



# Empire Justice Center

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## **Joint Legislative Public Hearings on 2024-2025 Executive Budget Proposal Taxes**

**February 14, 2024**

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## INTRODUCTION

We appreciate the opportunity to submit this testimony on behalf of Empire Justice Center. This testimony addresses issues in the Executive Budget that pertain to taxes.

Empire Justice Center is a statewide, multi-issue, multi-strategy not-for-profit civil legal aid provider focused on changing the complex systems impacting low income and marginalized New Yorkers. With a focus on poverty law, Empire Justice takes a 360-degree approach to the areas of law we practice in, providing individual legal representation, policy research and analysis, training and technical assistance as well as impact litigation. Our work cuts across all significant areas of poverty law and involves three inter-related services:

**We practice the law:** Empire Justice Center provides a range of legal assistance from our offices in Rochester, Albany, Yonkers, White Plains, Central Islip, and Hempstead. We provide one on one representation and undertake impact litigation to address systemic issues impacting low income and marginalized communities.

**We teach the law:** Our history as a backup center for civil legal services providers began in the 1970's and has developed so that we now also provide training, technical assistance and other support services to a variety of other community-based organizations, keeping them apprised of changes in the law and regulations.

**We change the law:** In order to ensure that the needs of low-income families are heard within the state's policy making processes, we engage in both legislative and administrative advocacy on a range of issues impacting our clients and we do the same as needed at the local and federal levels.

In our work at CASH (Creating, Assets, Savings and Hope), we provide tax preparation support to low-income people, helping to ensure they are claiming all the tax credits that they are entitled to. To date, we have supported almost quarter of a million families through our VITA program, in the Rochester area, to set them on a path towards financial stability. Each year we provide direct service to over 10,000 families and connect them with additional resources that they may not be aware of.

Given all the families we work with, we see patterns. We've seen first-hand the impact of the changes in federal tax policy during the pandemic – notably extending the Child Tax Credit to include advanced payments – and how that helped so many families. Unfortunately, to date we've seen the negative impact that the failure to extend the Federal Advance Child Tax Credit and expand eligibility has had on families. In 2023, our clients living in the Rochester area, received approximately \$1 million less in refundable tax credits due to the changes in Child Tax Credit and eligibility rules. These drastic cuts directly impact our low or no wage filers. One

family of four who had received a tax return of almost \$8,000 left last year with approximately \$300 in credits. That is a massive decrease in her year-over-year returns and will directly impact the quality of life of the children in this family.

Based on our expertise, we see clear opportunities to lift New York children and families out of poverty with amendments to our tax law.

In the 2024-25 budget, we urge New York to strengthen and expand its refundable tax credits in a similar way to the way the federal child tax credit was enhanced during the pandemic to have the greatest impact on child poverty. We applaud the work that has been done thus far, particularly around the passing of the Empire State Child Credit and look forward to building on this to continue to drive down poverty in New York State.

### **Empire State Child Credit**

Enacted in 2006, New York State's Empire State Child Credit provides eligible families up to \$330 annually per qualified child, with New York expanding the tax credits in the 2023-24 tax year to include children under age 4. The credit begins to phase in at \$3,000 of income. This keeps the poorest of New York's families from accessing the money so desperately need. Eligible tax-filers are families with income up to \$110,000 for a joint tax return, \$75,000 for a single tax return and \$55,000 for a married individual filing a separate tax return, with a gradual phase-in. Nearly 1.36 million families received the credit for tax year 2019 at an average credit of \$440. The cost associated with the ESCC in 2019 was \$612.9 million.<sup>1</sup>

It is estimated it would cost the State \$270 million to \$320 million to expand the ESCC to all children, fully-refundable, with no phase-in. Expanding the Empire State Tax Credit to \$1,000 per child for all children in New York State under 17, with the exception of high-income families, would cost about \$2.8 billion per year and would generate about \$17 billion in benefits to society per year. Strengthen the State child tax credit so it reaches the poorest New Yorkers, currently excluded from the full credit. New York made significant strides in the 2023-24 Budget by correcting the exclusion of children under age four but, as expert testimony provided to the Child Poverty Reduction Advisory Council makes clear, child tax credits lose their poverty-fighting power when the full benefits are denied to the lowest income households. We recommend removing the current income phase-in from the Empire State Child Credit (ESCC) to maximize its poverty-fighting potential and reduce existing racial disparities among children benefiting from the program. We also recommend increasing the credit amount to have a meaningful impact on a family's budget.

### **State Earned Income Tax Credit**

Currently, only those working parents with a Social Security number are eligible for the Earned Income Tax Credit, leaving families without access to deserved refundable tax credits. By including working New Yorkers who file taxes with an Individual Tax Identification Number (ITIN), as allowed with the ESCC, more families would have greater financial independence and lifting families out of poverty.

**The Working Families Tax credit (S.277/A.4022) will help lift New York children out of poverty, and help their families meet their basic needs, like clothing, gas, childcare, rent, and food.**

Cash transfers via tax credits can have big poverty-reduction impacts.<sup>2</sup> This bill combines and strengthens two existing refundable tax credits: the Empire State Child Credit (ESCC) and state Earned Income Tax Credit (EITC), creating one more inclusive and generous Working Families Tax Credit (WFTC). For individual New Yorkers and families currently eligible for the ESCC, EITC, or both, the combined credit they would receive from the WFTC would be greater, or equal to the total of the two credits. For the lowest income, and many immigrant New Yorkers, the credit amount would be greater under the WFTC.

The WFTC credit builds upon the strengths of New York’s ESCC and EITC and corrects their shortcomings. Eligible families with children would receive a WFTC equal to or greater than the current EITC credit plus ESCC credits for all children in the household up to age 18. The WFTC will allow families with the lowest incomes to receive the highest credit amount by eliminating the phase-ins currently in place for both credits and will be available to immigrant tax-filers with Individual Tax Identification Numbers (ITIN) in the same manner as filers with Social Security Numbers (SSNs). (This is currently the case with the ESCC, but not with the EITC.) The WFTC will be implemented through a five-year phase-in period, and be paid out in four increments throughout the year.

The WFTC is structured to have greater poverty-reduction impact than existing credits, adopting characteristics of the temporary pandemic expansion of the Federal Child Tax Credit in 2021, an expansion that contributed to reducing child poverty nationally by 46% to a record low of 5.2%.<sup>3</sup> Since the federal CTC expansion ended in 2022, 3.7 million children around the nation have been plunged back into poverty.<sup>4</sup>

With New York’s child poverty rate persistently higher than the national average,<sup>5</sup> it is essential for New York to prioritize policies proven to reduce child poverty like the robust, targeted, fully refundable WFTC. It is estimated that the NYS WFTC will result in a 13.4% reduction in children under the age of 18 living in poverty, with a 19.6% reduction for those under 18 living in deep poverty.<sup>6</sup>

We would like to highlight the impact of several critical policy proposals in the bill:

- Families with young children face poverty at greater rates<sup>7</sup> and the birth of a child is a leading trigger of “poverty spells” experienced by families<sup>8</sup>. Poverty creates conditions that are often interpreted as parental failings<sup>9</sup>. Families experiencing poverty have a higher likelihood of experiencing crises related to lack of basic needs, and of having poverty be construed as “neglect,” leading to entanglement with the child welfare system.

One of the key learnings of the last three years is that government policy can make a real and immediate difference in the lives of children and families who are struggling to make ends meet. Pandemic-era federal supports confirmed that it is possible to quickly and sharply cut child poverty and boost family economic security. The most dramatic example was the temporary pandemic expansion of the Federal Child Tax Credit in 2021, which contributed to a 46% decline in child poverty nationwide.<sup>10</sup>

- THE IMPACT OF DISPURSED PAYMENTS MORE OFTEN THAN YEARLY

Disbursements of Advanced Child Tax Credits have shown an IRS infrastructure that could allow for Credits to be monthly or quarterly to smooth-out income and help families keep up with bills. Distributing credits over time rather than one lump sum at the end of the year is much more effective toward the end goal of helping families meet their basic needs. **At CASH when we survey clients; 97% of families spend tax credits on clothing for their children, rent, gas, food, childcare, and on the many day to day expenses.** Steady disbursements are increasingly important as people are struggling to manage the increasing cost of living.

- THE IMPACT OF MAKING LOWER-INCOME FAMILIES ELIGIBLE FOR THE CREDIT

Many of our most needy families are excluded from the NYS Empire State Child Credit. Lowering the floor for eligibility would have a big impact on lifting children and families out of poverty. A restructuring of the ESCC and NYS Earned Income Tax Credit (EITC) so the highest credit goes to the lowest-income families, by ending regressive minimum income requirements and phase-ins is needed.

In early 2022 New York enacted landmark legislation, the New York State Child Poverty Reduction Act, committing New York State to cutting child poverty in half in a decade<sup>11</sup>. The Act had near-unanimous, bipartisan support from upstate and downstate, rural, urban, and suburban legislators and constituents. It is imperative that New York take meaningful steps this year to make good on its promise to New York children. As recently as January 2024, Congress struck a deal to expand the Child Tax Credit. It is time for New York to take action as well.

We support the proposed Working Families Tax Bill as an effective way to help New York achieve its goals of lifting children and families out of poverty. Additionally, we support efforts to make it easier for people to get the credits they're eligible for, and we caution lawmakers to keep the digital divide in mind when working to reduce barriers, so lower income families are not again left behind.

**Recommendation: Pass the Working Families Tax credit as drafted (S.277/A.4022) to help lift New York children out of poverty, and help their families meet their basic needs, like clothing, gas, childcare, rent, and food.**

Thank you for the opportunity to submit this testimony. We look forward to working with you to achieve positive, progressive change in this legislative session. For questions, please contact Alex Dery Snider at [aderysnider@empirejustice.org](mailto:aderysnider@empirejustice.org) or 518.935.2843.

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<sup>1</sup> NYS Division of Budget and Department of Tax and Finance, 2023 Annual Report on New York State Tax Expenditures, p. 16. Found at: <https://www.budget.ny.gov/pubs/archive/fy23/ex/ter/fy23ter.pdf>.

<sup>2</sup> Center on Poverty and Social Policy, Columbia University, Reforming the Empire State Child Credit to Reduce Child Poverty in New York State, presentation at the Child Poverty Reduction Advisory Council, January 2023. Found at: <https://otda.ny.gov/news/meetings/attachments/2023-01-12-CPRAC-Reforming-Child-Credit.pdf>

<sup>3</sup> United States Census Bureau. Child Poverty Fell to Record Low 5.2% in 2021. Found at: <https://www.census.gov/library/stories/2022/09/record-drop-in-child-poverty.html>

<sup>4</sup> Center on Poverty & Social Policy at Columbia University. 3.7 million more children in poverty in Jan 2022 without monthly Child Tax Credit. Found at: <https://www.povertycenter.columbia.edu/news-internal/monthly-poverty-december-2021>

<sup>5</sup> Annie E. Casey Kids Count Data Center. Children in Poverty in New York. Found at: <https://datacenter.kidscount.org/data/tables/43-children-in-poverty?#detailed/2/34/false/2048,1729,37,871,870,573,869,36,868,867/any/321,322>

<sup>6</sup> Analysis conducted by the Center on Poverty & Social Policy at Columbia University.

<sup>7</sup> The Center for the Study of Social Policy. Federal Spending on Prenatal to Three. Found at: <https://cssp.org/wp-content/uploads/2018/08/CSSP-Prenatal-to-Three.pdf>

<sup>8</sup> Center for American Progress. Harnessing State Child Tax Credits Will Dramatically Reduce Child Poverty. Found at <https://www.americanprogress.org/article/harnessing-state-child-tax-credits-will-dramatically-reduce-child-poverty/>.

<sup>9</sup> Child Welfare League of America. Family Poverty, Racism, and the Pandemic: From Crises to Opportunity for Transformation. Found at: <https://www.cwla.org/special-foreword-family-poverty-racism-and-the-pandemic/>

<sup>10</sup> United States Census Bureau. Child Poverty Fell to Record Low 5.2% in 2021. Found at: <https://www.census.gov/library/stories/2022/09/record-drop-in-child-poverty.html>

<sup>11</sup> The Schuyler Center for Analysis and Advocacy. The Child Poverty Reduction Act is Law: What Does it Do? Found at: <https://scaany.org/the-child-poverty-reduction-act-is-law-what-does-it-do/>