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Abstract
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Keywords
Income tax, Taxation--United States, Public welfare, Public finance

Disciplines
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LONG OVERDUE: THE SINGLE GUARANTEED MINIMUM INCOME PROGRAM

DAVID ALLEN LARSON*

I. Introduction

The suggestion of a guaranteed minimum income generates conflicting emotions in the United States. On the one hand, in this nation we encourage individual acts of unselfishness and support our communities through our churches and charitable institutions. On the other hand, the United States has stopped short of adopting a comprehensive guaranteed income plan. Instead, this country has various and distinct limited maintenance programs which, even in combination, do not provide a guaranteed minimum income. The number of different programs and the amount of money committed to these programs are both substantial. Yet the United States clings to the idea that each person can succeed if he or she is willing to work hard enough. As much as any other factor, this belief has fostered an approach to income maintenance which cannot be called comprehensive.

There are two basic approaches to income maintenance. One approach assumes that everyone, at some point or another, may need assistance and that the goal is to identify and exclude those who have sufficient resources. The second approach assumes that nobody actually needs assistance and then makes exceptions for

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those individuals who are subsequently identified as requiring support. The United States has embraced the latter approach. Because this country assumes no one needs assistance, even the exceptions are limited.

A strong argument can be made that it would be less expensive to operate a single integrated guaranteed income program. Limited assistance programs in the United States include workers' compensation, unemployment insurance, earned income tax credits, the Social Security System (including Old-Age, Survivors and Disability Insurance, Social Security Supplemental Income Program, Aid to Families with Dependent Children (AFDC), and Medicare and Medicaid), Food Stamps, and housing assistance. Any nation that adopts such a loosely coordinated and costly approach to income support clearly does not desire a comprehensive income plan.

This Article provides an overview of income support programs in the United States. The Article first examines proposals for a guaranteed income. This initial examination consists of four separate sections. It begins with a summary of negative income tax plans. Second, it discusses legislation introduced in the United States Congress. Third, current guaranteed income proposals are examined. Finally, it concludes with a brief examination of social experiments conducted in several communities. Because no proposal for a comprehensive guaranteed income program has been adopted, this Article next discusses the income maintenance programs listed in the preceding paragraph. As one can imagine, the breadth of this project is monumental. Accordingly, this Article presents a short description of each program and selected statistical information.

The United States continues to battle an economic recession. One major problem has been the savings and loan industry collapse. Additionally, the current Administration often appears preoccupied with extraterritorial concerns. For instance, this nation stands prepared to spend millions of dollars to send troops and equipment to distant countries when circumstances similar to the invasion of Kuwait arise. Furthermore, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 requires a reduction in the national annual budget in order to reduce the existing deficit. For example, an estimated 32% spending reduction for the 1990-91 fiscal year would have automatically become effective on October 1, 1990, if Congress had not taken affirmative action to avoid the

2. Although federal programs will be the primary focus of this report, these programs are often supplemented by similar state programs.

scheduled spending cuts. Finally, the United States just ended a decade wherein, as a result of income tax "reform," this country chose to allow the wealthy to become wealthier and the poor to become poorer. Obviously, this is not a combination that provides much hope for the adoption of a comprehensive income maintenance program in the immediate future. A comprehensive program should consolidate and reduce administrative costs and thus distribute proportionally greater benefits. Yet, any new social program that even sounds as though it may increase expenditures will not find a sufficiently receptive audience unless the United States changes the way it thinks about a guaranteed income.

II. PROPOSALS FOR A GUARANTEED INCOME IN THE UNITED STATES

A. Negative Income Tax

During the 1960s, there were a number of proposals discussing negative income taxation and suggesting models for adoption. Negative income tax plans provide income supplements which are unrestricted as to use. The supplement is gradually reduced as outside income increases. In a 1967 Yale Law Journal article, the authors suggested that proposals for a negative income tax generally have two identifying features: "the basic allowance which an eligible individual or family may claim from the government, and the off-setting tax which every recipient of the basic allowance must pay on other income." The net benefit is the basic allowance minus the off-setting tax.

A positive income tax allows the government to share in a family's earnings when those earnings exceed a certain minimum. In contrast, a negative income tax requires the government to provide benefits when family income falls below a certain minimum. The

4. Id. § 901.
7. Tobin, supra note 6, at 1.
8. Id. at 2.
9. Id.
basic allowance is the income guarantee, and this amount is the net benefit received by a person whose other income for the year is zero and who has no off-setting tax to pay.\(^\text{10}\)

The *Yale Law Journal* article provides a helpful summary of different proposals for negative income tax plans. It states that at least three major problems arise when one attempts to design a workable plan. One must decide: (a) how to define the family unit and how to coordinate the basic allowance with size and composition; (b) how to define the base level for the off-setting tax, as well as how to relate the program to the existing income tax system (in addition to other government assistance programs); and (c) how to make eligibility determinations, distribute timely payments, and collect the off-setting taxes.\(^\text{11}\)

Several articles make very specific proposals for a negative income tax plan. It is not possible to summarize the substantial detail presented in these proposals. The simple fact is, however, that these proposals were not implemented and gradually lost much of their initial appeal.

### B. Legislative Proposals

In the 1970s, income maintenance proposals became major political and legislative issues.\(^\text{12}\) President Nixon's Family Assistance Program (FAP) and presidential nominee George McGovern's universal tax credit proposal (UTC) received significant attention. The original FAP was structured so as to provide $500 per year for each of the first two family members, and $300 for additional members.\(^\text{13}\) The first $720 of additional income was tax exempt. As to earnings above that level, payments were to be reduced by 50%. At a certain income level, the recipient would eventually pay the same amount of taxes under the income maintenance program as he or she would pay under the existing income tax system. This point, often called the "break-even point," was $3,920 under the original FAP plan.\(^\text{14}\) This plan was intended to cover clothing expenses and

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10. *Id.* at 2-3.
11. *Id.* at 4.
14. *Id.*
the cost of traveling to work, and no additional allowances were made for work-related expenses.\textsuperscript{15}

The plan was rejected by Congress, however, at the end of the 91st Session.\textsuperscript{16} An amended plan was introduced in 1971.\textsuperscript{17} Although benefit levels were higher under the amended plan, benefits were also reduced by 66 2/3\% for every dollar earned.\textsuperscript{18} This proposed legislation was also rejected.\textsuperscript{19}

The FAP was intended to replace the Aid to Families with Dependent Children (AFDC) program. In many locations, a family could not qualify for AFDC if the father still lived at home. Because it was believed this policy encouraged fathers to leave their families, FAP included all families with children. It was also believed that AFDC was discouraging employment because the benefits under AFDC could turn out to be higher than the income which could be earned at the minimum wage level. FAP responded to this concern by supplementing the incomes of workers receiving low wages. FAP was designed to eliminate the often striking differences in AFDC benefits between the states. Because the AFDC program was becoming tremendously expensive for individual states, the federal government concluded that it should absorb a greater percentage of the cost.\textsuperscript{20}

The FAP received substantial criticism from the outset. In the Congressional hearings, data from the Bureau of the Census Survey of Economic Opportunity was introduced which indicated that men working at less than $2.00 per hour would reduce their work by 24\% in response to the proposed 66 2/3\% tax rate.\textsuperscript{21} Additionally, any proposal which permitted workers to keep only one third of what they earned was not politically acceptable.\textsuperscript{22} Furthermore, the plan was not well-coordinated with other federal or state assistance programs. For instance, medical assistance operated on the principle that when income rose $1.00 above the eligibility threshold, the family would lose all benefits. When combined with a 67\% tax rate,
a situation could arise where a slight increase in earnings would allow a worker to take home only one third of his earnings, and also result in a complete loss of benefits under the medical assistance program. The FAP thus received significant criticism directed at the inadequacy of the benefits, the work disincentives that would be created, and the extensive state-federal coordination that would be required. Additionally, the plan did not provide complete coverage because it limited eligibility.

A $1,000 universal tax credit (UTC) was proposed as an alternative to FAP by presidential candidate George McGovern in the early 1970s. McGovern wanted to end categorical welfare payments and instead provide an income supplement to millions of Americans, including those in the medium income range. McGovern hoped to avoid stigmatization by including everybody in the plan. He believed that if a very broad tax base was used and tax preferences such as the capital gains deduction were eliminated, the average citizen’s tax rate would be relatively unchanged.

The idea of eliminating tax exemptions and preferences was clearly politically unpopular, however, and increasing taxes in the alternative was even less popular. When criticism began to develop, McGovern did not respond aggressively and eventually decided to abandon the plan. The UTC was a radical proposal by a presidential candidate who ultimately suffered a resounding defeat in the national election. Under the UTC, nobody would ever be identified as a welfare beneficiary. The UTC was proposed as a basic right which was not made dependent upon any work requirement. This aspect was unacceptable to many citizens and, when combined with the specter of significant tax increases, resulted in the abandonment of the plan.

C. Current Proposals

Writers in the United States continue to make proposals for fighting poverty and creating a guaranteed minimum income although the number of proposals has grown significantly smaller.

23. Id. at 682.
27. Id. at 687-89.
In 1988, Robert Haveman published a thoughtful book entitled *Starting Even.* He believes that the United States is finally ready for significant reform in the area of social legislation.

Haveman explains that in the 1970s and 1980s, social welfare programs were perceived as a "Big Tradeoff-Retrenchment." Unemployment, sluggish growth, and an erosion of our international competitive position were viewed as the inevitable consequences of social spending increases. Many individuals also believed, however, that a decline in economic indicators could be reversed by reductions in social programs.

As a result, the governmental intervention that had grown for twenty years began to slow down in the late 1970s and stopped growing altogether in 1981. From 1982 to 1989, President Ronald Reagan reduced federal expenditures for human resource programs by over $100 billion. President Reagan believed that the government had grown too big, that social intervention had made social problems even worse, and that social programs destroyed private initiative.

Haveman challenges the concept of the "Big Tradeoff-Retrenchment" by rejecting the assumption that decision-makers are well-informed, consistent, and rational. He does not believe decision-makers have clearly articulated objectives, well-defined options for achieving those objectives, accurate and full information, or that they always make the best choice to accomplish their goals. According to Haveman, the "Big Tradeoff-Retrenchment" interpretation does not apply to the political system in the United States. In our political system, there is no consistent government decision-maker whose position allows that person to pursue the most rational policy. Instead, we have a Congress that is not only influenced by strong interest groups, but also checked and balanced by an executive branch that can change rather frequently.

Haveman suggests that it is necessary to engage in a "new way..."
of doing business.” He proposes a five-part approach to poverty elimination:

1. An income safety net for individuals and families, accomplished through a refundable tax credit;
2. A minimum income and retirement benefit provided through a Social Security program, in tandem with assistance for working people to make their own individual provision for a standard of living in retirement in excess of this minimum;
3. A national child support program that requires absent parents to assume financial responsibility for their children, and enforces this requirement through the tax system;
4. An employment subsidy to increase jobs for workers with little or no academic or vocational backgrounds; and
5. A capital account for youths, enabling them to make choices to achieve more and better education, training, and health care.36

The first part of his proposal involves a universal income supplement integrated with the personal income tax, thus providing a guaranteed income to all families. Although this would be similar to the existing earned income tax credit, it would provide support even when there is not any earned income.37 The amount of support provided would be a function of the size and composition of the household unit and would also vary according to income from other sources.38

Haveman's second step involves establishing a retirement program in conjunction with private annuities. Benefit levels would be reduced for workers who are high-wage earners. The federal government would sponsor an information program to assist families to plan for their financial future and provide tax incentives for persons to privately purchase insurance or annuities.39

Third, in order to provide support for children living in one-parent families (which Haveman sees as a large new class suffering from inequality), a universal child-support system would be substituted for child support awards and AFDC. There would be a fixed national schedule financed by additional withholdings from absent

36. Id. at 23-24.
37. Id. The earned income tax credit subsidizes family earnings through a refundable tax credit. For example, in 1988 the rate of subsidy was 14% of earned income up to $6,214. When earnings reached the level of $9,840, the subsidy was reduced at the rate of ten cents for every dollar earned. The subsidy was eliminated after $18,540 of earned income. See notes 101-116 and accompanying text.
38. HAVEMAN, supra note 28, at 154-55.
39. Id.
parents, plus some public spending.\textsuperscript{40}

Fourth, an employment subsidy would be introduced both to off-set constraints on labor demand from market rigidities and to increase the employment of skilled workers. Fifth and finally, each eighteen year-old youth would receive a personal capital account from the government. This account would earn interest and could be used for approved purchases including education, training, and health care services.\textsuperscript{41}

Haveman provides specific details and makes cost estimates for the entire program. He suggests the program could reasonably be estimated to cost $20 billion per year, a 1.5\% increase over federal expenditures for existing comparable programs.\textsuperscript{42} There has not been, however, any legislative effort to implement such a comprehensive program. This is an era of acute anxiety about federal spending and there does not appear to be much immediate hope that Haveman's, or similar, proposals will be adopted.

D. Social Experiments

Negative income tax proposals have been the subject of experiments at the community level.\textsuperscript{43} This Article will discuss four experiments. First, the New Jersey Graduated Work Incentive Experiment was operational from 1968 to 1972 and focused on two-parent families in urban areas of New Jersey and Pennsylvania. Second, the Rural Income-Maintenance Experiment was administered in Iowa and North Carolina from 1969 to 1973 and included both white and black two-parent families, as well as some families headed by females. Third, the Gary, Indiana experiment began in 1970 and focused on black urban families, particularly those with female heads of households. Finally, the Seattle-Denver Income-Maintenance Experiments (SIME/DIME) were the last in this series.\textsuperscript{44}

The SIME/DIME continued from 1970 to 1976 and were the largest, most expensive, and most comprehensive experiments. More families were involved; families were chosen to represent a greater range of income and age; single individuals were included; larger financial benefits were offered; the experiments included training, education, and child care; and families and individuals were followed for longer periods of time. SIME/DIME also had a larger administrative component. The United States Department of

\textsuperscript{40} Id.
\textsuperscript{41} Id.
\textsuperscript{42} Id. at 177.
\textsuperscript{44} Robins, supra note 43, at xv.
Health, Education and Welfare; the state governments of Washington and Colorado; state community colleges in Seattle and Denver; and two major research institutions, SRI International (formerly Stanford Research Institute) and Mathematica Policy Research, Inc. (MPR), participated in this experiment.45

The SIME/DIME were designed to test the effects of a wide range of welfare policy options. These options included different guaranteed support levels in combination with a variety of subsidies and counseling programs directed at education and training.46 A collection of articles entitled *A Guaranteed Annual Income: Evidence from a Social Experiment,*47 published in 1980, examines the effect of the SIME/DIME. These articles examine the labor supply response of heads of family and the implications for a national program; the labor supply response of youth; the labor supply response of heads of family over time; the use of labor supply results to simulate welfare reform alternatives; job satisfaction; and labor supply and child care arrangements of single mothers. These articles also examine the effect on family behavior (including marriage dissolution and remarriage); income and psychological health; and the demand for children. Additionally, an effort was made to identify how negative income tax benefits were used.48

In the preface, the editors suggest that perhaps the clearest message from SIME/DIME, as well as the earlier experiments, is that guaranteed income programs will have a wide range of consequences. For example, participants with higher benefit levels tended to work less, yet they experienced fewer marital separations and divorces than those receiving less generous payments. Thus, work behavior and family stability concerns may run counter to program cost concerns.49

The SIME/DIME results demonstrate the complexity of drawing conclusions based upon social experiments. Participants were all asked the same questions. Yet families with children gave different responses than families without children; male wage earners differed from female wage earners; blacks, whites, and Latinos all tended to behave differently; and even individual family members sometimes responded unlike each other. Additionally, responses varied according to income levels and benefit levels.50

Voluminous data was collected during SIME/DIME. This data

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45. *Id.* at xvii - xviii.
46. *Id.* at xix.
47. ROBINS, supra note 43.
48. *Id.* at xxii.
49. *Id.* at xix. Recall that author Robert Haveman rejects the idea of the "Big Tradeoff-Retrenchment" as applied to national programs. HAVEMAN, supra note 28, at 20.
50. ROBINS, supra note 43, at xix.
suggests that a moderately generous program will not cause massive reductions in hours of work. In a two-parent family, husbands and wives each reduced hours of work by about the same amount. However, as a proportion of total hours worked, the reduction was approximately three times larger for females. As to persons between the ages of sixteen and twenty-one at the time the experiment began, the data suggests that a negative income tax (NIT) program does induce a substantial reduction in hours of work. Additionally, regarding the longer term effect on labor supply, the reduction in hours of work for the five-year sample was considerably larger than the three-year sample, making the difference statistically significant.51

Editor Philip Robins concludes that a nationwide NIT program would be more equitable than the existing welfare system because categorical eligibility requirements would be eliminated.52 A national NIT program would reduce the extreme regional variation in current benefit levels. To make the entire system more equitable, Robins suggests that many current welfare recipients should have their benefits reduced, or a very generous and expensive plan will have to be implemented.53 Yet, he admits that even a relatively generous NIT program would leave a substantial number of current welfare recipients in a less fortunate position.

Although the social experiments represent a serious attempt to understand how American communities will respond to income maintenance programs, these experiments have not resulted in permanent adoption of any proposal. The analyses of the data are technical and thorough, yet they do not offer the clear conclusions that apparently will be necessary before the United States will adopt an income maintenance program.

III. EXISTING LIMITED SYSTEMS OF INCOME SUPPORT

A. Workers' Compensation

Only those employees who are injured while they are at work are entitled to workers' compensation. Prior to the adoption of workers' compensation legislation, injured employees were limited to common law remedies. The employee had to prove the employer was negligent.54 The common law doctrines of assumption of risk, contributory negligence, and the fellow-servant rule (which prevented employees from recovering for injuries caused by the negligence of co-workers) made it even more difficult to recover

51. Id. at 25-26.
52. Id. at 71.
53. Id.
Most states today require employers in the private sector to participate in workers' compensation programs, which provide an exclusive remedy against employers for injuries arising out of and in the course of employment. The critical feature of these plans is that employees or dependents are compensated without regard to fault, and employers who do not act intentionally are insulated from civil lawsuits and potentially large jury verdicts.

In a workers' compensation system, an early determination must be made as to whether a claim should be characterized as either a medical or wage loss. A medical loss will be compensated depending upon the value of the physical injury. For example, a dollar amount will be assigned to a loss of a finger. A remedy based upon a loss of wages, on the other hand, is based upon diminished earning capacity.

Workers' compensation systems are representative of income maintenance systems in the United States generally. Various statutes cover different individuals and provide differing benefit levels. Employees of the United States government, for example, are protected by the Federal Employees' Compensation Act (FECA). This legislation provides payments to federal employees and their dependents for death or disability resulting from personal injury sustained while "in the performance of duty." Although military personnel are not covered by the FECA legislation, separate legislation provides disability compensation and death benefits. As might be expected, one of the major criticisms of workers' compensation programs is that benefits are not equal among the states, or even among different types of employment.

There may be multiple statutes for a single type of employment. In the transportation and shipping industry, for example, the Federal Employers' Liability Act (FELA) applies only to common carriers engaged in interstate commerce. Unlike a true workers' compensation statute, FELA requires an injured employee to prove the employer was negligent. The burden of proof as compared to

55. Id. See also Tiller v. Atlantic Coast Line R. Co., 318 U.S. 54, 58-59 (1943).
56. See generally Jeffrey Nackley, Primer on Workers' Compensation 5 (1989).
57. Id. at 43-57.
60. Id.
63. See 1 Larson, supra note 54, § 4.50.
civil damage cases, however, has been greatly reduced. The Merchant Marine Act of 1920, also known as the Jones Act, provides seamen with a negligence remedy similar to that offered to railroad employees under the FELA. In addition to these two statutes, the Longshore and Harbor Workers' Compensation Act (LHWCA), provides compensation for longshoremen and other persons engaged in maritime employment on navigable waters, including dockside workers on adjoining shore areas. The test is whether a worker is engaged in "maritime employment."

Different industries may have their own distinct compensation schemes. A basic income maintenance program was established for certain coal miners and their dependents as part of the Federal Mine Safety and Health Act of 1977. Benefits are provided when coal miners suffer from or die of pneumonoconiosis, also known as black lung.

In 1987, $27,390,000,000 in benefits were paid under workers' compensation programs. Insurance losses paid by private carriers, which include net cash and medical benefits paid under standard workers' compensation policies, totaled $15,453,000,000. State and federal fund disbursements accounted for $6,782,000,000. Finally, employers' own self-insurance payments totalled $5,154,000,000. As to types of benefits, medical and hospitalization benefits made up $9,940,000,000 of the total benefits paid. Disability compensation benefits accounted for $15,817,000,000, and survivor compensation benefits accounted for $1,633,000,000.

64. Id. § 91.
66. Id. § 688 (1988).
67. Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §§ 901-950 (1988). Although courts have stated that there is no overlap between the Jones Act and the LHWCA, the practical overlap between the federal and state laws has been difficult to resolve. See generally 3 LARSON, supra note 54, §§ 89-91 for an extensive discussion of conflict of laws in this area.
68. 3 LARSON, supra note 54, § 91. An additional statute is the Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331-1343 (1988), which makes the language of the LHWCA applicable to specific employees involved in natural resources exploration, development, and transportation outside the state's seaward boundaries on the continental shelves.
71. Soc. Sec. Admin., supra note 1, at 310.
72. Id.
73. Id.
74. Id.
75. Id. In order to provide some perspective for the dollar amounts that are presented in this Article, note that in 1987 the Gross National Product was reported to be $4,433,800,000,000. Id. at 98. According to the federal budget, the United States government spent a total of $1,064 billion in 1988. BUREAU OF THE
B. Unemployment Insurance


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\footnote{CENSUS, U.S. DEPT. OF COMMERCE, STAT. ABSTRACT OF THE U.S. 1990, 309, Table 497 (110th ed. 1990).}


Omnibus Budget Reconciliation Act of 1981. As unbelievable as it may sound, this list of statutes does not provide a complete picture of unemployment compensation insurance in the United States. Individual states have their own unemployment compensation programs which operate in conjunction with the federal programs. Generally, federal statutes provide broad standards and requirements, and state statutes supply specific provisions.

Unemployment compensation programs provide limited income maintenance support for individuals who become unemployed. Ordinarily, an employee must work for an employer who has paid the unemployment tax and that employee must have worked for a specific period of time. Average weekly wages provide the basis for computing weekly benefit levels. Usually there will be waiting periods before individuals are eligible, and a person can only receive unemployment compensation for a limited number of weeks. Most states determine the duration of the benefit payments based on the individual’s length of employment and wage level. The higher the employee’s wages, the lower the benefits.

Only those workers who have lost their jobs through no fault of their own are eligible to receive unemployment compensation. For example, if an employee voluntarily quits his job without good cause, he will be disqualified from receiving benefit payments. In order to be eligible, benefit recipients must accept suitable employment during their benefit period. Also, in order to continue to receive benefits while unemployed, individuals must register with employment services, remain available for work, and seek work on their own.

The unemployment insurance system expanded significantly after World War II. State program coverage grew from less than 60% of workers in the early 1950s to essentially the entire labor force today. The maximum time period that one can receive benefits has gradually increased to the current typical level of twenty-six weeks. The ratio of benefit payments to weekly wages has in-

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93. The Committee on Unemployment Insurance Law of the Labor and Employment Law Section of the American Bar Association provides regular updates of the unemployment compensation laws for each state. See e.g., Benefits to Unemployed Persons, 5 LAB. LAW. 503 (1989).
95. Id.
96. PALMER, supra note 28, at 18.
97. Id.
98. Id.
creased such that in 1980 the ratio of benefits paid, compared to the average covered weekly wage, ranged from 50% to 60% in a majority of states.99 However, when one considers adjustments for "benefit exhaustion, taxes, work expenses, and fringe benefits," the actual replacement rates in 1980 were closer to 40%.100

C. Earned Income Tax Credit

The earned income tax credit is a form of limited income maintenance.101 This program assists low wage working parents by reducing their income taxes or, if they do not owe any tax, by paying them cash.102 To be eligible, an individual must have a qualifying child who satisfies a degree of relationship test, the age requirement, the identification requirements, and who resides with the individual for more than one half of the taxable year.103

The earned income tax credit, which is paid only to individuals who are employed, "was enacted to reduce the disincentive to work caused by the imposition of Social Security taxes on earned income. . . ."104 It was also intended to stimulate the economy by directing funds to persons likely to spend the money immediately, and to provide relief for low-income families hurt by rising food and energy prices.105 In 1990, over six million families claimed the earned income credit and the program was expected to distribute $5.5 billion to the working poor.106

Under the program as it presently operates, an eligible individual is entitled to a tax credit equal to the sum of the basic earned income tax credit, the health insurance credit, and the supplemental young child credit.107 In 1992, an eligible individual with one qualifying child may claim a refundable earned income tax credit equal to 17.6% of his or her first $7,520 of earned income.108 The maximum

99. Id.
100. Id.
104. Sorenson v. Secretary of the Treasury, 475 U.S. 851, 864 (1986) (citing S. REP. No. 94-36, 94th Cong., 1st Sess. 11, 33 (1975); H.R. REP. No. 94-19, 94th Cong., 1st Sess. 3-4, 29-31 (1975); Hearings on H.R. 2166 before the Senate Committee on Finance, 94th Cong., 1st Sess. 66, 315 (1975); Hearings before the House Committee on Ways and Means on the President's Authority to Adjust Imports of Petroleum; Public Debt Ceiling Increase; and Emergency Tax Proposals, 94th Cong., 1st Sess. 661, 742-43, 797 (1975); 121 CONG. REC. 4609 (1975)).
105. Id.
basic earned income tax credit for this individual is thus $1,324.109 If this individual's earned income exceeds $11,840, the credit will be reduced by 12.57% of that amount which is in excess of $11,840.110 This ensures that the program's benefits are limited to genuinely low-income individuals. The earned income credit is completely phased out when this individual's earned income, or adjusted gross income, reaches $22,370.111

Individuals are entitled to take an additional credit for any child born in 1992.112 The maximum supplemental credit is $376 and this credit will be phased out completely when earned income, or adjusted gross income, is $22,370.113 A health insurance credit is also available for individuals who, during the tax year, pay health insurance premiums that cover one or more qualifying children.114 In 1992, the maximum health credit is $451 (6% of earned income up to $7,520) and the credit is reduced by 4.285% of any earned income, or adjusted gross income, in excess of $11,840.115 Like the basic earned income credit, the health insurance credit is phased out at $22,370.116

IV. THE SOCIAL SECURITY SYSTEM

The Social Security system is the largest income maintenance and supplement program in the United States.117 It was started in 1935 and expanded significantly over the years. The Social Security Act of 1935, also known as the Federal Old-Age, Survivors, Disability and Hospital Insurance program (OASDHI),118 includes Old-Age, Survivors, and Disability Insurance (OASDI) in Title II,119 and

109. Id. § 5.03.
110. Id. §§ 5.02-.03.
111. Id. § 5.06.
116. Id.
Medicare in Title XVIII. The program is funded through the Federal Insurance Contributions Act (FICA). The 1935 Act also provided grants on the basis of need for Old-Age Assistance (OAA), Aid to Dependent Children (ADC), and Aid to the Blind (AB). OAA and AB later became the Supplemental Security Income Program (SSI), while ADC became the Aid to Families with Dependent Children (AFDC), also known as "the welfare program." The Social Security Act of 1935 also included several "health and medical care programs which have had major significance in the development of the United States' health policy in the succeeding fifty years." A brief description of OASDI, SSI, AFDC, Medicare and Medicaid follows this introduction. The words which President Franklin D. Roosevelt spoke after signing the 1935 legislation still ring true today. The Social Security Act "represents a cornerstone in a structure which is being built but is by no means complete."  

A. Old-Age, Survivors and Disability Insurance (OASDI)

The OASDI program provides monthly benefits to retired and disabled workers, as well as to their dependents and survivors. Retirement benefits were included in the original Social Security Act of 1935; benefits for dependents and survivors were added by the 1939 amendments; the 1956 amendments added benefits for disabled persons; and the 1958 amendments added benefits for the dependents of disabled workers. The taxes collected under this program may only be used to satisfy the cost of: "(1) monthly benefits when the worker retires, dies, or becomes disabled; (2) vocational rehabilitation services when disability benefits are being received; and (3) administrative expenses." Employees and their eligible spouses, children, and survivors receive monthly benefits as a matter of right. An eligible employee must have been employed for a minimum amount of time. Whether a worker is fully insured depends upon age and length of employment, although a worker can become fully insured with as few as eight years of employment. Full benefits currently are payable at age sixty-five and reduced benefits are available at age sixty-two, but the retirement age will be gradually increased from age sixty-five to age sixty-seven.  

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122. See Cohen, supra note 117, at 933.
123. Id.
125. Id.
127. Id.
The determination of benefits involves a series of computations. First, identify the number of years an employee worked for a covered employer. Next, establish a wage level for each year and convert those wages to reflect increases over the years. The "average indexed monthly earnings" (AIME) is achieved by dividing the total indexed earnings by the number of months in the computation period. A "primary insurance amount" (PIA) is then determined by applying a percentage formula to the AIME. For instance, the 1989 percentage formula was 90% of the first $339 or less of AIME, plus 32% of any AIME over $339 up to $2,044, plus 15% of any AIME over $2,044.

A schedule exists to determine how much of the PIA amount should be received. For instance, full retirement at age sixty-five will qualify an individual for 100% of PIA. Spouses will receive 50% of the capital PIA. Maximum family benefits can reach 175% of PIA. In 1988, OASDI benefit payments totaled $217 billion and the average monthly benefit received by retired persons was $536.90. This benefit amount was received by 23,842,610 individuals. The average monthly benefit for white retired workers was $545.80, and the average monthly benefit for black retired workers was $449.20. The average monthly benefit for retired men was $604.90 and the average monthly benefit for retired women was $462.30.

In 1988, 2,821,070 persons received OASDI benefits because of disability, and the average monthly benefit was $529.10. The average monthly benefit received by wives of retired workers was $278.00 and husbands of retired female workers received an average monthly benefit of $183.00.

A disabled worker will be eligible for OASDI benefits if that worker is both "fully insured" and "disability insured." To become "disability insured," an employee must have worked twenty quarters during the forty quarters immediately preceding disability. There is a five-month waiting period and, at age sixty-five, disability benefits cease and regular retirement benefits are substi-
tuted. A disability is generally defined as the inability to pursue employment as a result of a medically determinable physical or mental impairment that can be expected to last at least twelve continuous months or to result in death. Disability benefit payments will generally be reduced if an individual receives other types of disability payments.

B. Supplemental Security Income (SSI)

The Supplemental Security Income program provides financial assistance to those who are elderly, blind, or disabled. This federally administered program was established by Congress in 1972 and payments began in January of 1974. Each eligible person who lives in his own household and has no other income was provided, as of January, 1990, a monthly cash payment of $386.00 ($579.00 was provided for a couple if both persons are eligible). Since 1975, SSI benefit levels have been increased on the same schedule as OASDI benefits.

The amount of the payment is based upon an individual’s “countable income.” All income is not included in this calculation. The first $20 in OASDI benefits or other income is not counted. This calculation also excludes $65 per month of earnings plus 50% of any earnings above $65. For instance, using the $386.00 figure from the preceding paragraph, a person living in her own home, whose only income is a $200 monthly OASDI benefit, would receive $206 in federal SSI payments: $386 - ($200 - $20) = $206. As of 1990, individuals generally are not eligible for SSI if they have resources in excess of $2,000 (or $3,000 for a couple).

Certain possessions will be excluded, including a home, an automobile needed for essential transportation, household goods and personal effects of reasonable value, burial plots, life insurance with a face value of $1,500 or less, or burial funds not exceeding $1,500.

States have the option to supplement the SSI basic level for all or selected categories of persons. States are required to supple-

140. Id. at 19.
142. Soc. Sec. Admin., supra note 1, at 62.
143. Id.
146. Id.
ment if the federal benefit level does not equal or exceed the income that recipients of the former state programs had in December of 1973, plus the amount of the federal benefit increases after 1976.147

The total amount of SSI payments in 1988 was $13,786,207,000.148 The federal portion was $10,734,202,000, and the portion of state supplementation that was federally administered was $2,670,561,000. The state-administered payments were $381,444,000. Persons who were eligible because of age received $3,298,922,000 of the total amount, and persons eligible for SSI benefits due to blindness received $302,135,000.149 Disabled recipients received the largest portion of these payments, amounting to $10,176,906,000.150 For the year 1988, the average monthly benefit for all recipients was $263.09.151

C. Aid to Families with Dependent Children (AFDC)

The AFDC program was enacted to encourage the care of dependent children in their own homes, or in the homes of relatives, by enabling each state to furnish financial assistance, rehabilitation, and other services to needy dependent children and the parents or relatives with whom they are living.152 The goal is to maintain and strengthen family life and to help parents or relatives attain or retain capability for the personal independence consistent with continual parent care and protection. Congress authorized specific sums for each fiscal year to accomplish the goals of this legislation. The money allocated is used for making payments to states which submitted, and had approved, plans for services to needy families with children.

In 1987, the total payments amounted to $16,372,535,000.153 The monthly average number of families receiving this assistance was 3,775,573.154 The monthly average number of total recipients for 1987 was 11,026,664, and the monthly average amount per family was $361.37.155

147. Id.
148. Id. at 319.
149. Id.
150. Id.
151. Id. at 320.
154. Id.
155. Id.
D. Medicare and Medicaid

The Medicare program provides basic hospital insurance for all people who are disabled, or sixty-five years or older, and covered by Social Security. This program is a highly subsidized medical insurance plan that covers physicians’ services and provides additional benefits. The federal government and the states share the cost of providing basic medical coverage. In many states, coverage is provided for persons who receive income too high to receive other income maintenance payments, but who can be regarded as “medically indigent.”

A large majority of the population not covered by Medicare or Medicaid has private health insurance. The federal government subsidizes the purchase of this health insurance by exempting employers’ contributions from taxation. The exemption is substantial as illustrated by the $23 billion exempted in 1986, nearly the amount of federal Medicaid expenditures.

Originally, the program attempted to do more than simply provide a minimally adequate level of benefits. The government instead attempted to provide everyone with financial access to mainstream health care. Rising public and private medical care costs in the 1970s, however, received great political attention and gradually health cost containment became more important than national health insurance. For example, after remaining relatively stable at about 14% from 1976 to 1978, the proportion of the nonelderly population without any health insurance steadily increased each year until it reached about 17% in the mid-1980s. Even though Medicare and Medicaid continue to provide protection to the elderly, the percentage of their income that they must spend on medical care has risen.

The Medicare program includes a Hospital Insurance (HI) benefits program. The HI program provides a supplement to cover the “costs of inpatient hospital care and related health care provided by skilled nursing facilities (SNFs) and home health agencies.” Medicare also includes a Supplementary Medical Insurance (SMI) program “which pays [eighty] percent of the charges allowed for medical and related health services and supplies furnished by physicians[ . . . ] and by hospital outpatient facilities,

156. PALMER, supra note 28, at 25.
157. Id.
158. Id.
159. Id. at 26.
160. Id.
161. Id.
162. SOC. SEC. ADMIN., supra note 1, at 51.
163. Id. at 52.
after the beneficiary has met a $75 deductible.”

Health care provided by home health agencies is paid for without any deductible.

The Medicaid program provides medical assistance for individuals and families with low incomes. The federal government pays a percentage of the Medicaid cost that is “annually determined for each [s]tate by a formula that compares the [s]tates’ average per capita income level with the national average.” In 1988, the federal medical assistance percentage fluctuated from the required minimum of 50% up to 79.6%.

Federal guidelines provide states with broad discretion to determine which segments of their population will receive Medicaid. States may also establish financial criteria for Medicaid eligibility. However, these guidelines mandate that specific groups are to be covered by Medicaid. These groups include the following: recipients of AFDC, “children aged [one to six] and pregnant women who meet the state’s AFDC financial requirements,” SSI recipients, and certain Medicare beneficiaries. One result is that certain elderly, blind and/or disabled persons have both Medicare and Medicaid coverage.

In 1988, the Medicaid program provided $48.7 billion in benefits. Under the Medicare program, HI payments in the same year were $52.2 billion, and SMU payments were $34 billion.

V. ADDITIONAL LIMITED MAINTENANCE AND SUPPORT SYSTEMS

A. Food Stamp Program

In 1961, the Food Stamp program began as an experiment and subsequently was officially established by the Food Stamp Act of 1964. By 1980, more than twenty million people were participating in the Food Stamp program. The program provides coupons

164. Id.
165. Id.
166. Id. at 58.
167. Id.
168. Id.
169. Id.
170. Id. at 59.
171. Id. at 3.
172. Id.
that may be redeemed for food at most retail stores. Single persons and households are eligible if they meet certain national standards for income and assets. The number of coupons distributed monthly is calculated according to the size and income of the household. Households that report no income receive coupons equal to the monthly cost of maintaining a nutritionally adequate diet for households of that size. Adjustments are made as food prices increase. For example, food stamp benefits increased to $331 per month for an eligible four-person household receiving no income as of October 1, 1989.\textsuperscript{175} If a household had an income in 1989, that household received the “difference between the amount of a nutritionally adequate diet and [thirty] percent of their income, after certain allowable deductions.”\textsuperscript{176} Federal guidelines require an annual recertification of these calculations for each household.\textsuperscript{177}

Eligibility requirements mandate that households have disposable assets less than $2,000 ("$3,000 if one member is age[] 60 or older, gross income is below 130 percent of the Office of Management and Budget (OMB) poverty guidelines, and net income is below 100 percent of the poverty guidelines").\textsuperscript{178} Permissible deductions from earned income include: (1) 20\% of earned income; (2) a standard deduction (which was $112 in 1989); (3) child care payments that are made to allow the primary caretaker to work or seek work; (4) medical expenses paid on behalf of “an aged or disabled person, . . . after subtracting thirty-five dollars;” and (5) “total shelter costs including utilities minus [fifty] percent of income after all the [] deductions have been subtracted, limited to $177.”\textsuperscript{179}

The Food Stamp program is available in all fifty states, the District of Columbia, Guam, and the Virgin Islands. It is managed at the national level by the Food and Nutrition Service of the Department of Agriculture and is implemented through “local welfare offices and the nation’s food marketing and banking systems.”\textsuperscript{180} All persons receiving or applying for SSI payments are eligible to apply for food stamps at their Social Security district office. The federal government funds the full cost of food stamps, but federal and state programs share in the administrative costs.\textsuperscript{181} Some commentators argue that the success of the Food Stamp program has declined since the late 1970s.\textsuperscript{182} The decline is attrib-

\textsuperscript{175} Soc. Sec. Admin., supra note 1, at 83.
\textsuperscript{176} Id.
\textsuperscript{177} Id.
\textsuperscript{178} Id.
\textsuperscript{179} Id.
\textsuperscript{180} Id.
\textsuperscript{181} Id.
\textsuperscript{182} Palmer, supra note 28, at 21.
uted to worsening economic conditions as well as reductions in public assistance. An increase in poverty rates since 1979 has resulted in growing financial pressure on lower income families.\textsuperscript{183} Since 1979, steps have been taken to limit eligibility and benefits. As a result, the officially defined poor who received food stamps declined from 68\% to 59\% from 1980 to 1985.\textsuperscript{184}

In 1988, 18,660,000 persons participated in the Food Stamp program.\textsuperscript{185} There has been an annual decline from the high point level of 22,430,000 persons in 1981.\textsuperscript{186} The annual bonus value of coupons has continued to increase, however, and by 1988 the total bonus value was $11,205,359,000 and the average monthly bonus per person was $50.04.\textsuperscript{187}

\subsection*{B. Housing}

In 1934, the United States passed the National Housing Act.\textsuperscript{188} Its goal was to assist low income families by improving unsafe and unsanitary housing conditions, and relieving the acute shortage of housing. The legislation resulted in significant improvements and, from 1940 to 1970, the number of households that either lacked or had dilapidated plumbing facilities decreased from 48.6\% to 7.4\%.\textsuperscript{189}

Serious problems still remain for many low income families and individuals, however. Approximately 20\% of the housing occupied by low income families is substandard or overcrowded.\textsuperscript{190} A large and increasing percentage of those who are able to live in physically adequate and uncrowded units do so only by spending more than 30\% of their income on housing — a percentage that the United States Department of Housing and Urban Development has described as “excessive.”\textsuperscript{191}

Federal policies in the housing area include tax incentives for investment housing, participation in the housing finance system, and the provision of direct housing assistance. The tax incentives, as well as government participation in the housing finance system, have primarily benefited middle and upper income households. In 1985, direct housing assistance programs totaled slightly less than

\begin{itemize}
\item \textsuperscript{183} Id.
\item \textsuperscript{184} Id.
\item \textsuperscript{185} Soc. Sec. Admin., supra note 1, at 343.
\item \textsuperscript{186} Id.
\item \textsuperscript{187} Id.
\item \textsuperscript{189} Palmer, supra note 28, at 21.
\item \textsuperscript{190} Id.
\item \textsuperscript{191} Id.
\end{itemize}
$14 billion, and the estimated revenue loss from housing related tax
policy was about $46 billion.\textsuperscript{192} 

During the 1980s, the federal government deregulated the
housing finance system and reduced its role in housing loans and
loan guarantees.\textsuperscript{193} Tax reform restricted housing investment tax
breaks. There was also a reduction in direct housing assistance, es-
pecially for rental units, that has affected low income families.\textsuperscript{194} 

Although sufficient funds were never budgeted to cover more
than a small fraction of the eligible population, by the late 1970s
nearly five million urban and rural households benefited.\textsuperscript{195} Yet
housing assistance is not available to all citizens in the United States,
and there is a growing population of homeless persons. Conserva-
tive estimates placed the number of homeless persons at 350,000 in
the mid-1980s.\textsuperscript{196} Although once thought to be a population of
transients, alcoholics, addicts, and mentally ill persons, now a signif-
icant and growing portion appears to be less deviant personalities,
including families with children who cannot locate affordable
housing.\textsuperscript{197} 

VI. CONCLUSION

The United States Department of Commerce, Bureau of the
Census reports that in 1988 the poverty level for a family of four was
$12,092.\textsuperscript{198} To determine what hourly wage will at least equal the
poverty level, one can divide this dollar figure by forty (representing
a forty hour work week), and then divide that figure by fifty-two, the
number of weeks in a year. The result is that for a family of four, the
head of the household must earn $5.81 an hour. Even though there
has recently been an increase in the minimum wage, it is still well
below $5.81 per hour. Consequently, a vast range of income sup-
port programs are essential.

It is obvious that the United States does not have a uniform,
coordinated system of income support. Its alternative of providing
a confusing collection of programs can result in individuals failing
to apply for the correct program, or even failing to apply for any
program at all. Yet, with the United States facing a budget deficit
crisis, combined with the threat of automatic across-the-board
spending cuts as a result of the Balanced Budget and Emergency

\textsuperscript{192} Id. at 22.
\textsuperscript{193} Id.
\textsuperscript{194} Id.
\textsuperscript{195} Id.
\textsuperscript{196} Id. at 24 (citing U.S. General Accounting Office, Homelessness: A
Complex Problem and the Federal Response (1985)).
\textsuperscript{197} Id.
\textsuperscript{198} Bureau of the Census, U.S. Dept. of Com., Stat. Abstract of the
Deficit Control Reaffirmation Act of 1987, it is unlikely that there will be any immediate reform of the guaranteed income system, to the degree it exists, in the United States. Consolidation and reform, however, are far overdue. The United States must acknowledge that the notion that anyone can pull themselves up by their bootstraps simply makes no sense in a country where some do not have shoes, or boots.