state increased the maximum family income for a family of two can receive and maintain eligibility from \$7,099 annually to \$10,820. BLANK & WILKINS, *supra* note 4, at 11.

est of the three was the pilot on-site project which called for the establishment of up to three model child care centers for government employees.⁸¹ Another bill provided a loan program for the establishment of new nongovernmental child care facilities and the expansion of existing facilities, but the program was never funded.⁸² The third measure, entitled the "Gwen Cherry Act,"⁸³ allowed a corporate tax deduction for the start-up costs incurred by a corporation for on-site or near-site child care.⁸⁴

A new initiative was proposed during the 1987 Session by Representative Helen Gordon Davis⁸⁵ which would have allowed a tax credit of 50% to corporations for both start-up and ongoing costs of child care.⁸⁶ When this bill reached the Finance and Taxation Committee, it was changed by substituting the tax credit with a grant from the state to corporations for the same child care costs covered under the tax credit scheme.⁸⁷ Governor Martinez has announced his support for some form of corporate child care incentive,⁸⁸ and Representative Davis has indicated that she will reintroduce the grant proposal in the 1988 Session.⁸⁹

A. *The On-Site Pilot Program*

When the State of Florida appropriated funds to establish on-site child care for state employees in 1985,⁹⁰ part of the stated intent for the State Employee Child Care Pilot Project was to provide a model for private business.⁹¹ Out of the initial funding of \$100,000, \$75,000 was spent for building renovation, and \$25,000

81. FLA. STAT. § 110.151 (1985). One center was established in Tallahassee under this statute. *Id.*

82. FLA. STAT. § 402.3195 (1985). The Child Care Facility Trust Fund, if funded, would have a 5% interest rate. *Id.* at (5)(a). However, no loan could exceed \$100,000. *Id.* at (4).

83. FLA. STAT. §§ 220.03 and 220.12 (1985).

84. FLA. STAT. § 220.03(1)(ee) (1985). Deduction for start-up costs to establish a child care facility as defined by § 402.302(4) requires that the center be located within the state, on-site at the workplace or within five miles of the workplace, and that the facility must be used exclusively by the employees of the taxpayer corporation. *Id.*

85. Dem., Tampa.

86. Fla. CS for HB 788 (1987).

87. Fla. CS for CS for HB 788 (1987).

88. Telephone interview with Susan Muenchow, Ass't Dir., Governor's Constituency for Children (Sept. 4, 1987) (notes on file, *Florida State University Law Review*).

89. Telephone interview with Rep. Davis (Aug. 12, 1987) (notes on file, *Florida State University Law Review*).

90. FLA. STAT. § 110.151 (1985).

91. Dep't of Admin., Information Sheet: State Employee Child Care Pilot Project, No.4 (1987).

was spent on design, initial hiring, and equipment.⁹² An additional \$100,000 was appropriated in 1986 to create an infant center and to fund the final report on the pilot project, due for presentation to the legislature on April 1, 1988.⁹³

The Ina S. Thompson Child Care Center first opened on March 3, 1986, in Tallahassee.⁹⁴ The center currently serves seventy-five children, and at the end of the first year of operation 227 children were on the waiting list.⁹⁵ Parents pay for care based on a sliding scale determined by income, and the center is currently operating in the black.⁹⁶ The director of the on-site pilot project reports receiving many inquiries about the project from governmental agencies and private corporations.⁹⁷ An evaluation of the program is scheduled to be presented to the legislature in April 1988, which will be used as a guideline for private implementation of similar programs.⁹⁸

Analysis of Florida's pilot project is based on a survey of parents and on interviews with the supervisors of state employee participants in the project. Preliminary results of the interviews with supervisors found that "38% said they had noted positive changes in the work performance, productivity level, or work attitudes of their employees that they attributed to the child care program. 62% felt their employees missed work less because of this program."⁹⁹ These perceptions among supervisors reflect the growing opinion that providing child care benefits is not only good for children and their parents, but it is good for business as well.

The success of the program is also reflected in the survey of parents with children in the pilot project.

92. Interview with Carolyn Johnson, consultant to the pilot program, Dep't of Admin. (Sept. 4, 1987).

93. FLA. STAT. § 110.151(12) (1985).

94. Dep't of Admin., Information Sheet: State Employee Child Care Pilot Project, No.5 (1987). The center is located in a state-owned facility behind the Kirkland building which houses the Department of Highway Safety and Motor Vehicles. *Id.*

95. Dep't of Admin., Information Sheet: State Employee Child Care Pilot Project, No.8 & No.9 (1987).

96. Conversation with Carolyn Johnson, consultant to the pilot program, Dep't of Admin. (Sept. 4, 1987).

97. Dep't of Admin., Information Sheet: State Employee Child Care Pilot Project, No.18 (1987).

98. See FLA. STAT. § 110.151(12) (1985).

99. Dep't of Admin., Information Sheet: State Employee Child Care Pilot Project, No.16 (1987).

81% said they believed this program improves the State's ability to attract new employees.

43% felt the State's turn-over rate would be reduced because of this program.

60% said their job performance had improved because of this program.

49% said they had been absent from work less since enrolling their children in this program.¹⁰⁰

Since many of the employees involved in the program live in neighboring counties, being able to bring their children with them to work saves considerable transportation time, reduces tardiness, and enables them to spend more time than would otherwise be available with their children.

One provision of the statute calls for a needs assessment prior to locating the child care center.¹⁰¹ The importance of determining the needs of the parents who will be using the center cannot be overemphasized. Carolyn Johnson, the consultant to the pilot project, suggests that before a company begins to implement a child care program, it should find out the total number of its employees' children who might be served and their ages.¹⁰² A principled evaluation can then be used to determine the type of child care which best meets the employees' child care needs.¹⁰³

One critical question must be asked about any state contribution to child care. Who does the state program serve? The pilot project is caring for 75 children of 62 state employees. Of these employees, 58% are single parents and 55% are receiving Title XX child care subsidies.¹⁰⁴ Therefore, the program is serving the needs of workers with lower income, not simply creating an extra "perk" for highly compensated individuals.

100. Dep't of Admin., Information Sheet: State Employee Child Care Pilot Project, No.14 (1987).

101. FLA. STAT. § 110.151(4) (1985).

102. Interview with Carolyn Johnson, consultant to the pilot program, Dep't of Admin. (Aug. 12, 1987).

103. For example, Ms. Johnson estimates that a business needs to have at least one thousand employees in order to justify creation of an on-site center. Also, an employer whose business is open 24 hours per day will not be able to rely on a voucher system with providers who are only available during day-time working hours. *Id.*

104. Dep't of Admin., Information Sheet: State Employee Child Care Pilot Project, No.13 (1987).

B. The "Gwen Cherry" Act

The "Gwen Cherry" Act provides for deduction of child care facility start-up costs from computation of corporate net income.¹⁰⁵ The deduction is expressly limited to start-up costs which are defined in section 220.03(1)(ee), Florida Statutes:

"Child care facility start-up costs" means expenditures for equipment, including playground equipment and kitchen appliances and cooking equipment, and real property, including land and improvements, used to establish a child care facility as defined by s. 402.302(4) located in the state on the premises or within 5 miles of the employees' workplace and used exclusively by the employees of the taxpayer.¹⁰⁶

The statute therefore excludes any child care options other than on- or near-site centers. Expenditures for vouchers or resource and referral services, along with the ongoing costs of providing child care in the on- or near-site centers do not qualify under the provisions of the Act. Note that the requirement that any center be located within five miles of the employees' workplace is a reasonable limitation considering the importance of convenient locations for child care centers.

The final limitation in the Gwen Cherry Act requires that the center started by the corporation be used exclusively by the employees of the taxpayer, that is, the corporation. While the intent of this limitation may be to prevent corporations from receiving tax deductions on for-profit centers, it apparently prevents two or more corporations from joining together to establish a child care center.

The most pressing need in child care is the creation of additional spaces for children. According to the Children's Defense Fund, "[r]ecent data from *Massachusetts* resource and referral programs

105. FLA. STAT. § 220.12(1) (1985). The Department of Revenue was unable to provide the number of corporations taking advantage of the deduction.

106. *Id.* FLA. STAT. § 402.302(4) (1985) provides:

'Child care facility' includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included: public schools and nonpublic schools and their integral programs; summer camps having children in full-time residence; summer day camps; and Bible Schools normally conducted during vacation periods.

Id.

suggest that only one-third of the families in the state who need day care are able to find satisfactory, affordable child care."¹⁰⁷ Florida expanded the number of Title XX slots by 1,600 in 1986,¹⁰⁸ but that number barely kept up with the growth of the waiting list, which now totals over 27,000,¹⁰⁹ and the real number of spaces needed by those with income over 150% of the poverty level is unknown.¹¹⁰ The Gwen Cherry Act directly encourages the creation of more child care spaces; however, it is not clear that a tax deduction is sufficient to motivate a company to provide on-site child care if it is not already convinced there is business utility in doing so.

C. Florida's Proposed Legislation

In the 1987 Regular Session, Representative Helen Gordon Davis sponsored a bill to create a tax credit for corporate contributions to employee child care.¹¹¹ The original draft was passed by the House Committee on Commerce with only minor revisions and was sent to the Committee on Finance and Tax. There, the bill was amended again, exchanging the original tax credit for a grant to equal 50% of any expenditures for child care of employees' dependents.¹¹² This last version of the bill did not reach the floor of the House during the 1987 Session.

In the original draft of the bill proposed by Representative Davis, the section on legislative intent contained these findings:

60% of mothers of all Florida preschool children are in the work force, 51% of the total work force is [sic] women, and one-third of them are heads of households . . . [S]tudies show that when corporations provide child care on-site or provide other child care benefits [the corporations] . . . benefit by lower employee turnover, lower absenteeism, improved employee attitudes toward the employer, improved attitudes toward work and attraction of new employees.¹¹³

107. BLANK & WILKINS, *supra* note 4, at 10.

108. Interview with Larry Pintacuda, program supervisor, Family Support Services of the Office of Children, Youth and Families, Dep't of HRS (Sept. 10, 1987) (notes on file, *Florida State University Law Review*).

109. *Subsidized Child Day Care Waiting List for Day Care*, Dep't of HRS, June 1987.

110. According to Larry Pintacuda of HRS, Title XX subsidies are available to those persons with incomes under 150% of the poverty level. Interview with Larry Pintacuda, *supra* note 108.

111. Fla. CS for HB 788 (1987).

112. Fla. CS for CS for HB 788 (1987).

113. Fla. HB 788, § 1(a)-(b) (draft of Apr. 28, 1987).

The statement of intent also enumerates vouchers and information and referral services as options for corporate contributions to child care.¹¹⁴ The two subsequent committee substitutes contained a shorter statement of intent, emphasizing the benefits to corporations and the state's interest in helping its citizens to become self-sufficient.¹¹⁵

Under the tax credit scheme, a corporation would receive a 50% tax credit on contributions for both the start-up costs of child care and the costs for ongoing care, including referral services and the operation of on-site child care.¹¹⁶ Any start-up costs taken as deductions under section 220.12(1) would be excluded from tax credit eligibility.¹¹⁷ The grant proposal would also allow corporations to recover 50% of any expenditures for ongoing child care costs, including the operation of on-site child care. Start-up costs are omitted, however, leaving taxpayers to rely on the deduction under section 220.12(1).

Both the tax credit and the grant would appear to give roughly equal incentive to a corporation to get involved in child care. The main difference between the proposals is the degree of state control over the amount of money "expended" to encourage corporate child care. The tax credit proposal did not cap the total credits available to all participating corporations; nor did it impose a cap on the total credits an individual taxpayer could receive.¹¹⁸ The

114. *Id.* at § 2(a).

115. Fla. CS for CS for HB 788, § 3(1)(b)-(c) (1987):

The Legislature recognizes that flexible compensation programs providing a child care option are beneficial in tax savings to the employer and employee and are beneficial to the state in more dollars being available for purchasing power and investment. Finally, the Legislature finds that even with the potential benefits to the corporation of providing child care initiatives, the participation by corporations is minimal It is the intent of the Legislature that all citizens of Florida be provided with the necessary opportunities to become and to remain independent, productive citizens. It is also the intent of the Legislature that the children of the state be provided safe and enriching child care at any time but especially while parents work to remain self-sufficient.

116. Fla. CS for HB 788, § 3 (1987)(proposed FLA. STAT. § 220.185(2)-(3)).

117. *Id.*

118. Staff of Fla. H.R. Comm. on Fin. & Tax., CS for HB 788 (1987) Staff Analysis (May 5, 1987) (on file with committee). The Staff Analysis contained estimates of the potential cost of one year of tax credit expense as \$33 million for on-site start-up costs and \$58 million for ongoing expenses. These numbers were provided by the Department of Revenue based on the total number of corporations and employees in the state. We were unable to discover what demographics, if any, such as employees with children, were factored into these enormous figures. Compare with Connecticut's low rate of participation in its corporate tax credit program, *supra* notes 62-70 and accompanying text.

grant proposal would appropriate \$625,000 for calendar year 1988, and \$1,000,000 for calendar year 1989, capping the total amount available.¹¹⁹ Any rules necessary for implementing the grant program would be promulgated by the Department of Health and Rehabilitative Services (HRS).¹²⁰ It would be reasonable to expect that the funds would be available on a "first come, first served" basis. Therefore, a corporation planning to participate in child care and expecting to receive a grant would want to contact HRS to find out if grant money was still available.

D. Analysis

Florida has been a leader among states in child care. While most states have decreased the number of child care slots available under Title XX since 1981, Florida has doubled its contributions.¹²¹ Florida has also raised the eligibility levels for publicly funded child care.¹²² These contributions to child care address the first two principles recommended by the Children's Defense Fund as being fundamental to developing a state child care policy:

Child Care should be affordable for lower-income working families and those in school or training programs;
 The supply of quality child care programs should be expanded;
 The quality of child care programs should be strengthened;
 Child care providers, most of whom are low-income women supporting their own families, should be paid a living wage.¹²³

The last two of these principles, improving the quality of child care and raising the compensation for child care providers, are important but expensive goals. If the state pressed for stringent quality requirements or wage increases too quickly, parents might not be able to afford such reforms no matter how laudable. Meeting the most pressing need of additional space therefore, is the most practical approach.

The principle advantage of both the tax credit proposal and the grant proposal over the Gwen Cherry Act is the inclusion of ongoing child care costs to the scheme of state incentives. Corporations

119. Fla. CS for CS for HB 788, § 2 (1987).

120. *Id.* § 1(3).

121. See BLANK & WILKINS, *supra* note 4, at 11.

122. In the past, a mother with one child in the could earn no more than \$7,099 a year to be eligible. Now mothers earning up to \$10,700 annually will be eligible for child care assistance. *Id.*

123. *Id.* at 19.

might otherwise hesitate to act out of fiscal concern for continuing costs. However, both proposals have significant disadvantages.

The tax credit proposal while increasing the tax savings otherwise available under the Gwen Cherry Act deduction, would have the effect of increasing the corporation's tax liability to the federal government.¹²⁴

It has been estimated by the Department of Revenue that out of every \$1.00 that Florida gives up in credits, only about \$.50 actually goes back to the corporation. With the newly proposed tax code, they estimate this amount will be reduced about \$.35 on the dollar.¹²⁵

Nevertheless, the credit is a significant improvement over the simple deduction offered by the Gwen Cherry Act. If a tax credit is enacted, the Legislature should repeal the Gwen Cherry Act because corporations will no longer take the Act's deduction when a more valuable credit is available.

The grant proposal does not duplicate the start-up cost provision of the Gwen Cherry Act. It merely leaves the taxpayer with the deduction if on- or near-site child care is established. Because the most pressing need at this time is more child care, the biggest problem with the grant is that it would only indirectly create additional spaces for children.

Federal tax laws provide a disincentive for employer creation of on-site or near-site centers. The ongoing costs of such centers, as well as vouchers, and resource and referral services, can be deducted from federal income tax if properly structured under section 129 of the Internal Revenue Code.¹²⁶ But expenses for the start-up costs for child care as provided in Florida's Gwen Cherry Act are not deductible or available for a tax credit under the federal tax scheme.

Furthermore, neither proposal creates any benefits for partnerships or sole proprietorships which have no limited liability and are not subject to taxation.¹²⁷ Small businesses not subject to taxation cannot benefit from the tax credit, and the language of the

124. Staff of Fla. H.R. Comm. on Commerce, CS for HB 788 (1987) Staff Analysis II(B) (May 5, 1987) (on file with committee).

125. *Id.* However, the tax credit and the grant would carry the same tax consequences, assuming that the grant would not be taxed by the state, but that it would be taxable for purposes of federal corporate taxes.

126. 26 U.S.C. § 129 (1982 & Supp. 1983).

127. See FLA. STAT. §§ 220.02(1), 220.03(e) (1985).

grant specifically makes the grant available to "corporations."¹²⁸ For example, grant money would not be available to a group of small business employers who could not afford to individually sponsor a child care center, but who might want to form a consortium to establish a center convenient to the employees of the group as a whole. New child care legislation should include these businesses. In order to prevent abuse by individuals or families from applying for the grant under a partnership umbrella, the statute should include a definition of small businesses perhaps along the lines of Title VII—requiring a minimum number of employees¹²⁹—or 26 U.S.C. § 129, which limits the percentage of qualifying benefits which can be awarded to highly compensated individuals.

The grant proposal could be amended to provide the most flexibility by specifically encouraging grant applications from groups of corporations,¹³⁰ and adding small business employers, individually or in groups, as eligible recipients.¹³¹ Start-up costs as defined under the tax credit proposal should be included and the Gwen Cherry Act repealed. These changes would create a unified and effective incentive program for corporate and small business participation in child care. The tax credit scheme could be similarly amended by inclusion of total and individual caps on expenditures, but would be unable to include noncorporations as eligible recipients.

A tax credit statute should be structured to stimulate maximum corporate participation. Connecticut's experience with corporate tax credit can provide guidance to other states. The slow response by Connecticut corporations to the tax credit may be attributable to concern that the funding was too low, or to a need for more promotion and advertising of the credit program. Florida has other tax credits which can offer a possible solution to the perceived problem of underfunding. Under the community contribution tax

128. Fla. CS for HB 788, § 1(2)(a) (1987).

129. Social Security Block Grant, Social Security Act, 42 U.S.C. § 602(a) (1982).

130. An example of such a consortium effort is in downtown Atlanta where Rich's department store has a center which also serves the children of employees of two banks, two newspapers, and the paper company, Georgia-Pacific. *The Child-Care Dilemma*, TIME, June 22, 1987, at 60.

131. Any inclusion of noncorporations, i.e. small businesses, should include safeguards which would assure that state benefits would accrue to lower income persons. Model legislation limitations could be found in the number of employee requirements of Title VII (42 U.S.C. § 2000) and in the IRS provisions in 26 U.S.C. §§ 125, 129 which restrict total credits and the inclusion of highly compensated employees or shareholders.

credit in section 220.183, Florida Statutes, tax credits may be carried forward for a period of up to five years.¹³² A child care tax credit statute could contain similar language to prevent the potential problems that are presented in a "first come, first served" scenario by allowing any credits which would exceed an individual cap to be claimed in a subsequent year. In the same way, if corporations claimed tax credits exceeding the total cap on a tax credit scheme, the state could pro-rate the credits among the participants and allow the residual credits to be claimed in subsequent years.

IV. SUGGESTIONS FOR FUTURE LEGISLATION

Improvement in the child care crisis in this country will require a change in corporate America's view of the relationship between the family and the workplace. A common definition of professionalism has required that no mention or accommodation of family problems should enter the workplace. This attitude is no longer viable in a workforce in which women comprise 44% of the total workers, a majority of whom have or will have children during their careers.¹³³ Society has changed rapidly, but the business community has not caught up with, or perhaps, in many cases, even recognized, those changes. Business must become more responsive to family needs in order to recruit and retain productive workers.

While child care is the crisis of the 1980s, pressure from employees and from government may cause it to become the benefit of the 1990s. Realizing this goal will take a concerted effort by government and private enterprise. Predictions suggest that by 1990, 64% of all families with children under eighteen will have mothers in the workforce, 66% of all new entrants into the workforce will be women, and that the number of children under ten years of age in single-parent homes will increase by 48% over the last decade.¹³⁴ A coordinated policy for creating family support systems including child care is imperative, and will require state, federal and private participation.

132. FLA. STAT. § 220.183(3)(e) (1985).

133. WOMEN'S BUREAU, OFFICE OF THE SECRETARY, U.S. DEP'T OF LABOR, FACT SHEET No. 86-1, *supra* note 22, at No. 4.

134. Investing in Quality Child Care. A Report for AT&T, 10-11 (Nov. 1986) (on file, *Florida State University Law Review*). According to Elinor Guggenheimer, president of the Manhattan-based Child Care Action Campaign, "the number of children under six who will need daytime supervision will grow more than 50% [over the next ten years]." *The Child-Care Dilemma*, *supra* note 130, at 55.

The United States is lagging far behind other industrialized countries in offering child care benefits. For example, France provides child care for 79,000 children in 1,494 centers of which 167 are privately run.¹³⁵ In Denmark, nearly 44% of children under three years of age, and 69% between the ages of three and five, are enrolled in public facilities.¹³⁶

New federal legislation is being proposed by the Alliance for Better Child Care (ABC), a coalition comprised of sixty-four national organizations including the National Parent Teacher Association, the American Federation of Teachers, and the Children's Defense Fund.¹³⁷

The goal of ABC is to pass a major national child care initiative which would make new funds available to help low and moderate income families meet the cost of child care while, at the same time, providing states with direct funds and financial incentives to improve the quality and expand the supply of child care for all families.¹³⁸

Florida should consider a wide range of programs in addition to corporate incentives. The Legislature should appropriate funds to the Child Care Facility Trust Fund.¹³⁹ Low-interest loans should be made available to small businesses and nonprofit corporations seeking to establish child care programs. The state should consider an ordinance similar to one adopted in San Francisco which requires major new commercial office and hotel space to include an on-site child care center or pay \$1 per square foot of space to the city's child care fund.¹⁴⁰ Finally, the state should help the private sector explore the various ways to provide additional high quality, affordable child care.

One of the principle ways that government can stimulate corporate involvement in child care is to educate employers of the benefits of providing child care and to advertise the available state in-

135. *Id.* at 60 ("The state-run centers are open eleven hours a day and cost between \$3 and \$17.50 daily.").

136. *Id.*

137. *U.S. Senate, Subcommittee on Children, Family, Drugs, and Alcoholism of the Labor and Human Resources Committee* (testimony of Helen Blank, Director of Child Care, Children's Defense Fund (June 10, 1987)) (on file, *Florida State University Law Review*).

138. *Id.* at 13.

139. FLA. STAT. § 402.3195 (1985).

140. SAN. FRAN., CALIF., MUN. CODE § 314.4 (1987). *But see* *Nollan v. California Coastal Comm'n*, 107 S. Ct. 3141 (1987) (this type of tax linkage may be unconstitutional since there is no nexus between the benefit and the exaction of the tax).

centives. The report to the Legislature on the State Employees' Child Care Pilot Project should be widely distributed, along with information on eligibility and procedures for taking advantage of state incentives, whether deductions, tax credits, or grants. Through these and other efforts, Florida can continue as an example of a new business model—a model which recognizes the interdependence of work and family in contemporary society.

“Women have become so essential to the economy of this nation that their continued participation in large numbers in the work force is critical.”¹⁴¹ Businesses that respond to the crisis in child care with creative programs to meet the needs of their employees will not only benefit in improved morale, recruitment and retention of productive workers, they will also benefit society by contributing to the education and development of children.

Investing in children pays like compound interest—the benefits, in reduced fiscal and other costs to society, accrue year after year. In contrast, opportunities we miss to invest in children today become mortgages we will pay tomorrow—through more public welfare, more expensive health care, more juvenile delinquency, more jails and prisons, and more expensive law enforcement.¹⁴²

141. Beck, *Corporate World Has Little Time or Patience for Newborn Babies*, Tallahassee Democrat, Sept. 1, 1987, at A15, col. 1.

142. Final Report of the State Comprehensive Plan Committee to the State of Florida, Feb. 1987, at 21.

