ALL BARK, NO BITE: THE SHORTCOMINGS OF TAX EXPENDITURES TO REMEDY THE ANIMAL SHELTER CRISIS

Abstract: Throughout the United States, animal shelters have become increasingly overpopulated because of a rise in surrenders, fueled by macroeconomic inflation and housing scarcity, and a decline in adoptions. Consequently, euthanasia rates for dogs and cats have skyrocketed. In response to this issue, at least five states have introduced and considered bills over the past ten years that would incentivize the adoption of dogs and cats from shelters using tax credits or deductions, with New York being the most recent in 2025. The issue with this approach, however, lies in the multifaceted nature of the overpopulation and euthanasia crisis, and the difficulty in solving the issue through individual taxpayer behavior. This Note argues that, as currently proposed, the use of tax credits to encourage adoption would be unsuccessful given it fails to address the continuing costs of ownership that have caused an increase in surrenders. This Note instead suggests that a refundable tax credit would be the most viable pathway to a lasting solution of any tax expenditure, but that ultimately targeted direct spending, not tax expenditures, is the proper means of bringing about substantive change.

INTRODUCTION

Rescue pets are a mainstay in American popular culture.[1] One notable example is Miss Peaches, who was rescued by LifeLine Animal Project in Atlanta, Georgia, and later adopted by Barstool Sports owner Dave Portnoy.[2] Since then, Miss Peaches has reached celebrity status, amassing 1.4 million Instagram followers and over 41 million likes on TikTok.[3] But before Miss Peaches

[1] *E.g.*, Amy Nelson, *Barstool Founder Dave Portnoy's Rescue Dog Miss Peaches Goes Viral: "From Outhouse to Penthouse,"* N.Y. POST (Feb. 23, 2024), https://nypost.com/2024/02/23/sports/dave-portnoys-rescue-dog-miss-peaches-goes-viral-from-outhouse-to-penthouse/ [https://perma.cc/JMM8-ZLJZ]; Chris Weber, *From Lassie to Beethoven: The Dogs That Have Shaped Pop Culture*, ANIMALS AROUND THE GLOBE (Aug. 25, 2025), https://www.animalsaroundtheglobe.com/from-lassie-to-beethoven-the-dogs-that-shaped-pop-culture-2-350692/ [https://perma.cc/XC8Y-X2RU].

[2] Trish Christakis, *Miss Peaches, Barstool Sports Founder Dave Portnoy's Pitbull, Raises Money for U.S. Shelters*, CBS NEWS (May 24, 2024), https://www.cbsnews.com/miami/news/miss-peaches-barstool-sports-founder-dave-portnoys-pitbull-raises-money-for-u-s-shelters/ [https://perma.cc/D6YL-PTTD]; Lifeline Animal Shelter is a 501(c)(3) nonprofit organization whose mission is to end euthanasia in animal shelters for healthy and adoptable pets. *Who We Are*, LIFELINE ANIMAL PROJECT, https://lifelineanimal.org/about/#:~:text=Based%20in%20Atlanta%2C%20LifeLine%20Animal,animal%20welfare%20organization%20in%20Georgia [https://perma.cc/C2QJ-9CYH].

[3] *See* Miss Peaches (@famousmisspeaches), INSTAGRAM, https://www.instagram.com/famousmisspeaches/?hl=en [https://perma.cc/3FJT-RKHJ] (providing Instagram follower count); Miss Peaches

became a nationwide icon for pet lovers, she was rescued by the organization when she had obvious signs of neglect and injury.[4]

Miss Peaches is not the only formerly-rescued pet to have made a mark on popular culture.[5] Globally, music fans have listened to Chris Stapleton's "Maggie's Song," a story about the country music superstar's rescued stray dog, Maggie, and the indelible mark she left on his family.[6] Similarly, Kenny Chesney released his song "Da Ruba Girl" as a single in 2022 following the death of his own adopted pit bull, Ruby, with the proceeds benefiting an animal rescue center.[7] Despite these encouraging stories, not all sheltered dogs and cats in the United States are fortunate enough to receive the same outcome.[8]

(@famousmisspeaches), TIKTOK, https://www.tiktok.com/@famousmisspeaches?lang=en [https://perma.cc/4Y5Z-LMJM] (providing TikTok like count).

[4] *See* Akilah Winters & Reeves Jackson, *Homecoming for Dog Rescued in Atlanta by Barstool Sports Owner Dave Portnoy, Who Took the Internet by Storm*, 11 ALIVE (Apr. 26, 2024), https://www.11alive.com/article/life/animals/miss-peaches-dog-coming-back-to-atlanta/85-fcbd56a8-a574-49cb-81a0-64d3f67f895e#:~:text=More%20about%20Miss%20Peaches%20story,from%20LifeLine%20LifeLine%20Animal%20Project [https://perma.cc/6663-Z9TE] (reporting that Miss Peaches had patches of missing hair, signs that she had multiple litters of puppies, and itchy skin when LifeLine Animal Project rescued her). Miss Peaches was rescued from a neglect, hoarding, and breeding situation, along with twenty-six other dogs. Nelson, *supra* note 1. Animal hoarding is a form of animal abuse where animals housed in a shelter or individual home cannot receive baseline levels of nutrition, shelter, or veterinary care, and often results in dogs and cats overbreeding, getting sick, or dying. *Animal Hoarding*, ASPCA, https://www.aspca.org/helping-people-pets/animal-hoarding [https://perma.cc/DD4F-5M9G].

[5] *See* CHRIS STAPLETON, *Maggie's Song*, *on* Starting Over (Mercury Nashville Nov. 13, 2020) (sharing the story of Maggie, a stray dog that singer-songwriter Chris Stapleton adopted); KENNY CHESNEY, *Da Ruba Girl*, *on* Da Ruba Girl (Warner Music Nashville Dec. 9, 2022) (singing about Ruby, who singer-songwriter Kenny Chesney adopted from a rescue center).

[6] STAPLETON, *supra* note 5; *see* Matthew Leimkuehler, *Chris Stapleton Wrote a Song About His Family Dog Maggie (and, Yes, It's Heartbreaking)*, THE TENNESSEAN (Nov. 18, 2020), https://www.tennessean.com/story/entertainment/2020/11/18/chris-stapleton-maggies-song-dog-tribute-starting-over-interview/6339295002/ [https://perma.cc/T4DU-6WEG] (quoting Stapleton as saying "[Maggie] was part of everything"). Maggie was a lab-terrier mutt. Carl Lamarre, *Chris Stapleton Pays Homage to His Late Puppy with 'Maggie's Song' at 2021 ACM Awards: Watch*, BILLBOARD (Apr. 18, 2021), https://www.billboard.com/music/awards/chris-stapleton-maggies-song-acm-awards-2021-9558494/ [https://perma.cc/WND4-PNCK]. The song shared that Maggie was abandoned in a shopping cart, and Stapleton found her and took her home. Stapleton*,* *supra* note 5. Stapleton went on to share that Maggie loved to chase squirrels and follow his kids around. *Id.* When Maggie died, Stapleton sung that he had a revelation that dogs have a soul. *Id.* [7] Chesney, *supra* note 5; *see* Ashlyn Messier, *Kenny Chesney Honors His Late Dog Ruby with Release of Song 'Da Ruba Girl,'* FOX NEWS (Dec. 9, 2022), https://www.foxnews.com/entertainment/kenny-chesney-honors-late-dog-ruby-release-song-da-ruba-girl?msockid=2ff112389db364243985069d9cf065ee [https://perma.cc/ZJL8-CM88] (citing Chesney's Instagram post announcing Ruby's death). Chesney had performed "Da Ruba Girl" on his Sirius XM radio channel for years prior to it being made available for download. Messier, *supra*. Chesney donated the song's proceeds to Stray Rescue of St. Louis. *Id.*

[7] Chesney, *supra* note 5; *see* Ashlyn Messier, *Kenny Chesney Honors His Late Dog Ruby with Release of Song 'Da Ruba Girl,'* FOX NEWS (Dec. 9, 2022), https://www.foxnews.com/entertainment/kenny-chesney-honors-late-dog-ruby-release-song-da-ruba-girl?msockid=2ff112389db364243985069d9cf065ee [https://perma.cc/ZJL8-CM88] (citing Chesney's Instagram post announcing Ruby's death). Chesney had performed "Da Ruba Girl" on his Sirius XM radio channel for years prior to it

The United States is currently facing a crisis in its animal shelters, with overpopulation soaring, leading to a rise in animal euthanasia.[9] In 2023, Shelter Animals Count reported that 6,550,000 dogs and cats entered shelters and other rescue facilities throughout the country.[10] Of that total figure, 850,000 dogs and cats received "non-live outcomes," meaning they were euthanized or died in shelters during the same year.[11] With shelters' overpopulation worsening in recent years, individuals as well as state governments are left in a quandary on the appropriate spending mechanism to solve the animal shelter crisis.[12]

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being made available for download. Messier, *supra*. Chesney donated the song's proceeds to Stray Rescue of St. Louis. *Id.*

[8] *See generally* SHELTER ANIMALS COUNT, 2023 ANNUAL ANALYSIS: COMPARING 2023 TO 2022, 2021, AND 2019 (2024), https://www.shelteranimalscount.org/wp-content/uploads/2024/01/Full-Year-2023-Report.pdf [https://perma.cc/U4TV-88Q2] (collecting outcome data about dogs and cats in animal shelters).

[9] *See id.* at 13 (reporting that 900,000 more animals have entered and remained in shelters since 2021, causing a capacity crisis); *see also* Marc Ramirez, *How Many Dogs Are Euthanized in the US Every Year? In 2023, the Number Surpassed Cats*, USA TODAY (Feb. 20, 2024), https://www.usatoday.com/story/news/nation/2024/02/20/more-dogs-euthanized-than-cats-2023/72633423007/ [https://perma.cc/8E7Q-E6S4] (reporting that Stephanie Filer, Executive Director of Shelter Animals Count, said that the shelters are in a crisis); Alene Tchekmedyian & Alexandra E. Petri, *'We're Inundated': Animal Shelters Across the U.S. Are Overflowing*, L.A. TIMES (Dec. 3, 2023), https://www.latimes.com/california/story/2023-12-03/animal-shelters-overflow [https://perma.cc/G28Q-FTTR] (citing that lower adoption rates have led to elevated euthanasia rates, per Shelter Animals Count). In New York City, a spokesperson for animal shelter organization Animal Care Centers of NYC (ACC) stated that adoptions have sharply declined. Rosemary Misdary, *NYC Animal Shelters Are Overcrowded with Dogs, and Few People Are Adopting Them*, GOTHAMIST (July 7, 2024), https://gothamist.com/news/nyc-animal-shelters-are-overcrowded-with-dogs-and-few-people-are-adopting-them [https://perma.cc/LRD2-867H]. As of 2024, 12% of their animals had not been removed from shelters, compared to 7% in 2018. *Id.* The result was that in June 2024, there were an average of 354 dogs in ACC shelters on a normal day, nearly double their ideal capacity of 185. *Id.*

[10] SHELTER ANIMALS COUNT, *supra* note 8, at 5. The 6,550,000 dogs and cats that entered shelters was an increase of 4% from 2021 but a decrease of 3.2% when compared to 2019. *Id.* Of the dogs and cats that entered shelters in 2023, 48% were stray animals whereas 25% were relinquished by previous owners. *Id.* Shelter Animals Count is a centralized database housing animal shelter statistics. SHELTER ANIMALS COUNT, https://www.shelteranimalscount.org/ [https://perma.cc/VM4J-9PV7]. Shelter Animals Count is regarded as the leading source for animal shelter statistics and has been featured in publications including *The New York Times*, *PBS*, *The Washington Post*, *CNBC*, and *Associated Press*. *Id.*

[11] SHELTER ANIMALS COUNT, *supra* note 8, at 10. A non-live outcome means an animal either died in care, was euthanized, or lost in care. *Id.* at 14. Eleven percent of all shelter animals received non-live outcomes, with 47% of these outcomes involving dogs and 53% involving cats. *Id.* at 10. Most non-live outcomes involved euthanasia, with a total of 359,000 dogs and 330,000 cats euthanized, representing 9% of total outcomes for sheltered dogs and cats in 2023. *Id.* at 10–12.

[12] *Id.* at 6 (showing that the number of dogs entering shelters in 2023 increased by 3.2% compared to 2022 and 10.2% compared to 2021). *Compare* MICH. COMP. LAWS ANN. § 287.993 (West 2025) (creating animal shelter programs in Michigan using direct spending) *with* Assemb. B. 637, 2025–2026 Reg. Sess. (N.Y. 2025) (proposing a tax credit for the adoption of pets in New York).

Across the Internal Revenue Code (I.R.C.), as well as state tax codes, tax credits and deductions are used to incentivize taxpayer behavior.[13] In an effort to motivate both socially desirable and economically efficient activity, governments will create credits, thereby reducing the taxpayers' financial burden.[14] One notable example is how the federal government uses tax credits to encourage the adoption of children.[15] The tax code provides (or at least attempts to provide) a solution to encourage adoptions—that serves humanitarian goals—while simultaneously being economically efficient by lowering governments' long-term costs of parentless childcare.[16] Tax credits are thus a valuable tool of legislatures in guiding taxpayers' individual behavior, as the cumulative results make a significant difference on societal issues and further wealth-maximization goals.[17] These views are not without critics.[18] Many thought leaders believe that direct government spending is preferable to tax expenditures, as direct spending transfers funds from the government to individuals or entities to achieve certain economic and social objectives.[19] These scholars

[13] *See* Lily L. Batchelder, Fred T. Goldberg Jr. & Peter R. Orszag, *Efficiency and Tax Incentives: The Case for Refundable Tax Credits*, 59 STAN. L. REV. 23, 24 (2006) (overviewing tax incentives to encourage socially desired behaviors).

[14] *See* Elizabeth A. Baergen, *Tuition Tax Deductions and Credits in Light of* Mueller v. Allen, 31 WAYNE L. REV. 157, 173 (1984) (explaining that many credits exist in the federal tax system that encourage socially favorable acts); *see also* TAX FOUND. INC., TAX CREDITS: PAST EXPERIENCE AND CURRENT ISSUES 5 (1969), https://files.taxfoundation.org/legacy/docs/rp21-1.pdf [https://perma.cc/6HL2-LJES] (explaining that tax credits are used to advance economic and social goals).

[15] *See* I.R.C. § 23 (providing a credit against tax for qualified adoption expenses of children); STAFF OF THE JOINT COMM. ON TAX'N, GENERAL EXPLANATION OF TAX LEGISLATION ENACTED IN THE 107TH CONGRESS 20 (2003), https://files.taxfoundation.org/legacy/docs/rp21-2.pdf [https://perma.cc/L2P4-3WA7] (reasoning that the adoption credit increases adoptions and permits more taxpayers to afford adoptions). To encourage adoption of children with special needs, taxpayers who adopt children with special needs are given a $10,000 credit, regardless of expenses actually incurred. I.R.C. § 23(a)(3).

[16] *See* Donovan M. Steltzner, *Intercountry Adoption: Toward a Regime That Recognizes the "Best Interests" of Adoptive Parents*, 35 CASE W. RES. J. INT'L L. 113, 150 (2003) (noting that the adoption credit can be seen as a reward for adopting a child); Mia Johnson, *How the US Government Supports Orphaned Children*, THE EARTH AWARDS (Dec. 3, 2022), https://theearthawards.org/us-government-supports-orphaned-children/ [https://perma.cc/26HJ-K8B5] (overviewing how government programs provide resources to orphaned and parentless children, including financial assistance, health insurance coverage, and access to education).

[17] *See* Batchelder et al., *supra* note 13, at 65 (referring to credits, specifically refundable credits, as an essential tool for legislatures).

[18] *See, e.g.*, Stanley S. Surrey, *Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures*, 83 HARV. L. REV. 705 (1970) (arguing in favor of direct federal expenditures as opposed to tax incentives).

[19] *See id.* at 734 (advocating for direct expenditure programs, and suggesting that when direct expenditures and tax expenditures are considered, the proponent of tax expenditures should bear the burden of proof); *see also* Mary L. Heen, *Reinventing Tax Expenditure Reform: Improving Program Oversight Under the Government Performance and Results Act*, 35 WAKE FOREST L. REV. 751, 757–58 (2000) (explaining that federal programs can be implemented through "tax-and-spend programs" that distribute tax revenue to various spending programs). Spending programs can be discretionary or

argue that much of the perceived tax incentives are overblown or that taxpayer behavior is falsely attributed to tax incentives, making tax expenditures less efficient than direct spending.[20]

Part I of this Note overviews the ubiquity of pet ownership in the United States, costs of pet ownership, the use of tax and direct expenditures to incentivize taxpayer behavior, and tax solutions that have been proposed at the state level to combat the United States' animal shelter crisis.[21] Part II evaluates these proposed state level tax breaks and examines arguments for and against such proposals.[22] Part III argues that current state proposals are untenable, suggests alternatives to these proposals, but ultimately concludes that tax expenditures are not the best mechanism for a much-needed solution.[23]

I. THE LAB REPORT: ISSUES IN SHELTERS AND RELATED TAX POLICY

Although pet ownership in America is exceedingly common, states' laws and budgets reflect varying levels of support for animal rescue centers.[24] Over the last five years, states including New York have increased attempts to promote policies favoring adoption and have imposed stringent oversight into the sale of pets.[25] Section A of this Part explores the general landscape of pet ownership in the United States, as well as issues facing pet owners, shelters, and government.[26] Section B looks at the concept of tax expenditures, including credits and deductions, as well as direct spending programs and the effects of

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mandatory. Heen, *supra* at 757–58. Surrey argues that tax incentives complicate the administration of fiscal policy and harm the tax system. Surrey, *supra* note 18, at 728, 731. Further, Surrey contends that the arguments in favor of tax incentives, rather than direct expenditures, are largely illusory and irrational, specifically the argument that tax credits fulfill social purposes, and that Congress will commit resources through tax expenditures it would not otherwise spend directly. *Id.* at 732.

[20] Surrey, *supra* note 18, at 732 (arguing that tax incentives merely provide a windfall to taxpayers for behaviors they would have otherwise still engaged in); *id.* at 733 (suggesting much of the perceived benefits of tax incentives are illusory). Interestingly, data suggests that the Adoption Tax Credit is inefficient and provides a windfall to taxpayers, as families would still have adopted children in its absence. MARGOT L. CRANDALL-HOLLICK, CONG. RSCH. SERV., R44745, ADOPTION TAX BENEFITS: AN OVERVIEW 16–17 (2020).

[21] *See infra* notes 24–133 and accompanying text.

[22] *See infra* notes 134–180 and accompanying text.

[23] *See infra* notes 181–232 and accompanying text.

[24] *See generally 2023 U.S. State Animal Protection Laws Rankings*, ANIMAL LEGAL DEF. FUND 2 (2023), https://aldf.org/wp-content/uploads/2024/02/2023-U.S.-State-Animal-Protection-Laws-Ranking-Report-Animal-Legal-Defense-Fund.pdf [https://perma.cc/5SBP-2KLF] (overviewing animal protection laws across the fifty United States). Part of the Animal Legal Defense Fund's methodology is whether animal shelters need to provide proof of shelter, and to what extent states have shelter requirements. *Id.* at 7.

[25] *See, e.g.*, S.B. 1130/Assemb. B. 4283, 2021–2022 Reg. Sess. (N.Y. 2021) (banning the sale of dogs, cats, and rabbits at retail pet stores); *Humane Pet Sales Laws by State*, BEST FRIENDS ANIMAL SOC'Y (2025), https://bestfriends.org/pet-care-resources/humane-pet-sales-laws-state [https://perma.cc/44TG-RGE5] (listing jurisdictions that restrict commercial pet breeding and sales).

[26] *See infra* notes 30–69 and accompanying text.

certain social goals on tax and fiscal policy.[27] Section C considers the potential avenues to deduct animal costs within the current federal income tax system.[28] Lastly, Section D examines proposed tax credits and deductions at the state level, designed to directly incentivize the adoption of dogs and cats.[29]

A. The Issues Facing Owners, Shelters, and Government

In 2024, a total of 58 million households in the United States had at least one dog (44% of total households) and 40 million had at least one cat (30% of total households).[30] The American Pet Products Association (APPA) reported that breeders are the most common source of where dog owners obtain their pets, whereas rescue centers and humane societies rank third.[31] Nearly half of all cats, however, were acquired by either animal shelter, humane society, or were adopted as strays.[32] The APPA study indicated that expenses have increased significantly for dog owners over the past six years.[33] Costs for cat ownership also increased, albeit not to the same extent.[34]

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[27] *See infra* notes 70–110 and accompanying text.

[28] *See infra* notes 112–121 and accompanying text.

[29] *See infra* notes 122–133 and accompanying text.

[30] AM. PET PRODS. ASS'N, APPA'S DOG & CAT 2024 REPORT 1, 12 (2024). The American Pet Products Association (APPA) is a membership organization that was created to facilitate responsible pet ownership. *Id.* at 5. The APPA gathers information about trends and statistics regarding pet ownership and practices, as well as purchasing behavior. *Id.* Accounting for families that own both a dog and a cat, as well as those that own other animals, approximately 63% of Americans own a pet. *Id.* at 13.

[31] *Id.* at 32. The second most common source of dog ownership was from a friend/relative (20%), followed by an animal shelter/humane society (19%), a rescue group (14%), and a private party (12%). *Id.* From 2018 to 2024, the relative percentage of dog owners who got their pet from an animal shelter/humane society has remained constant at 19%, while the percentage of those who got their pet from breeders has risen from 19% to 23%. *Id.* The percentage of those who got their dogs from a rescue group has increased, however, from 11% to 14%. *Id.* The Chief Executive Officer of Best Friends Animal Society, Julie Castle, wrote that based on the seven million homes in the United States seeking to add a pet each year, if an additional 6% of families that would have purchased their pet chose to adopt instead, euthanasia would no longer occur in the shelter system. Julie Castle, *Killing in Shelters Would End if 6% More People Adopted*, BEST FRIENDS ANIMAL SOC'Y (Apr. 30, 2024), https://bestfriends.org/stories/julie-castle-blog/killing-shelters-would-end-if-6-percent-more-people-adopted [https://perma.cc/54GW-Y2TM].

[32] AM. PET PRODS. ASS'N, *supra* note 30, at 140. The APPA's report indicated that most cats have been acquired either through a shelter, a friend or relative, or as a stray. *Id.* Animal shelter/humane society and stray were tied for the most common source of cat ownership at 24% each, followed by a friend or relative (23%), and rescue groups (13%). *Id.* From 2018 to 2024, the percentage of cats acquired as stray animals has decreased from 26% to 24%, whereas the number acquired from an animal shelter/humane society rose from 21% to 24% over the same time span. *Id.*

[33] *See id.* at 37 (writing that dog ownership has become significantly more costly). The greatest expense for dog owners is surgical vet visits, averaging $624 per dog annually. *Id.* The second most expensive per year cost is sick vet visits ($448), followed by food ($419), kennel/boarding ($408), emergency vet visits ($406), and routine vet visits ($309). *Id.* On average, sick vet visits have grown in cost by over 100%. *See id.* (showing that the average cost of sick vet visits rose from approximately $210 to $448 per year over the six-year span between 2018 and 2024). The cost of surgical vet visits began being recorded in 2019, and over the five-year span since has risen roughly 36% from $458 to

The dramatic rise in costs associated with pet ownership has been an impetus in both the increase in surrenders to shelters and the decrease in adoptions.[35] According to a report published by the United States Department of Labor, pet services increased by over 7% from 2023 to 2024.[36] Consequently, credit analysts believe lower-income taxpayers might get priced out of the market for pet products entirely.[37] Taxpayers have also indicated concerns about their ability to continue supporting a pet financially.[38] As a result, adoptions are down across the country, causing more dogs and cats to remain in shelters and rescue centers and putting pressure on an already burdened system.[39]

$624 per year. *Id.* Yearly food costs have also starkly increased, rising from approximately $259 to $419 per dog. *Id.* This represents a 61.78% increase in food costs over that time span. *See id.* (providing the 2018 and 2024 figures).

[34] *See id.* at 146 (noting that cat ownership is much more costly in 2024 as opposed to 2018). On average, the most significant expenses for cat ownership in 2024 were emergency vet visits ($301 per year), followed by food ($285), surgical vet visits ($251), sick vet visits ($198), routine vet visits ($183), litter ($150), and kennel/boarding ($111). *Id.* The only cost that decreased during the six-year span from 2018 was kennel/boarding, which was $120 per year on average in 2018. *Id.* Food costs for cats have risen $53 over the same time span, from $228 to $285 on average. *Id.* This represents a jump of 12.9% in food costs. *See id.* (providing the 2018 and 2024 numbers).

[35] *See* Courtney Norris, *Why Economic Hardship Is Keeping More Animals in Shelters*, PBS (Feb. 15, 2023), https://www.pbs.org/newshour/nation/why-economic-hardship-is-keeping-more-animals-in-shelters [https://perma.cc/K2EE-EBSV] (reporting that many animals are being returned to shelters as inflation increases); Kenny Torrella, *Americans Can't Afford Their Pets. It's Pushing Animal Shelters to the Brink*, VOX (Aug. 16, 2023), https://www.vox.com/future-perfect/2023/8/16/23833307/pets-animal-shelters-cats-dogs-affordable-housing-inflation [https://perma.cc/RZ9S-45RA] (reporting that high inflation and a national housing crisis have fueled eviction and homelessness, factors that result in pets being surrendered). Executive Director of Shelter Animal Counts, Stephanie Filer, noted that the same trends in the economy that affect taxpayers also affect animal rescue, citing financial hardship as the primary reason owners surrender their pets. *See* Torrella, *supra* (quoting Filer). Notably, a disproportionate amount of dog surrenders are dogs over forty pounds, as many apartment builds ban dogs above a certain weight. *Id.* As opposed to an increase in surrenders, Katy Hansen of ACC in New York believes that macroeconomic inflation and housing costs have caused adoptions to decrease, as people have become reluctant about adding a pet. Misdary, *supra* note 9.

[36] *See* Norris, *supra* note 35 (explaining Labor Department data showing a 9% increase in pet services between 2022 and 2023 and a 12% increase in pet products from 2021 to 2023).

[37] *See id.* (quoting Chief Credit Analyst at Lending Tree, Matt Schulz). Schulz believes that consumers with lower incomes might get priced out of pet ownership and the market for pet services. *Id.*

[38] *See* Giulia Carbonaro, *Americans Can No Longer Afford Their Pets*, NEWSWEEK (Apr. 1, 2024), https://www.newsweek.com/americans-no-longer-afford-pets-1884626 [https://perma.cc/3K5B-PAL3] (reporting that pet owners are worried about their ability to financially support their pet). A study conducted by Redfield & Wilton Strategies showed that 43% of dog owners were either very or fairly concerned about their capability of financially supporting their existing pet. *Id.* According to the study, 21% of respondents said they were very concerned with being able to financially support their pet, while 22% said they were fairly concerned, and 22% being slightly concerned. *Id.* Further, 37% of pet owners noted that it would be difficult for them to pay for a minor operation. *Id.*

[39] *See* SHELTER ANIMALS COUNT, *supra* note 8, at 13 (providing data for the increase in shelter animals and noting it has caused a capacity crisis); Misdary, *supra* note 9 (reporting that adoptions are down in New York City); Tchekmedyian & Petri, *supra* note 9 (detailing that adoptions have declined in California).

The impact of macroeconomic conditions on the shelter crisis is aggravated by the lack of low-income, pet-friendly housing.[40] Due to the shortage of these accommodations, owners are often forced to make difficult decisions between overextending themselves financially, accepting inferior or inconvenient housing, or as a last resort, surrendering their pet.[41]

Adding to the housing issue is "breed-specific legislation" that prohibits certain breeds from living in municipalities, as well as laws permitting residential buildings from excluding certain dog breeds or pets altogether.[42] Breed-specific legislation and landlord-imposed restrictions primarily affect pit bull breeds, which incidentally are the most prevalent type of dog in shelters.[43] Consequently, breed-specific legislation inhibits certain dog breeds from being adopted, resulting in further adverse effects on the animal shelter crisis.[44]

These problems have culminated in animal shelters becoming overpopulated, in some cases exceeding 200% of their capacity.[45] In 2023, Shelter Ani-

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[40] *See* Kate O'Reilly-Jones, *When Fido Is Family: How Landlord-Imposed Pet Bans Restrict Access to Housing*, 52 COLUM. J.L. & SOC. PROBS. 427, 434 (2019) (researching the issue of landlord-restrictions of certain breeds on pet owners).

[41] *See id.* at 450 (overviewing the dilemma pet owners face with landlord-restrictions).

[42] *See* Jeremy Devin McKay, *Colorado Breed-Specific Legislation and Criminal Defense*, 49 COLO. LAW. 32, 33 (Oct. 2020) (explaining and defining "breed-specific legislation"); Karyn Grey, *Breed-Specific Legislation Revisited: Canine Racism or the Answer to Florida's Dog Control Problems?*, 27 NOVA L. REV. 415, 420 (2003) (noting that many apartment buildings prohibit certain breeds).

[43] *See* Paula Fitzsimmons, *8 Things Animal Shelters Want You to Know About Pit Bull Dogs*, PETMD BY CHEWY (Sep. 24, 2018), https://www.petmd.com/dog/pet-lover/8-things-animal-shelters-want-you-know-about-pit-bull-dogs [https://perma.cc/8AX8-HJ8W] (quoting ASPCA's Rena Lafaille, the New York City Adoption Center's Director of Administration and Promotions, as saying pit bull breeds are the common animal entering shelters). Lafaille cites housing restrictions and breed-specific legislation as two primary driving forces in pit bull breeds entering shelters. *Id.* "Pit bulls" actually encompass four distinct dog breeds that include American Pit Bull Terriers, American Staffordshire Terriers, Staffordshire Bull Terriers, and English Bull Terriers. *What Is Breed-Specific Legislation?*, ASPCA (May 30, 2020), https://www.aspca.org/animal-protection/public-policy/what-breed-specific-legislation [https://perma.cc/W3GE-FFKG]. A Denver ordinance prohibits any "pit bull" from being owned or kept within the city. McKay, *supra* note 42, at 33. Pit bulls have not always been disfavored and have a fascinating history in America as the faces of advertising, movies, and war efforts, which soured with the increasing use of pit bulls for dog fighting. *See generally* BRONWEN DICKEY, PIT BULL: THE BATTLE OVER AN AMERICAN ICON (2017) (detailing the evolving relationship between pit bull breeds and American society).

[44] *See* O'Reilly-Jones, *supra* note 40, at 434 (explaining how breed restrictions exacerbate the surrender of pets to shelters); *id.* at 453 (noting that many of these restrictions affect pit bulls). Scholar Ann Linder has suggested breed-specific legislation may also have racist intent, as pit bulls are seen as being owned primarily by minorities and thus breed-specific legislation may be used to keep minorities out of predominantly white communities. *Id.*

[45] *See* Alyce McFadden, *A $75 Million Animal Shelter Opened in Queens. It's Already Overwhelmed*, N.Y. TIMES, (Aug. 20, 2024), https://www.nytimes.com/2024/08/30/nyregion/queens-animal-shelter.html [https://perma.cc/78JR-7KVA] (reporting that a shelter in Queens, New York has exceeded 210% of its capacity one month after opening); Crystal Cranmore, *New Queens ACC Shelter Allegedly Already Overrun with Animals Living in Poor Conditions*, ABC NEWS (Aug. 23, 2024), https://abc7ny.com/post/new-queens-acc-shelter-allegedly-already-overrun-dogs-cats-living-poor-conditions/

mals Count reported that shelters and rescue facilities saw a net increase of 107,000 dogs and 70,000 cats in the shelter system.[46] Such overpopulation in animal shelters directly leads to more animals being euthanized.[47] This practice is known as "euthanasia for space," as many shelters are forced to euthanize inhabitants to take in more rescues.[48] Animal rights organizations have fought for shelters to transition to "no-kill" models that reject an operational philosophy of euthanasia for animal population control.[49] Although this shift garnered momentum leading up to 2020, the rise in surrenders after COVID-19 reversed this trend.[50] As a result, estimates showed that in 2023 one in every ten dogs that entered animal shelters were euthanized.[51]

Overpopulation not only affects euthanasia rates, but also animal welfare efforts more broadly.[52] A study conducted in 2005 indicates that euthanasia

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15223485/ [https://perma.cc/D6XD-AXRT] (writing that kennels intended for one dog have already been forced to accommodate two). Reports of facilities across America—from New York City to San Jose, California—show photographs of sheltered dogs smeared in excrement in cramped kennels. *See, e.g.*, McFadden, *supra* (describing that dogs are in small kennels with empty food and water, shredded blankets, and covered in excrement); Vicente Vera, *San Jose Report Shows 'Inhumane' Conditions at Animal Shelter*, SAN JOSE SPOTLIGHT (Nov. 29, 2024), https://sanjosespotlight.com/san-jose-report-shows-inhumane-conditions-at-animal-care-center-shelter/ [https://perma.cc/47M8-W43F] (detailing a 134-page report that provides photographs of unkempt kennels with feces).

[46] SHELTER ANIMALS COUNT, *supra* note 8, at 13.

[47] *See* Tchekmedyian & Petri, *supra* note 9 (overviewing California records that show more dogs are being euthanized because of a lack of space and resources). In addition to more animals being euthanized, more are abandoned and left on the streets. *Companion Animal Overpopulation*, PETA, https://www.peta.org/issues/animal-companion-issues/overpopulation/ [https://perma.cc/G3LV-ZFQZ]. As a result, homeless dogs contract and spread disease, suffer from heat exhaustion, and contribute to overpopulation by reproducing. *Id.* PETA estimates there are 70 million homeless cats and dogs throughout the United States. *Id.*

[48] *The "No-Kill" Controversy*, LIFELINE ANIMAL PROJECT, (Oct. 23, 2023), https://lifelineanimal.org/the-no-kill-controversy [https://perma.cc/2BCM-KCAX].

[49] *See id.* (defining "no-kill" facilities as facilities that save healthy and treatable animals and only euthanize behaviorally unsafe or medically untreatable animals). To be a no-kill shelter, 90% of animals that enter the facility must leave alive. *Id.*

[50] *See id.* (explaining that by 2020, it seemed feasible that all shelters would be no-kill, but that the pandemic bucked this trend). After the first quarter of 2023, a study conducted by Shelter Animals Count identified that over 43% of shelters had seen an increase in euthanasia rates, while only 10.3% reported a decrease. *Dog Euthanasia Pulse-Check*, SHELTER ANIMALS COUNT (June 21, 2023), https://www.shelteranimalscount.org/pulse-check-survey-results/#comments [https://perma.cc/QP2J-5B2U].

[51] SHELTER ANIMALS COUNT, *supra* note 8, at 11.

[52] *See, e.g.*, SE Smith, *America's Animal Shelters Are Overwhelmed. Pets—and Staff—Are at Breaking Point*, THE GUARDIAN (Apr. 17, 2024), https://www.theguardian.com/world/2024/apr/17/animal-shelters-overcrowded-housing-crisis [https://perma.cc/ZY6N-JLCC] (reporting on the effects of shelter overpopulation on workers); *see also* Erin Nolan, *Too Many Cats, Too Few Vets: New York City Animal Shelters Are Bursting*, N.Y. TIMES (Aug. 13, 2023), https://www.nytimes.com/2023/08/13/nyregion/nyc-animal-shelters-overcrowding.html [https://perma.cc/2TLG-8ZF8] (noting that rescuers have said their work is difficult emotionally, and quoting the president of a rescue group as saying it is difficult for volunteers to live their lives).

rates impact shelter workers and volunteers.[53] According to the study, trauma induced from euthanasia of shelter pets contributes to anxiety, suicidal thoughts, and substance abuse in shelter employees.[54] Local governments have also outlined concerns about the inhumane treatment of animals and rising costs for animal control that can burden states and municipalities providing funding to shelters.[55] The lack of reporting requirements for shelters exacerbates this problem, making numbers and statistics difficult to find, and in turn, making these problems more challenging to address.[56]

Aside from the animal welfare point of view, scholars also believe that addressing the overpopulation crisis will reduce the number of stray dogs and cats, combatting their adverse effects on human health and habitation.[57] Many animal professionals consider the problem a human one, as stray animals can harm the environment, create food competition for native species, and may attract wild predators into communities.[58] Scholars have also noted the significant threat to public health that such an increase in homeless animals creates,

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[53] *See generally* Charlie L. Reeve, Steven G. Rogelberg, Christiane Spitzmüller & Natalie DiGiacomo, *The Caring-Killing Paradox: Euthanasia-Related Strain Among Animal-Shelter Workers*, 35 J. APPLIED SOC. PSYCH. 119 (2006) (studying the effects of euthanasia on animal shelter workers).

[54] *See* Smith, *supra* note 52 (overviewing the results of the 2005 study). Studies also suggest that shelter workers experience emotional burnout and higher suicide rates than almost any other profession. *See* Courtney Anne Clerico, Companion Animal Overpopulation Coalition Program Proposal 10 (2016), (M.P.A. thesis, California State University, Bakersfield), https://scholarworks.calstate.edu/downloads/hx11xh86z [https://perma.cc/7A4B-VRWW] (citing multiple studies that suggest shelter workers suffer from "extreme emotional burnout" and are tied for the highest suicide rates of any profession, on par only with police and firefighters). This burnout leads to high turnover rates that exacerbate the profession's difficulty. *Id.*

[55] *See* CAL. HEALTH & SAFETY CODE § 122330 (West 2006) (authorizing municipalities in California to take action to limit uncontrolled breeding of animals because it contributes to pet overpopulation, poor animal welfare, increased costs of animal care, and public safety risks); *see also Concerned Dog Owners of Cal. v. City of Los Angeles.*, 123 Cal. Rptr. 3d 774, 779 (Ct. App. 2011) (outlining Los Angeles's determination that the animal population posed health and safety risks to citizens, as well as led to inhumane treatment of animals, increased animal control expenditures, and mass euthanasia).

[56] *See* Destiny Reeder, Funding Strategies for Nonprofit Animal Shelter Leaders 12–13 (Mar. 2021) (D.B.A. thesis, Walden University), https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=11442&context=dissertations [https://perma.cc/U8VW-BJYF] (observing that scholars found it difficult to determine how many animal shelters exist in the United States because they are not obligated to report information). A lack of comprehensive studies on the shelter industry further adds to the challenge of collecting data. *See id.* (noting that few studies have been conducted on shelters or shelter care, which has made collecting data challenging).

[57] *See* Abubakar Abdulkarim, Mohd Azam Khan Bin Goriman Khan & Erkihun Akilu, *Stray Animal Population Control: Methods, Public Health Concerns, Ethics, and Animal Welfare Issues*, 11 WORLD VETERINARY J. 319, 321–22 (2021) (analyzing the impact of stray animals on public health, the community, and the environment). A "stray animal" is defined as a "free-roaming pet animal[]" without human care. *Id.* at 320.

[58] *See id.* at 322 (articulating that stray animals can become predators and attack lizards, rats, and birds, and attract predators like foxes and coyotes).

most notably the emergence and growth of certain diseases.[59] This spread occurs both directly through contact with humans, and indirectly through environmental pollution due to animal excretions and the contamination of food and food products.[60]

Although federal declarations in support of animal rescue have been limited, some states have affirmatively demonstrated support in favor of rescue animals and pet adoption through direct spending programs that distribute funds to shelters for project proposals.[61] For example, in 2007, Michigan passed legislation creating an "animal welfare fund" that provides state grants to shelters for various initiatives ranging from care and protection to spay/neuter programs.[62] Similarly, in 2017, New York began the Companion Animal Capital Fund that approves state project financing to shelters for specific infrastructure improvements.[63] The stated goals of the program are to increase the safe housing of sheltered dogs and cats, help ensure adoption, and improve animal health care in shelters.[64] Projects the program funds include

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[59] *See id.* at 321–22 (recording the zoonotic diseases that are spread by stray animals, including rabies and toxoplasmosis). Further impacts of stray animals on communities include attacking people and pets. *Id.* at 321.

[60] *Id.* at 322. The food products that can be contaminated include milk and meat products because of stray animals scavenging near slaughterhouses. *Id.*

[61] *See* Press Release, Gov. Kathy Hochul, Governor Hochul Awards Over $3.8 Million to Support Animal Shelter Improvements (Apr. 4, 2024), https://www.governor.ny.gov/news/governor-hochul-awards-over-38-million-support-animal-shelter-improvements [https://perma.cc/T5AF-SD4E] (describing the Companion Animal Capital Fund program that provides funding for New York State animal shelters' capital projects). Hochul noted that over $33 million has been provided to the fund since 2017, which has made an impact in shelters and similar facilities throughout New York. *Id.*

[62] *See* MICH. COMP. LAWS ANN. § 287.993 (West 2025) (creating an "animal welfare fund" in Michigan that provides money to animal shelters). Spaying and neutering are processes for sterilizing dogs and cats by removing certain reproductive organs, specifically ovaries for females and testicles for males. *Spaying and Neutering*, AVMA, https://www.avma.org/resources-tools/pet-owners/petcare/spaying-and-neutering [https://perma.cc/DWB8-T57G]. These procedures are widely considered to have both health and behavioral benefits for animals. *Id.* In Michigan, animal welfare grants are processed through Michigan's Department of Agriculture and Rural Development. *Animal Welfare Grant Application*, MICH. DEP'T OF AGRIC. & RURAL DEV. ANIMAL INDUS. DIV., (Sep. 2022), https://www.michigan.gov/mdard/-/media/Project/Websites/mdard/documents/animals/animal-shelters/Animal-Welfare-Fund-Grant-Application.pdf [https://perma.cc/UL5J-G8PC]. Funds are requested for specific programs, including spay/neuter programs, public education programs, training for authorized personnel, or care and protection. *Id.* at 2. Funds requested are not for general spending but instead are designed to address a specific problem or challenge and the state requests information about the approach the shelter will use to address each objective. *Id.* at 3. The application includes a proposed budget summary, total amount requested for each item, and total amounts collectively. *Id.* at 4. As of January 2024, more than $1.9 million has been distributed to over 305 animal shelters since 2010. *$150K in Grants Aim to Help Michigan Animal Shelters Care for Homeless Pets*, MID-MICHIGAN NOW (Jan. 29, 2024), https://midmichigannow.com/news/local/150k-in-grants-aim-to-help-michigan-animal-shelters-care-for-homeless-pets [https://perma.cc/V6AV-T4WF].

[63] Press Release, Gov. Kathy Hochul, *supra* note 61 (describing the Companion Animal Capital Funds program).

[64] *Id.*

new medical facilities and enhanced dog kennels, among others.[65] New York also recently banned the sale of animals in pet stores, demonstrating the state's desire to push pet owners towards shelters and its crackdown on dangerous conditions for dogs by some commercial breeders.[66]

Despite similar initiatives in other states, shelters across the United States continue to face funding challenges, making adequate care more difficult to provide.[67] The absence of standardized government funding forces shelters to rely on annual donations, fundraising events, and grants by nonprofit organizations to meet financial needs, all of which can be volatile.[68] As a result, the culmination of mass euthanasia and shortfalls in municipal funding of shelters costs taxpayers hundreds of millions of dollars per year across the country.[69]

B. The Concepts of Tax Expenditures and Direct Spending

Taxation, in addition to raising revenue, also serves regulatory purposes by incentivizing individuals to engage in behaviors that Congress deems to be desirable.[70] These two purposes are often in conflict with one another, highlighted by the concept of tax expenditures.[71] The term "tax expenditures" describes tax provisions that provide benefits—such as credits and deductions—to achieve non-tax goals.[72]

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[65] *Id.*

[66] *See* Press Release, N.Y. Att'y Gen. Letitia James, Attorney General James Reminds New Yorkers that Selling Pets in Retail Stores Will Be Illegal (Nov. 22, 2024), https://ag.ny.gov/press-release/2024/attorney-general-james-reminds-new-yorkers-selling-pets-retail-stores-will-be [https://perma.cc/7JKZ-JAWV]. New York's Attorney General, Letitia James, set forth that the reason for the ban is to put an end to dangerous commercial breeding conditions that endanger pets. *Id.* Moving forward, New York residents are required to acquire pets from either a rescue center or licensed breeder. *Id.*

[67] *See* Reeder, *supra* note 56, at 14 (asserting that inadequate financial resources are one of the biggest difficulties for animal shelters); *id.* at 23 (noting that financial instability, in general, jeopardizes a nonprofit's ability to fulfill its mission).

[68] *Id.* at 14. One example of nonprofit grants is provided by the American Society for the Prevention of Cruelty to Animals (ASPCA), which grants money to shelters between $20,000–95,000, with total funding of $3 million available. *2024 ASPCA Shelter Grants Initiative,* ASPCA (Oct. 25, 2024), https://www.aspcapro.org/grants/grant-opportunities [https://perma.cc/6LEA-PLGL].

[69] *See* Clerico, *supra* note 54, at 9–10 (reporting that as of 2016, euthanasia costs $2.29 per animal, and municipal shelters spend $800 million annually).

[70] *See* Reuven S. Avi-Yonah, *The Three Goals of Taxation*, 60 UNIV. MICH. L. SCH. 1, 3 (2006) (writing that three goals of taxation are to raise revenue, redistribute wealth, and drive private activity in certain directions). The increased usage of tax expenditures since the 1970s demonstrates how the regulatory function of taxation has grown, despite it being controversial. *Id.* at 3–4. The rise of tax expenditures and the regulatory function of taxation occurred in the 1960s and 1970s, when many provisions were added to the I.R.C. to encourage investment by taxpayers. *Id.* at 23. The regulation of private activity can both incentivize desirable activity, and disincentivize harmful behavior. *Id.* at 24.

[71] *See id.* at 23 (observing that tax expenditures conflict with the goals of raising revenue and distributing wealth).

[72] Surrey, *supra* note 18, at 706. Surrey outlines that the term "tax expenditure" represents government spending in ways that are typically served by direct funding. *Id.* Although Surrey disagrees

In lieu of, or in addition to, direct subsidies, tax expenditures reflect the forgoing of tax revenue to promote certain behavior.[73] In 1974, Congress passed The Congressional Budget Act of 1974, requiring the U.S. Department of the Treasury to publish an annual report detailing tax expenditures.[74] These reports provide the government with a rough idea of the expenses a tax policy has on the government budget and permits Congress to balance costs of policy with the expected derived social gains.[75] Likewise, most states publish their annual tax expenditures.[76] Because tax expenditures reduce taxes paid into the government fisc, the effect of each expenditure can therefore be estimated by federal and state governments.[77] Common tax expenditures include deductions

with the purported virtues of tax incentives, he notes that they consist of encouraging social programs, involving less governmental supervision and oversight, and promoting private decision making as opposed to governmental action. *Id.* at 715–19. Surrey also points out that the defects of the incentive structure include that taxpayers receive a windfall for an activity they would have otherwise done, the unequalness and additional benefit high-income taxpayers receive, and the reduction of revenues that keep tax rates higher, among others. *Id.* at 720–26.

[73] *See id.* at 708 n.2 (citing "Statement of Joseph W. Barr, Secretary of the Treasury," in *Hearings on the 1969 Economic Report of the President Before the Joint Economic Comm.*, 91st Cong., Sess. 1 8-44 (1969)) (commenting that tax expenditures represent lost revenues); Stanley S. Surrey & Paul R. McDaniel, *The Tax Expenditure Concept: Current Developments and Emerging Issues*, 20 B.C. INDUS. & COM. L. REV. 225, 228 (1976) (articulating that tax expenditures are one mechanism governments can use to encourage behavior, in addition to direct spending).

[74] *See* Congressional Budget Act of 1974, 2 U.S.C. §§ 601–688 (1976) (defining tax expenditures and establishing procedures to report tax expenditures for each year); U.S. DEP'T OF TREAS., TAX EXPENDITURES FISCAL YEAR 2024 (Mar. 6, 2023), https://home.treasury.gov/system/files/131/Tax-Expenditures-FY2024-update.pdf [https://perma.cc/HSS7-PPNF] (stating that the Congressional Budget Act of 1974 mandated that tax expenditures be included in the federal budget). Stanley Surrey is widely credited as being responsible for the beginning of tax expenditure theory in the United States, coining the phrase "tax expenditures," and spurring the Treasury's first tax expenditure budget. Assaf Harpaz & C. Eugene Steuerle, *Stanley Surrey's Lasting Influence*, 86 LAW & CONTEMP. PROBS. 167, 172–73 (2023).

[75] *See* STAFF OF THE JOINT COMM. ON TAX'N, JCX-22-22, ESTIMATES OF FEDERAL TAX EXPENDITURES FOR FISCAL YEARS 2022–2026, at 1 (2022), https://www.jct.gov/publications/2022/jcx-22-22/ [https://perma.cc/Y5X3-TQBL] (explaining that tax expenditure analysis aids legislatures in understanding how government revenue is spent). Additionally, tax expenditure analysis assists policymakers in evaluating the economic consequences from various legislative choices. *Id.* Tax expenditure analysis is also valuable for legislatures to evaluate the comparative merits of certain governmental objectives through tax policy versus direct outlays, as well as understanding distributional consequences and tradeoffs among competing policy initiatives. *Id.* at 3.

[76] *See, e.g.*, N.Y. DEP'T OF TAX'N & FIN., OUR NEW YORK, OUR FUTURE: FISCAL YEAR 2025 ANNUAL REPORT ON NEW YORK STATE TAX EXPENDITURES 16 (2025), https://www.tax.ny.gov/pdf/research/stats/expenditure-reports/fy25ter.pdf [https://perma.cc/8685-A77N] (providing New York State's 2025 personal income tax expenditures).

[77] *Tax Expenditures*, U.S. GOV'T ACCOUNTABILITY OFF., https://www.gao.gov/tax-expenditures [https://perma.cc/M64T-6PHV]. Tax expenditures, unlike direct federal subsidies, are not subject to the annual appropriations process, and therefore do not need to be reauthorized annually. *Id.* As of 2019, tax expenditure spending is roughly equivalent to discretionary congressional spending but trails mandatory spending. *Id.* Tax expenditures often accomplish the same goals as direct spending programs and have the same net effect on the government fisc, albeit the spending process is different. *Id.* It is worth noting, however, that tax expenditures do not perfectly equate to the amount of lost

for charitable contributions and medical expenses, projected to reduce revenues by approximately $964 billion and $220 billion, respectively, from 2022 to 2032.[78] At current, neither state tax codes nor the I.R.C. provide tax incentives for pets or animal adoption.[79]

Tax expenditures are often in the form of tax credits or deductions.[80] A tax credit is a decrease in the amount of tax owed by an individual, and the value of the credit is subtracted directly from a taxpayer's tax liability.[81] Most credits are nonrefundable, meaning such credits will decrease a taxpayer's tax liability to as little as zero dollars, but will not permit a taxpayer's liability to drop below zero, and thus will never create or increase a refund.[82] By contrast, a refundable tax credit can be recognized in full, even if the tax credit will create a negative tax liability, and hence a tax refund.[83] Currently, the Additional Child Tax Credit (ACTC) and Earned Income Tax Credit (EITC) are the two main

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revenue because they do not account for interaction between various expenditures. *See* STAFF OF THE JOINT COMM. ON TAX'N, *supra* note 75, at 23–24 (explaining the imprecisions of tax expenditure calculations). Tax expenditures are each calculated separately, and thus if multiple tax expenditures were enacted simultaneously, the interaction could yield a higher or lower tax expenditure than the aggregate of the individual estimates. *Id.* at 24. Additionally, the repeal of a tax expenditure does not necessarily add the expenditure amount back into revenue because the tax expenditure repeal does not account for changes in behavior that occur after the elimination of a tax expenditure. *Id.*

[78] *See* U.S. DEP'T OF TREAS., *supra* note 74, at T.3: Income Tax Expenditures Ranked by Total Fiscal Year 2023–2032 Projected Revenue Effect (listing tax expenditures and projected revenue effect between 2023 and 2032). The largest tax expenditure is the exclusion of employer contributions for medical insurance premiums and medical care, projected to have a revenue effect of $3.66 trillion between 2023 and 2032, followed by the exclusion of net imputed rental income ($1.68 trillion), defined contribution employer plans ($1.54 trillion), and capital gains ($1.49 trillion). *Id.*

[79] *See id.* at T.1: Estimates of Total Income Tax Expenditures for Fiscal Years 2022–2032 (providing all tax expenditures).

[80] *See* Surrey, *supra* note 18, at 706 (writing that tax expenditures include deductions and credits, among other special provisions).

[81] *See Tax Credits for Individuals: What They Mean and How They Can Help Refunds*, FS–2023–09, INTERNAL REVENUE SERV. (Apr. 2023), https://www.irs.gov/newsroom/tax-credits-for-individuals-what-they-mean-and-how-they-can-help-refunds [https://perma.cc/2PX5-BRLE] (defining tax credits).

[82] *See* Natalie Campisi, *What Is a Nonrefundable Tax Credit?*, FORBES (June 1, 2023), https://www.forbes.com/advisor/taxes/nonrefundable-tax-credit/ [https://perma.cc/X445-5PKR] (explaining that once a taxpayer's tax bill has been reduced completely, a taxpayer forgoes any unused nonrefundable credit); TAX POL'Y CTR., *What Is the Difference Between Refundable and Nonrefundable Credits?*, THE TAX POLICY BRIEFING BOOK (2024), https://taxpolicycenter.org/briefing-book/what-difference-between-refundable-and-nonrefundable-credits [https://perma.cc/F78W-BD5R] (explaining that the value of a nonrefundable tax credit is capped at an amount equal to a taxpayer's tax liability).

[83] *See Refundable Tax Credits*, INTERNAL REVENUE SERV., https://www.irs.gov/credits-deductions/individuals/refundable-tax-credits [https://perma.cc/KN76-E9NZ] (describing a refundable tax credit as providing the ability to get a refund, even if a taxpayer does not owe taxes); TAX POL'Y CTR., *supra* note 82 (articulating that refundable credits provide a refund to taxpayers in the amount that it exceeds a taxpayer's tax liability). One argument in favor of refundable credits is that the social policy sought by permitting credits can only be fully realized if the credits are refundable. TAX POL'Y CTR., *supra* note 82. An argument against refundable credits is that it increases administrative costs, as well as general objections to using taxation to promote social policy. *Id.*

refundable credits.[84] By contrast, the Adoption Tax Credit is nonrefundable, as is the Child and Dependent Care Credit.[85]

Deductions operate differently from credits.[86] A tax deduction is a subtraction in *income*, thereby subjecting a smaller amount of income to the applicable tax rate.[87] Whereas the value of tax credits are a function of the size of the credit itself, the value of a tax deduction is related to a taxpayer's marginal tax rate.[88] As a taxpayer's marginal tax rate increases, the relative percentage of tax that would have been owed on the deducted dollar amount increases.[89] Therefore, a deduction saves higher-income taxpayers a greater percent of the dollar compared to lower-income taxpayers.[90]

In taking personal deductions, a taxpayer can opt to itemize their tax return or use the standard deduction.[91] A standard tax deduction is a specific dol-

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[84] *See* I.R.C. § 24 (permitting a child tax credit); *id.* § 32 (allowing for the earned income credit). The ACTC is a refundable portion of the childcare credit that gives a credit of up to $2,000 per child. *What You Need to Know About CTC, ACTC, and ODC*, INTERNAL REVENUE SERV. (Jan. 16, 2025), https://www.eitc.irs.gov/other-refundable-credits-toolkit/what-you-need-to-know-about-ctc-and-actc/what-you-need-to-know [https://perma.cc/5MNH-VMVV] (explaining the ACTC). The EITC provides a refundable credit for low-income workers. CONOR F. BOYLE, MARGOT L. CRANDALL-HOLLICK & BRENDAN MCDERMOTT, CONG. RSCH. SERVS., R43805, THE EARNED INCOME TAX CREDIT (EITC): HOW IT WORKS AND WHO RECEIVES IT 1 (2023) (explaining the EITC). In 1986, in *Sorenson v. Secretary of Treasury*, the U.S. Supreme Court said that the EITC is distinct from other credits because the taxpayer is considered to have overpaid his taxes if the EITC exceeds the taxpayer's liability, which would create an "overpayment" that generates a tax refund. 475 U.S. 851, 855 (1986). Additionally, in 2012, in *In re Zingale*, the U.S. Court of Appeals for the Sixth Circuit held that a portion of the child tax credit, referred to as an "additional child tax credit," is refundable if the credit exceeds the taxpayer's federal income tax liability. 693 F.3d 704, 707 (6th Cir. 2012) (citing I.R.C. § 24(d)(1)).

[85] *See* I.R.C. § 21 (providing a tax credit for expenses incurred for children or dependent care that is incurred while taxpayers are at work); *id.* § 23 (providing a tax credit for adoption expenses); *see also* Simmons v. United States, No. 19-1142T, 2020 WL 1526413, at *3 (Fed. Cl. Mar. 31, 2020) (noting that the I.R.C. provides a nonrefundable tax credit for qualified adoption costs in addition to a $10,000 credit for adopting a child with special needs without concern for whether adoption expenses were incurred).

[86] *See Tax Credits and Deductions for Individuals*, INTERNAL REVENUE SERV. (Jan. 4, 2024), https://www.irs.gov/newsroom/tax-credits-and-deductions-for-individuals [https://perma.cc/24V9-UPTZ] (distinguishing credits from deductions).

[87] *See id.* (explaining that deductions reduce income before taxes are calculated).

[88] *See What Are Tax Credits and How Do They Differ from Tax Deductions?*, TAX POL'Y CTR.: THE TAX POLICY BRIEFING BOOK (Jan. 2024), https://taxpolicycenter.org/briefing-book/what-are-tax-credits-and-how-do-they-differ-tax-deductions [https://perma.cc/M8F7-RCGA] (articulating that the value of deductions depends on a taxpayer's marginal tax rate).

[89] *See id.* (explaining that deductions are more valuable for higher-income taxpayers). A deduction reduces a taxpayer's liability by the value of the tax deduction multiplied by the marginal tax rate, and therefore if a marginal tax rate is higher, the amount saved on taxes will also be higher. *Id.*

[90] *Id.*

[91] TAX POL'Y CTR., *What Are Itemized Deductions and Who Claims Them?*, THE TAX POL'Y BRIEFING BOOK (2024), https://taxpolicycenter.org/briefing-book/what-are-itemized-deductions-and-who-claims-them [https://perma.cc/YX2M-Z3S6]; *see Tax Basics: Understanding the Difference Between Standard and Itemized Deductions*, *IRS Tax Tip 2023–03*, INTERNAL REVENUE SERV. (Jan.

lar amount, set by Congress, that a taxpayer can reduce their taxable income by, regardless of the expenses the taxpayer incurred.[92] By contrast, an itemized deduction is a subtraction from adjusted gross income for specific deductions actually incurred, including charitable contribution deductions.[93] Most taxpayers opt to use the standard deduction, and thus many do not realize the value of itemized deductions.[94]

The I.R.C. utilizes various provisions to scale back the benefits of certain credits or deductions.[95] Three common ways to limit tax expenditures are contribution floors, contribution caps, and income limits.[96] A contribution floor excludes a specific amount of the subsidized activity from qualifying for the tax break.[97] A contribution cap excludes subsidization for activities above a certain level.[98] Income limits restrict certain taxpayers above an income

10, 2023), https://www.irs.gov/newsroom/tax-basics-understanding-the-difference-between-standard-and-itemized-deductions [https://perma.cc/C67Y-AJNW] (writing that one of the first choices taxpayers make is whether to itemize their deductions or use the standard deduction).

[92] *See Topic No. 551, Standard Deduction*, INTERNAL REVENUE SERV. (Jan. 2, 2025), https://www.irs.gov/taxtopics/tc551 [https://perma.cc/LT3F-WWZQ] (defining the standard deduction as a specified dollar amount that reduces a taxpayer's liability).

[93] *See* Tina Orem & Sabrina Parys, *Itemized Deductions: What They Are, How to Claim*, NERDWALLET (Dec. 13, 2024), https://www.nerdwallet.com/article/taxes/itemized-deductions-standard-deduction?msockid=2ff112389db364243985069d9cf065ee [https://perma.cc/B2WQ-GYB3] (explaining various types of itemized deductions); Upamanyu Lahiri & Andrew Lautz, *Paying the 2025 Tax Bill: Charitable Deductions*, BIPARTISAN POL'Y CTR. (Dec. 5, 2024), https://bipartisanpolicy.org/explainer/paying-the-2025-tax-bill-charitable-deductions/ [https://perma.cc/4QQ9-DG7A] (writing that the charitable deduction is available to taxpayers who itemize their deductions, rather than using the standard deduction). Although two-thirds of American households give charitable contributions, only 7.5% of returns are itemized. Lahiri & Lautz, *supra*. Of those that itemized their returns, two-thirds had income of over $100,000, signaling that the benefit of the charitable deduction flows most often to high-income taxpayers. *Id.* Other itemized deductions include medical expenses and state and local tax deductions. *Schedule A (Form 1040)*, DEP'T OF THE TREASURY—INTERNAL REVENUE SERV. (2024), https://www.irs.gov/pub/irs-pdf/f1040sa.pdf [https://perma.cc/GD9B-XBXQ].

[94] *See* Scott Eastman, *How Many Taxpayers Itemize Under Current Law?*, TAX FOUND. (Sep. 12, 2019), https://taxfoundation.org/blog/standard-deduction-itemized-deductions-current-law-2019/ [https://perma.cc/CE9Z-B6UC] (providing data that shows most taxpayers use the standard deduction). The Tax Cuts and Jobs Act (TCJA) significantly increased the standard deduction from $6,500 to $12,000 for individuals. *Id.* The TCJA was a set of tax reforms enacted in 2017 that significantly altered tax deductions and credits. Kate Schubel, *The TCJA: Key Facts on the 2017 'Trump Tax Cuts' and What's Extended for 2025*, KIPLINGER (July 9, 2025), https://www.kiplinger.com/taxes/what-is-the-tcja [https://perma.cc/65D3-ELZY]. The TCJA is currently set to expire at the end of 2025. *Id.*

[95] TAX POL'Y CTR., *How Do Phaseouts of Tax Provisions Affect Taxpayers?*, THE TAX POL'Y BRIEFING BOOK (2024), https://taxpolicycenter.org/briefing-book/how-do-phaseouts-tax-provisions-affect-taxpayers [https://perma.cc/4B92-SDPF] (noting that many of the provisions that provide beneficial treatment phase out for high-income taxpayers). Among the most common area for phaseouts in the tax system are education provisions, family benefits, and retirement savings. *See id.* (providing data for phaseouts for family benefits, education, and retirement provisions).

[96] Batchelder et al., *supra* note 13, at 51–52.

[97] *Id.*

[98] *Id.* at 52.

threshold from receiving the tax incentive.[99] These limitations primarily target high-income taxpayers, thereby focusing benefits of respective expenditures on lower or middle-income taxpayers.[100] In effect, these legislative tools tailor the applicability of certain tax breaks to limit revenue costs.[101]

The government also uses direct spending or expenditure programs to advance social policy, which consist of both mandatory and discretionary spending.[102] Direct spending programs transfer money from the government to entities or individuals to further certain social and governmental objectives.[103] Mandatory spending, including Social Security and Medicaid, is established in substantive law that authorizes the program and is not subject to annual scrutiny.[104] By contrast, discretionary spending is determined through an annual appropriations process that grants agencies funds for certain projects across various spending categories.[105] Unlike tax expenditures that reduce tax revenue

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[99] *Id.*

[100] *See* TAX POL'Y CTR., *supra* note 95 (noting that phaseouts restrict tax benefits to low- and middle-income taxpayers).

[101] *See id.* (stating that phaseouts limit revenue by narrowing the benefit to only certain taxpayers); *see also* BRENDAN MCDERMOTT, CONG. RSCH. SERV., RL34498, FEDERAL INDIVIDUAL INCOME TAX BRACKETS, STANDARD DEDUCTION, AND PERSONAL EXEMPTIONS 1988 TO 2024: HOW IT WORKS AND WHO RECEIVES IT 1 (Jan. 23, 2024) (providing phaseout thresholds across several years).

[102] GRANT A. DRIESSEN, CONG. RSCH. SERV., R44530, SPENDING AND TAX EXPENDITURES: DISTINCTIONS AND MAJOR PROGRAMS 1 (2019). Direct spending programs are broadly characterized in two ways: mandatory spending and discretionary spending. *Id.* Congress uses appropriations acts to grant agencies discretionary funds for certain initiatives. *Id.* at 3. By contrast, mandatory spending is not subject to the appropriations process because mandatory spending is required under other substantive law. *Id.* As of 2023, approximately 72% of the federal budget is mandatory spending, while 23% is discretionary. *The Appropriations Committee: Authority, Process, and Impact*, H. APPROPRIATIONS COMM., https://appropriations.house.gov/about/appropriations-committee-authority-process-and-impact [https://perma.cc/NJ78-5SWS].

[103] DRIESSEN, *supra* note 102, at 1.

[104] CTR. ON BUDGET AND POL'Y PRIORITIES, POLICY BASICS: INTRODUCTION TO THE FEDERAL BUDGET PROCESS 2 (Oct. 28, 2024), https://www.cbpp.org/sites/default/files/atoms/files/3-7-03bud.pdf [https://perma.cc/JT7K-YXKD]. As of the end of August 2025, Social Security and Medicare were the two largest mandatory costs at 22% and 14% of the budget, respectively. *See How Much Has the U.S. Government Spent This Year?*, U.S. DEP'T OF TREAS., (Aug. 31, 2025), https://fiscaldata.treasury.gov/americas-finance-guide/federal-spending/ [https://perma.cc/7GU8-TP2M] (providing the relative percentages of United States government spending by category).

[105] DRIESSEN, *supra* note 102, at 3. The appropriations process begins with the President submitting a budget request for the upcoming fiscal year, which is created through a process between federal agencies and the President's Office of Management and Budget. CTR. ON BUDGET & POL'Y PRIORITIES, *supra* note 104, at 4. The process culminates with the House and Senate providing a bill to the President for signature, after going through multiple committees, revisions, and hearings on how to allocate resources to various agencies. *See* Cole, *supra* note 102. For a more detailed look at the appropriations process, see MEGAN S. LYNCH & JAMES V. SATURNO, CONG. RSCH. SERV., R47106, THE APPROPRIATIONS PROCESS: A BRIEF OVERVIEW (2023). As of January 2025, national defense was responsible for the highest category of discretionary spending at 14% of the budget. U.S. DEP'T OF TREAS., *supra* note 104.

paid to the government, direct spending uses tax revenue.[106] The process for implementing expenditure programs also differs based on the spending mechanism used.[107]

Academics have long debated the merits of using tax expenditures to remedy social issues as opposed to direct government expenditures.[108] Many scholars believe tax policy to be an effective means of encouraging certain behaviors because it directly incentivizes individuals' decision making.[109] Others perceive direct federal expenditures to be the preferable means of furthering social policy goals, viewing tax expenditures as providing a windfall to taxpayers that would already engage in the rewarded behavior.[110]

C. Existing Deductions for Pets

There are currently no clear avenues that incentivize recreational pet ownership under the tax code.[111] Animal costs incurred in relation to a taxpayer's business—including a pet "influencer," animal actor, guard dog, dog breeding business, or costs in relation to animal care for a farm or pet store—are generally deductible as business expenses.[112] For the costs of animals that

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[106] *See* Heen, *supra* note 19, at 757 (referring to direct expenditure programs as "tax-and-spend programs"). Direct expenditure programs use revenues generated by taxes. *Id.* By contrast, tax expenditures reflect spending through forgone revenues. *Id.* at 758.

[107] *See* DRIESSEN., *supra* note 102, at 3–4 (explaining differences in the legislative process between tax expenditures and direct spending). Whereas spending programs are subject to an annual appropriations process, tax expenditures can either be permanent or expire after a set duration. *Id.* at 4. Tax expenditures are often more difficult to change than discretionary spending because they have been permanently incorporated into the tax code and cannot be scaled back by state appropriations process. *Id.* If not permanent, however, tax expenditures can often be uncertain due to expiring provisions that can lapse, expire, or otherwise lose force. *Id.* Thus, in this way, tax expenditures that are not permanent are similar to direct discretionary spending. *Id.*

[108] *See* William Congdon, Jeffrey R. Kling & Sendhil Mullainathan, *Behavioral Economics and Tax Policy* 1 (Nat'l Bureau of Econ. Rsch., Working Paper No. 15328, 2009), https://www.nber.org/system/files/working_papers/w15328/w15328.pdf [https://perma.cc/85Q8-JD5Y] (researching the relationship between tax policy and changes in taxpayer behavior); Surrey, *supra* note 18, at 734–35 (concluding that direct expenditures should be the default means of government spending).

[109] *See* Batchelder et al., *supra* note 13, at 24 (advocating for the use of refundable credits as social policy tools and noting that the federal income tax already uses incentives to encourage socially beneficial acts).

[110] *See generally* Congdon et al., *supra* note 108 (researching the subject).

[111] *See* Elle Martinez, *Is This Deductible? Fostering a Pet*, INTUIT TURBOTAX (May 23, 2024), https://blog.turbotax.intuit.com/tax-deductions-and-credits-2/is-this-deductible-adopting-a-pet-18124/ [https://perma.cc/TC3H-DGKW] (writing that there are no tax deductions for rescuing a pet for recreational purposes); TurboTaxBlogTeam, *Can You Claim a Tax Credit for a Pet? Pet Deductions 101*, INTUIT TURBOTAX (Mar. 11, 2025), https://blog.turbotax.intuit.com/tax-tips/can-i-claim-my-pet-as-a-dependent-53/ [https://perma.cc/PD6E-UEV2] (answering the question of whether a pet tax credit exists).

[112] *See* TurboTaxBlogTeam, *supra* note 111 (outlining that working pets, such as guard dogs, can be deducted as a business expense); *see also* I.R.C. § 162 (allowing for a deduction from income for ordinary and necessary expenses in a taxpayer's business).

are unrelated to a taxpayer's business, however, there are only two paths to potential tax deductions for pet care: medical deductions for service animals and charitable deductions for foster animals.[113] In the case of seeing eye dogs, dogs assisting deaf individuals, or animals that assist those with psychiatric illness, the Internal Revenue Service (IRS) has determined that amounts paid to acquire, train, and care for the dog are eligible medical deductions.[114] The IRS noted that courts will analyze objective factors to decipher whether a seemingly personal expenditure, such as a pet, is actually incurred for medical care.[115]

Section 170 of the I.R.C. provides a deduction for charitable donations made to eligible organizations.[116] Although the provision on its face does not refer to fostering animals, in 2011, in *Van Dusen v. Commissioner of Internal Revenue*, the U.S Tax Court held that expenses for the care of foster animals can be eligible for a charitable deduction if the expenses are incurred in providing services to a charitable organization.[117] In *Van Dusen*, a taxpayer sought to deduct charitable contribution expenses incurred in caring for foster

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[113] *See* Rev. Rul. 55-261, 1955-1 C.B. 307 (issuing guidance that seeing eye dogs and their care are eligible for medical deductions); *Martinez*, *supra* note 111 (writing that expenses incurred in fostering a pet could be deducted if a taxpayer works with a qualified 501(c)(3) organization); *see also* I.R.C. § 213(a) (permitting medical deductions to be deducted from gross income to the extent that they exceed 7.5% of a taxpayer's adjusted gross income and not compensated for by insurance).

[114] Rev. Rul. 68-295, 1968-1 C.B. 92; Rev. Rul. 55-261. Although the IRS's ruling was done under the Internal Revenue Code of 1954, the IRS determined that seeing eye dogs and their care qualify as allowable deductions. Rev. Rul. 55-261. The IRS later issued a Revenue Ruling that stated that, subject to the limitations set forth in I.R.C. § 213, the cost of acquiring, training, and caring for a dog whose purpose is to assist a deaf person is a deductible medical expense. Rev. Rul. 68-295. It is worth noting, however, that the IRS does not permit deductions for certain expenses, such as routine food or housing. *See id.* (ruling that a taxpayer can only deduct acquisition, training, and maintenance for a dog that assists a deaf person); *see also* Rev. Rul. 55-261 (stating that a seeing eye dog and its "maintenance" are deductible).

[115] *See* GEORGE BLAINE, INTERNAL REVENUE SERV., IRS INFORMATION LETTER 2010-0129, at 2 (June 25, 2010), https://www.irs.gov/pub/irs-wd/10-0129.pdf [https://perma.cc/HF6J-H2M6] (advising that costs to buy, train, and maintain an animal that assists with mental disabilities can qualify for a medical care deduction). For an animal to qualify for the deduction, the taxpayer must establish that they use the animal primarily for medical care to treat a specific mental illness, and that the taxpayer would not have acquired the animal but for that condition. *Id.* The IRS has stated, however, that taxpayers must establish that expenses that are seemingly personal are actually used for medical care. *Id.* at 1. Among the factors considered are the connection between the treatment and the condition, as well as the duration between the purchase and the beginning of the medical issue. *Id.* The ultimate determination is that the taxpayer is not entitled to a deduction if they would have incurred those costs without the medical condition. *Id.*

[116] I.R.C. § 170. The general rule is set forth in subsection (a)(1), establishing that a taxpayer can deduct any charitable contribution paid in the taxable year. *Id.* § 170(a)(1). Subsection (b) establishes a ceiling on the percentage of a taxpayer's income that can be deducted as a charitable contribution for any given year. *Id.* § 170(b). Subsection (c) defines charitable contribution, which includes contributions to a state or political subdivision, a 501(c)(3) organization, and religious organizations. *Id.* § 170(c).

[117] Van Dusen v. Comm'r, 136 T.C. 515, 524–25 (2011).

cats.[118] The court held that fostering the cats was a service to the charitable organization and thus the unreimbursed expenses incurred to perform the services were deductible under Section 170 of the I.R.C.[119] Expenses that qualified for the deduction were veterinary expenses, pet supplies, and related cleaning and utility bills.[120] The court held that the taxpayer was permitted to deduct her unreimbursed costs, citing to Treasury Regulation Section 1.170A-1(g), which provides that unreimbursed expenses made in performing services for a charitable organization are deductible.[121]

D. Response from New York and Other States: Debated Tax Expenditures for Pet Adoption

In the past decade, states across the country have proposed and debated revenue bills that would provide state tax credits or deductions as a means to stimulate animal adoption.[122] The general framework of the proposals in New

[118] *Id.* at 517. Van Dusen attempted to deduct pet supplies, cleaning supplies, a renewed Costco membership to purchase food, repairs for a vacuum cleaner, as well as electricity and gas bills incurred because of her washing of cat bedding and the need for a special ventilation system. *Id.* at 520. Many of her bills, however, were incapable of being delineated between personal use and charitable work, in which case the expenses were disallowed. *Id.* at 525. In total, Van Dusen sought to deduct a total of $12,068, with $1,381 being attributable to pet supplies, $9,607 for veterinary bills, and $1,080 towards utilities. *Id.* at 521.

[119] *See id.* at 525 (finding that most of Van Dusen's work was performed for "Fix Our Ferals," and the rest of her work was performed for other eligible charitable organizations). Fix Our Ferals was an organization focused on trapping and neutering feral cats, providing them with necessary vaccinations and medical care, and bringing them back into the wild. *Id.* at 517. While the cats are recovering from the medical treatments or when the cats are incapable of returning to the wild, they are fostered in volunteers' homes. *Id.* at 518. Van Dusen volunteered for the organization and had between seventy and eighty cats, most of which she fostered for Fix Our Ferals or similar organizations. *Id.* at 519.

[120] *See id.* at 525–26 (declaring that, to be deductible, the unreimbursed expenses need to have a direct connection to, and be solely attributable to, the charitable services provided). The court granted deductions for certain broad categories of expenditures, including veterinary care, pet supplies, utilities, and cleaning supplies, because Van Dusen would have paid for much fewer of these services but for her charitable work. *Id.* at 526. The court categorically denied certain deductions, including payments made to hardware stores because they did not specifically identify how much she spent on materials needed for foster care, specifically pellets for cat litter, as opposed to personal items. *Id.* at 526–27. Where the price on the receipt indicated that Van Dusen only purchased pellets, she was permitted the deduction. *Id.* at 527. The court also disallowed a Costco membership and a vacuum because both expenditures would have been incurred even if she did not care for the cats, and thus the expenses did not have a direct connection to, nor were they solely attributable to, her charitable activities. *Id.* at 526.

[121] *Id.* at 523; *see* Treas. Reg. § 1.170A-1(g) (2020) (providing the applicable regulation). The court did note, however, that the statutory language only applies automatically to expenses that are less than $250. *Van Dusen*, 136 T.C. at 516–17. For expenses that exceed $250, Van Dusen needed contemporaneous written acknowledgment from the charitable organization, which she failed to provide. *Id.* These substantiation requirements are found in § 1.170A-13(f)(1) of the Income Tax Regulations. Treas. Reg. § 1.170A-13(f)(1); *Van Dusen*, 136 T.C. at 516.

[122] *See, e.g.*, S.B. 6191, 2023–2024 Reg. Sess. (N.Y. 2023) (providing New York's proposed tax credit).

York, Illinois, Massachusetts, Kansas, and Oregon was to use tax expenditures, permitting taxpayers to offset a portion of taxes owed to state governments for the adoption of dogs or cats.[123]

Starting in 2009, the New York State Senate has proposed a series of bills to provide a state tax credit for the adoption costs incurred while rescuing a pet from a qualifying animal shelter.[124] Assemblymember Linda Rosenthal most recently reintroduced that proposal in 2025 with a cap of $100 on the credit.[125] Unlike New York's proposal, Illinois considered an income tax credit of a standard $250 without regard to actual costs incurred, but added the conditions that the animal must be adopted from a no-kill shelter and that the taxpayer keep the animal for six consecutive months in that taxable year.[126]

The Massachusetts House of Representatives set forth a proposal in 2023 that treated cats and dogs distinctly, suggesting a $500 tax credit for the adoption of a dog, and a $300 credit for adopting a cat.[127] In 2018, however, Massachusetts put forth another bill more targeted in effect that proposed a tax credit of $400 for the adoption of a dog over the age of seven or a dog or cat with a disability, and a $200 credit for a dog of one to six years of age or a cat above age seven.[128]

Kansas sought the largest tax credit of the debated proposals, which would give owners up to $500 for expenses incurred in the care of a dog or cat, whether adopted or not.[129] Such qualifying expenses were limited to veterinary care, pet insurance payments, medication, and implanting a microchip inside of the pet.[130]

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[123] *See infra* notes 124–133 (explaining the state proposals).

[124] *See* Assemb. B. 992, 2009–2010 Reg. Sess. (N.Y. 2009) (proposing New York's first attempt at a tax credit for pet adoption). The proposed rule provided a credit for a maximum of three pets that were adopted from a qualifying organization. *Id.*

[125] *See* Assemb. B. 637, 2025–2026 Reg. Sess. (N.Y. 2025) (proposing the most recent version of the bill).

[126] *See* H.B. 2511, 103rd Gen. Assemb., Reg. Sess. (Ill. 2023) (providing Illinois' proposed tax credit). The credit was conditioned upon the adoption being from a no-kill animal shelter and it provided a nonrefundable credit of $250. *Id.* § 234(a), (b). If the taxpayer does not have a tax liability, they can carry forward the tax credit for five years, with the credit being applied at the earliest year the taxpayer has a tax liability. *Id.* § 234(b).

[127] *See* H.B. 3658, 193rd. Gen. Ct., Reg. Sess. (Mass. 2023–2024) (providing the full text of the proposed rule).

[128] *See* H.B. 4647, 190th. Gen. Ct., Reg. Sess. (Mass. 2017–2018) (proposing Massachusetts' first iteration of the bill). The proposed credit would have been distributed over three years, with 20% in the first year following adoption, and 40% in the two subsequent years. *Id.* § 2(i)–(iii). The American Kennel Club expressed concerns about the unintended consequences of the bill, including the incentivization of more dog imports into the state and the public health risks associated with this. AKC Government Relations, *Massachusetts Legislation Would Provide Tax Credits for Adoption of Certain Dogs and Cats*, AM. KENNEL CLUB (July 11, 2018), https://www.akc.org/legislative-alerts/massachusetts-legislation-provide-tax-credits-adoption-certain-dogs-cats/ [https://perma.cc/J2YQ-T4SZ].

[129] *See* H.B. 2419, H. Comm. on Tax'n, 2023–2024 Reg. Sess. (Kan. 2023) (proposing Kansas's attempt at a pet-ownership tax credit). The proposed credit can only be realized in the year the ex-

Oregon had extensive debates surrounding several iterations of proposals that would use tax expenditures to encourage pet adoption.[131] In 2017 a bill was introduced in Oregon that would establish an income tax credit for qualifying adoption expenses, including fees for adoption, spaying or neutering, implementing a microchip, veterinary screening, and vaccinations.[132] In 2019, Senator Olsen reintroduced this bill as a tax deduction, rather than a credit, because the bill sponsors anticipated less pushback by tax groups who opposed such a large credit.[133]

II. Throwing Owners a Bone? The Policy Debate and Tax Expenditure Impact

Across the proposals set forth in the various states, arguments have been made both in support and against tax expenditures that encourage the adoption of dogs and cats.[134] Although many critics concede that such bills are creative or well-intentioned, arguments have persisted that the drawbacks exceed humane and public policy benefits.[135] Section A explains the arguments surround-

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pense was paid and incurred. *Id.* § (b). To get the credit, a taxpayer must provide documentation that the dog or cat has been neutered or spayed. *Id.*

[130] *Id.* The Kansas Division of the Budget estimated that such a bill would decrease tax revenues by $145.9 million in 2024. *See* Adam Proffitt, Kan. Div. of the Budget, Fiscal Note for HB 2419 by H. Comm. on Tax'n (2023) (estimating the fiscal effect of the proposed nonrefundable credit). The letter noted that for a nonrefundable credit, only an estimated 65% of the credit would be used. *Id.* A microchip uses a radio-frequency identification system with a unique identification number to help locate lost pets' owners, which is implanted under a dog's skin. Jan Reisen, *How Does a Dog Microchip Work? Should My Dog Have One?*, Am. Kennel Club (Mar. 14, 2021), https://www.akc.org/expert-advice/home-living/how-do-dog-microchips-work/ [https://perma.cc/U3EU-24U6]. When a microchip is registered with a national pet recovery database, any veterinarian can look up the microchip's data to contact the owner. *Id.*

[131] *See, e.g.*, Tracy Loew, *Oregon Lawmaker Wants Tax Deduction for Those Who Adopt Shelter Cats, Dogs*, Statesman J. (Feb. 21, 2019), https://www.statesmanjournal.com/story/tech/science/environment/2019/02/21/tax-deduction-oregon-bill-shelter-pet-adoption/2939136002/ [https://perma.cc/4ZVP-WV9K] (outlining opposition to Oregon's 2017 proposal because of budget shortfalls); *Tax Expenditure for Animal Adoption from an Animal Shelter: Hearing on S.B. 268 Before the S. Comm. on Env't & Nat. Res.*, 80th Or. Legis. Assemb., Reg. Sess. (Or. 2019) (statement of Bennett Minton, Sec'y, Tax Fairness Oregon) (arguing against Oregon's proposed tax deduction).

[132] *See* S.B. 326, 79th Or. Legis. Assemb., Reg. Sess. (Or. 2017) (supplying Oregon's first proposed bill on the subject).

[133] *See* S.B. 268, 80th Or. Legis. Assemb., Reg. Sess. (Or. 2019) (changing Oregon's attempt for a pet-adoption tax break to a tax deduction, instead of a tax break); Loew, *supra* note 131 (noting that Oregon's bill sponsors believed a tax deduction would improve the chances of the bill being passed). The bill referred to the credit as a "subtraction" from taxable income. Or. S.B. 268, § 2.

[134] *See, e.g.*, Sen. Kevin S. Parker, Sponsor Memo, S.B. 6191, 2023–2024 Reg. Sess. (N.Y. 2023) (justifying New York's proposed bill); AKC Government Relations, *supra* note 128 (criticizing Massachusetts' proposed bill on several grounds).

[135] *See* Minton, *supra* note 131 (writing that Tax Fairness Oregon would like to support the proposed bill but doing so means detracting from more pressing state needs); Jeff Thompson, *Oregon Bill Would Give $100 Tax Credit for Pet Adoption*, ABC (Feb. 14, 2017), https://www.abc10.com/article/news/oregon-bill-would-give-100-tax-credit-for-pet-adoption/103-408308285 [https://perma.cc/3KQY-

ing the potential costs and budgetary implications of such a tax credit.[136] Section B explores the humane arguments made in support of a credit, while noting some of the unintended consequences that may ensue.[137] Section C considers factors that contribute to the crisis that are not addressed by tax credits.[138] Section D ponders other solutions that might address the same problems as the proposed tax expenditures.[139]

A. The Economic Argument and Tax Expenditure Effect: Stimulation Versus Spending

One of the most direct criticisms for proposed tax credits is the effect on state budgets, even where critics might support the basis for a bill.[140] Due to the large number of tax expenditures already in existence, as well as budget shortfalls across the nation, many critics believed that the introduction of a new tax credit would directly strip away resources from other causes.[141]

Proponents say that the issue, however, is not as simple as an increase in tax expenditures, and a corresponding decrease in revenue.[142] In New York's 2024 bill sponsor memorandum, bill sponsor Senator Kevin S. Parker suggested that such a proposal could save the state money by reducing the costs of euthanasia and body disposal.[143] Moreover, advocates of the bill argued that states could shed expenses if the shelters were financed by municipal funds, as animals would spend less time there, shelters would generate more adoption fees, and these facilities could potentially garner more community support.[144]

NNWK] (quoting Jody Wiser, President of Tax Fairness Oregon, as praising the bill's creativity but criticizing the effect on the state budget).

[136] *See infra* notes 140–150 and accompanying text.

[137] *See infra* notes 151–164 and accompanying text.

[138] *See infra* notes 165–171 and accompanying text.

[139] *See infra* notes 172–180 and accompanying text.

[140] *See, e.g.*, Loew, *supra* note 131 (overviewing arguments against Oregon's proposed 2017 tax credits); Minton, *supra* note 131 (advocating against tax deductions because they detract from state resources).

[141] *See* Thompson, *supra* note 135 (quoting Jody Wiser of Tax Fairness Oregon as saying that new tax credits reduce the number of teachers or days of school); Minton, *supra* note 131 (arguing that every new tax expenditure "reduces the life blood of Oregon"). Minton benchmarks the spending to foster care workers and teachers, writing that every $85,000 spent on other initiatives takes away these resources for children. Minton, *supra* note 131.

[142] *See, e.g.*, LORI BARRETT, N.Y.C. BAR ASS'N, REPORT ON LEGISLATION BY THE COMMITTEE ON ANIMAL LAW 3 (2016) (articulating reasons why the tax credit could save New York State money); Sen. Kevin S. Parker, Sponsor Memo, S.B. 6191, 2023–2024 Reg. Sess. (N.Y. 2023) (arguing that a credit could save taxpayers money).

[143] *See* Sponsor Memo, S.B. 6191 (justifying the bill by pointing to New York's costs to run municipal animal shelters). On average, animals in New York remain in public shelters for seven days. *Id.* During that time, public funds are used for animal care, food, cleaning, veterinary services, euthanasia and body disposal. *Id.*

[144] *See* BARRETT, *supra* note 142, at 3 (explaining four ways that New York could save money with the tax credit); Sponsor Memo, S.B. 6191 (arguing that animal care in publicly funded shelters is

Proponents also averred that tax expenditures encouraging the adoption of pets could help stimulate the economy, as the tax savings may be used towards veterinarian care, toys, and food.[145] Critics rebutted that, although potential benefits could reduce the costs of a tax expenditure in theory, this argument is speculative because bill sponsors have not introduced evidence to suggest that lost tax revenue would be compensated for by corresponding economic stimulus, nor by the cost reductions for euthanasia or municipal shelter funding.[146] Nonetheless, supporters seemingly implied that pet adoption tax credits could conceivably be more financially efficient than direct expenditure programs if states can reduce municipal shelter and euthanasia expenses by a greater amount than the cost of tax expenditures.[147]

Although many shelters have programs that waive animal adoption fees, sponsors insisted that the rising cost of adoption and pet ownership has facilitated a greater perceived need for the tax credit.[148] Defenders of the Oregon bills argued that a tax credit would offset the upfront adoption costs, thereby reducing a barrier to pet ownership.[149] Nevertheless, remedial legislation does not explicitly address the issue of taxpayers being financially unable to meet recurring costs of ownership.[150]

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costly). Lori Barrett, Chair of the Animal Law Committee for the NYC Bar Association, argues four reasons why the tax credit could save New York State money. BARRETT, *supra* note 142, at 3. First, animals would spend fewer days in municipally funded shelters. *Id.* Second, euthanasia costs would decrease, as fewer animals would be euthanized. *Id.* Third, adoption fees would increase, thereby offsetting operating expenses of shelters. *Id.* Fourth, more community financial support would be generated through donations, free advertising, and increased volunteering because the community would become more aware of local organizations. *Id.*

[145] *See* Sponsor Memo, S.B. 6191 (stating that tax credits given to taxpayers will often be reinvested into the pet industry, which totals over forty billion dollars); Loew, *supra* note 131 (quoting Sen. Alan Olsen, Oregon's bill co-sponsor). Olsen argued that a tax credit in Oregon could help finance itself, as local economies would reap the benefit of increased veterinarian services, food, and toys. Loew, *supra* note 131.

[146] *See* Minton, *supra* note 131 (arguing that there is no evidence to support that the proposed tax expenditures would be successful in remedying the shelter crisis).

[147] *See* Sponsor Memo, S.B. 6191 (highlighting that animals in municipal shelters require food, care, medicine, and possibly euthanasia, which is costly to taxpayers).

[148] *See* Thompson, *supra* note 135 (quoting Oregon bill co-sponsor Peter Courtney). Courtney explained that pet adoption has changed drastically over the course of decades, when animals used to be handed away for free in front of stores. *Id.*

[149] *See id.* (explaining that in certain localities adopting an animal from a local shelter can range from $100 to $350). Courtney elaborated that in addition to that baseline cost, owners then need to pay for registering the animal, toys, kennels, leashes, litter boxes, and other routine expenses that can cost taxpayers hundreds of dollars. *Id.* Courtney articulated that providing up to $100 in a tax return was the least the state could do. *Id.*

[150] *See, e.g.*, Carbonaro, *supra* note 38 (reporting on the financial burden pet owners face with increasing pet care costs and surrenders); Norris, *supra* note 35 (highlighting the relationship between macroeconomic conditions and elevated shelter numbers).

B. The Public Policy Debate

The most prevalent arguments in support of tax expenditures encouraging the adoption of shelter animals are the humane purpose and beneficial public policy of reducing animal euthanasia.[151] The initiative of reducing animal euthanasia, in conjunction with the belief that pets enhance a family unit, were the main arguments that supported both the New York and Oregon bills.[152] The proponents' argument, however, extended beyond the increased demand at rescue facilities.[153] They contended that as adoptions rise, people who would have otherwise purchased a dog or cat may become aware of the availability of suitable animals at shelters, fueling additional adoptions.[154]

Furthermore, supporters noted that the adoption of dogs and cats from shelters aids the shelter overpopulation crisis by removing animals from rescue facilities.[155] One supporter, Lori Barrett of the New York City Bar Association, went even further as to claim, that the potential effect on population control and overbreeding is also advanced by shelters' requirements that dogs be spayed or neutered.[156] This general mandate means that when people acquire pets through shelters, these pets will not contribute to unwanted reproduc-

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[151] *See* Sponsor Memo, S.B. 6191 (detailing the justification for the proposal); Thompson, *supra* note 135 (quoting Courtney as saying human existence is made richer by saving an animal's life). New York's Sponsor Memo articulated that encouraging animal adoption is beneficial to taxpayers because it serves a humane purpose. Sponsor Memo, S.B. 6191. The representatives that spearheaded the Oregon bill reasoned that an animal's life is saved by being rescued. Thompson, *supra* note 135. Humane Voters of Oregon came out in support of the 2019 bill, articulating that euthanasia rates for dogs and cats would decline, as more people are likely to adopt animals. *Tax Expenditure for Animal Adoption from an Animal Shelter: Hearing on S.B. 268 Before the S. Comm. on Env't & Nat. Res.*, 80th Or. Legis. Assemb., Reg. Sess. (Or. 2019) (statement of Brian Posewitz, Bd. Member, Humane Voters Oregon) (arguing against Oregon's proposed tax deduction). Humane Voters Oregon is an organization that encourages humane treatment of animals through Oregon's political processes. *Who We Are*, HUMANE VOTERS OR., https://www.humanevotersoregon.org/aboutus [https://perma.cc/PF9B-R72A]. The organization endorses candidates that support proper animal treatment and publishes voting records on such issues. *Id.*

[152] *See* Sponsor Memo, S.B. 6191 (justifying that encouraging owners to adopt from shelters serves a humane purpose by reducing euthanasia). Representative Alan Olsen of Oregon argues that pets keep families closer and are beloved by children. Loew, *supra* note 131.

[153] *See* BARRETT, *supra* note 142, at 2–3 (arguing that demand for sheltered pets would increase for several reasons). Barrett argues that demand for pets from shelters would increase, while the supply in shelters remains constant, thereby reducing the overpopulation issue. *Id.* at 2.

[154] *See id.* at 3 (suggesting that shelters can become a more popular source of pet ownership as more people become aware of adoptable animals). Barrett suggests these could include pure-bred animals and young pets that are frequently purchased. *Id.*

[155] *See id.* at 2 (advocating that a proposed New York law would increase demand, while keeping supply the same); Posewitz, *supra* note 151 (contending that tax benefits would increase animal adoption).

[156] *See* N.Y.C. Admin. Code, Ch. 8, § 17-804(a) (2015) (codifying that in New York all shelters for homeless animals can only release animals once they have been sterilized); BARRETT, *supra* note 142, at 3 (observing that most shelters have requirements that animals are spayed or neutered).

tion.[157] But at this point, furthering future population control initiatives is not a primary driving force for the proposals.[158]

Although the humane argument might seemingly be one-sided, several unintended consequences may exist that would conflict with the aims sought by the bills.[159] One concern is that taxpayers could adopt a pet solely for the sake of obtaining the tax credit.[160] In response to the Massachusetts proposal, organizations expressed numerous ethical concerns about potential tax breaks for the adoption of dogs.[161] The American Kennel Club (AKC) took issue with incentivizing taxpayers to alter the way people acquire pets.[162] The AKC's argument was that when tax breaks are used to incentivize a person's pet choice, owners might be forgoing pets that are the best fit for their lifestyle, as the right match may come from sources other than shelters.[163] Normatively, being rewarded for pet adoption might also reduce the fulfillment or pride that many pet owners feel from rescuing their pet.[164]

C. The Persistent Issues Not Addressed

Pet-friendly housing concerns faced by low-income taxpayers are an issue that tax expenditures do not directly challenge.[165] Tax expenditures might give low-income taxpayers more cash back for pet care that could go towards suita-

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[157] BARRETT, *supra* note 142, at 3.

[158] *See id.* (noting the relationship between pets that are adopted from animal shelters and unwanted breeding initiatives).

[159] *See, e.g.*, AKC Government Relations, *supra* note 128 (outlining several concerns of a pet adoption tax credit); BARRETT, *supra* note 142, at 2 (addressing potential concerns about abuse of the tax credit).

[160] *See* BARRETT, *supra* note 142, at 2 (pointing out the argument that taxpayers could adopt a pet solely to obtain a tax credit). Barrett refuted this argument by pointing to the relatively small tax credit and that the credit only addresses a limited portion of the upfront costs. *Id.* Barrett argued that the credit would not address the continuous costs of ownership, and therefore the credit is not worthwhile to taxpayers merely seeking a tax break. *Id.* Instead, Barrett believed the credit would nudge people who are already looking for a pet towards shelters. *Id.*

[161] *See* AKC Government Relations, *supra* note 128 (expressing concerns about the tax credit).

[162] *See id.* (arguing that a pet from one source should not be given preferential tax treatment over another).

[163] *Id.* The American Kennel Club also raised concerns that a large number of dogs could be imported to supply shelters with animals, thereby increasing public health concerns that arise from interstate imports of rescue dogs. *Id.* Although this seems farfetched given the overpopulation issue, it nonetheless poses a theoretical long-term concern. *See id.* (arguing that the interstate import of animals raises health concerns).

[164] *See The Top 10 Benefits of Adopting a Dog*, ASPCA (Oct. 4, 2023), https://www.aspca.org/news/top-10-benefits-adopting-dog [https://perma.cc/L5K8-75JJ] (listing reasons encouraging pet-seekers to adopt, including reducing cruel breeding practices and saving a dog's life).

[165] *See* H.B. 2511, 103rd. Gen. Assemb., Reg. Sess. (Ill. 2023) (proposing a uniform nonrefundable credit of $250, without regard to housing costs); H.B. 2419, H. Comm. on Tax'n, 2023–2024 Reg. Sess. (Kan. 2023) (presenting a credit of up to $500 for expenses incurred in the adoption of a dog or cat but not listing the cost of pet-friendly housing).

ble housing.[166] Nonetheless, a legitimate source of animal surrenders comes from housing insecurity, an issue that is not directly discussed with the proposed tax credits.[167] Another issue not mentioned is the presence of breed-specific legislation that limits pet owners from adopting pit bull breeds and other breeds perceived as aggressive, even though these breeds constitute a large percentage of sheltered dogs.[168] The result is that low-income taxpayers face economic and legal barriers to pet ownership aside from mere increases in the cost of pet care.[169]

Organizations also expressed concerns over the lack of empirical support driving these proposals, in part because no proposals have yet been adopted.[170] Some believed that there is a lack of evidence signaling adoptions would increase, and instead, the proposals might just complicate the tax return process and cause fraud.[171]

D. Other Solutions to the Euthanasia Crisis

These tax expenditure proposals omitted other overpopulation initiatives, including direct expenditures for shelter programs that encourage adoption and discourage euthanasia.[172] Animal rights advocates and scholars have offered several solutions to remedy the overpopulation issue that do not involve individual taxpayer behavior.[173] The most commonly proposed solution that does not involve euthanasia is trap-neuter-return programs that involve trapping stray animals (mostly cats), sterilizing them, and releasing them back where

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[166] *See* H.B. 3658, 193rd Mass. Gen. C. (Mass. 2023) (suggesting a tax credit of $500 for adopting a dog); Ill. H.B. 2511 (proposing a tax credit that would give taxpayers an extra $250 for rescuing a dog or cat).

[167] *See* Torrella, *supra* note 35 (citing challenges in the housing market as being a major driver of pet surrenders).

[168] *See* O'Reilly-Jones, *supra* note 40, at 450 (evaluating the impact of breed restrictions on low-income pet owners, which includes inferior housing or owners surrendering pets); Saleen Martin, *Pit Bull Adopted After 4 Long Years at Animal Shelter. Here's Why There Are So Many Like Him.*, USA TODAY (June 5, 2023), https://www.usatoday.com/story/life/animalkind/2023/06/05/pit-bulls-us-animal-shelters/70286323007/ [https://perma.cc/9UP2-TGQJ] (quoting Sara Ondrako of American Pit Bull Foundation as saying pit bull breeds are the most common dog types in southeast shelters).

[169] *See, e.g.*, O'Reilly-Jones, *supra* note 40, at 449–50 (overviewing the effects of landlord-imposed pet restrictions on pet owners).

[170] *See* Minton, *supra* note 131 (noting that proponents of the 2019 Oregon bill say increases in rescues are "likely," but fail to provide evidence that the tax expenditure would alter taxpayer behavior).

[171] *Id.*

[172] *See generally* Sen. Kevin S. Parker, Sponsor Memo, S.B. 6191, 2023–2024 Reg. Sess. (N.Y. 2023) (omitting overpopulation control and direct expenditure initiatives from New York's proposed bill).

[173] *See* Abdulkarim et al., *supra* note 57, at 323–24 (proposing various methods of population control); Clerico, *supra* note 54, at 14 (explaining trap-neuter-return programs).

they were found.[174] Municipalities have saved hundreds of thousands of dollars through these programs compared to sheltering animals.[175] Naturally, trap-neuter-return programs do not mitigate the current shelter crisis, nor resolve the public safety concerns of strays, as the efforts target future offspring.[176] Some researchers also continue to advocate for euthanasia as a solution to the overpopulation crisis.[177]

Additionally, states across the nation have started to develop more robust budgetary commitments towards shelter animals.[178] Such commitments are primarily focused on project financing that distributes money to shelters for improving infrastructure and to process and protect more animals, thereby improving shelter conditions.[179] Although the effectiveness of these solutions, such as those seen in New York and Michigan, can be debated, they attempt to remedy some of the conditions animals live in, reduce euthanasia for space, and provide assistance in finding animals homes.[180]

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[174] *See* Clerico, *supra* note 54, at 14 (defining trap-neuter-return programs). Clerico cited a coalition in San Diego that reduced euthanasia rates for cats by over 40% as a result of these programs. *Id.*

[175] *Id.* Not all results, have been successful, however. *See id.* at 15 (reporting on a Hawaii study that showed trapping and euthanizing cats to be less expensive than trap-neuter-return programs).

[176] *See* Graham Brayshaw, *The Real Impacts of Trap-Neuter-Return*, ANIMAL HUMANE SOC'Y (July 2024), https://www.animalhumanesociety.org/resource/real-impacts-trap-neuter-return [https://perma.cc/L2R7-KS6D] (commenting that trap-neuter-return programs do not decrease overall population numbers); Abdulkarim et al., *supra* note 57, at 321–22 (overviewing the safety concerns of stray animals). These programs serve as an alternative to trap and euthanasia. Brayshaw, *supra*.

[177] *See* Abdulkarim et al., *supra* note 57, at 323–24 (reporting euthanasia, poisoning, and shooting as various means of solving the overpopulation crisis). Chief Medical Officer of the Animal Humane Society argues that euthanizing stray cats will generate a vacuum effect, meaning new cats will move into areas left unoccupied due to euthanasia. Brayshaw, *supra* note 176. One benefit of trap-neuter-return programs compared to euthanasia, aside from the humane aspect, is that sterile cats will continue to use community resources and therefore discourage non-sterilized cats from moving into the community. *Id.*

[178] *See, e.g.*, MICH. COMP. LAWS ANN. § 287.993 (West 2025) (establishing Michigan's animal welfare fund); N.C. GEN. STAT. ANN. § 19A-67 (West 2021) (creating "The Animal Shelter Support Fund" in North Carolina for shelters that fail to comply with State regulations or to aid in times of disaster). At the time of construction, a public shelter in Queens, New York had a dental clinic, high-end veterinary facilities, and separate roaming space for cats. McFadden, *supra* note 45.

[179] *See* MICH. COMP. LAWS ANN. § 287.993 (offering funds to improve the care of dogs and cats in shelters) N.C. GEN. STAT. ANN. § 19A-67 (providing funds to operate registered animal shelters during unforeseen disasters).

[180] *See* MICH. COMP. LAWS ANN. § 287.993 (elaborating on the purpose of the animal welfare fund). Michigan's animal welfare fund was designed to provide funds for sterilization and adoption, among other purposes. *Id.* In New York especially, however, the Companion Animal Capital Fund has not completely remedied the issue, as new municipal shelters have become overpopulated. *See* McFadden, *supra* note 45 (reporting that a New York municipal shelter built in 2024 that cost $75 million is already overpopulated by 210%). The Queens, New York shelter was designed to accommodate 72 dogs, but as of July 2024, it housed nearly 160 dogs for a multitude of reasons, including a temporary closure of another municipal facility in Brooklyn, New York. *Id.*

III. TOO-FAR FETCHED: WHY TAX EXPENDITURES COME UP SHORT

Despite states' creativity in conceiving of ways to remedy the shelter crisis, the issue remains too complicated to be fixed by tax credits or deductions for individual pet owners.[181] Although a tax credit might theoretically help remove pets from shelters, it does not address factors that cause shelters to become overpopulated, and thus would not necessarily reduce the rate that pets are surrendered to shelters nor solve the humanitarian concerns about shelter conditions and euthanasia.[182] Looking at the states' proposals, applying a uniform credit amount blanketly across taxpayers would create a significant tax expenditure for state and federal budgets that are already desperate for budget cuts.[183] Thus, although providing tax credits to low-income taxpayers might alleviate some financial burden of pet ownership, it falls short of creating solutions to systemic issues that individual pet owners cannot control, but that are necessary in solving the crisis.[184] Section A analyzes the failure of the current proposals to remedy the shelter crisis and considers tax expenditure solutions that upgrade current state proposals.[185] Section B concludes that, despite its merits, tax expenditures are not the proper forum for making ground on the issue.[186]

A. The Inadequacy of Tax Expenditures as It Relates to the Shelter Crisis

Although several states have proposed similar bills as the one proposed in New York, none of the states have made as substantial policy decisions favor-

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[181] *See, e.g.*, Norris, *supra* note 35 (reporting the effect of nationwide macroeconomic inflation on pet surrenders); O'Reilly-Jones, *supra* note 40, at 434 (articulating the impacts of landlord-imposed breed restrictions).

[182] *See* O'Reilly-Jones, *supra* note 40, at 434 (advocating against landlord-restrictions in part because they exacerbate the shelter crisis); Torrella, *supra* note 35 (reporting on macroeconomic inflation and housing insecurity as drivers of the shelter crisis).

[183] *See* Loew, *supra* note 131 (estimating Oregon's 2017 proposed tax credit to cost $193,000 in lost revenue); PROFFITT, *supra* note 130 (estimating that Kansas's proposal would cost taxpayers $145.9 million in lost revenue). Oregon's 2017 proposal was for a $100 tax credit for qualified adoption expenses, whereas Kansas's proposal proposed a $500 credit for the care of any dog or cat, up to three pets. H.B. 2419, H. Comm. on Tax'n, 2023–2024 Reg. Sess. (Kan. 2023); S.B. 326, 79th Or. Legis. Assemb., Reg. Sess. (Or. 2017). Kansas's proposal is much more expensive than Oregon's due to the credit amount and its recurring nature. Kan. H.B. 2419. The proposed credit could be used each year, and not merely in the year the pet was acquired. *Id.*

[184] *See* Norris, *supra* note 35 (reporting on macroeconomic conditions that affect pet owners); O'Reilly-Jones, *supra* note 40, at 434 (explaining the effect of landlord-imposed breed restrictions); *see also* Assemb. B. 637, 2025–2026 Reg. Sess. (N.Y. 2025) (proposing a tax credit strictly for up-front costs of adoption). Kansas's proposal is seemingly the only proposal that addresses continuing costs of ownership. *See* Kan. H.B. 2419 (proposing a tax credit in Kansas for costs of pet ownership).

[185] See *infra* notes 202–217 and accompanying text.

[186] See *infra* notes 218–232 and accompanying text.

ing the adoption of pets as New York has.[187] New York's decision to outlaw the sale of pets from stores, in conjunction with the Companion Animal Capital Fund, signal New York's interest in remedying the animal shelter crisis.[188] Yet New York's proposal, as well as those of other states, fails to sufficiently address one of the root causes of the overpopulation crisis, namely the increase in surrenders.[189]

One of the most fruitful arguments against the proposed tax expenditures is that tax credits are simply too expensive for unproven results.[190] Many states, including New York, struggle with fiscal imbalances.[191] Ultimately, difficult choices need to be made as to initiatives that require budgetary support, and those that are better left to the private sphere.[192] The difficulty in incentivizing pet ownership from shelters through a tax credit stems from how ubiquitous pet ownership is, and thus how many individuals would qualify for a cred-

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[187] *See, e.g.*, Press Release, Gov. Kathy Hochul, *supra* note 61 (announcing funds available for the Companion Animal Capital Fund in 2023); Press Release, Att'y Gen. Letitia James *supra* note 66 (announcing the ban of animal sales in pet stores).

[188] *See* Press Release, Gov. Kathy Hochul, *supra* note 61 (explaining that one of the justifications for the Companion Animal Capital Fund is that it helps increase adoptions); Press Release, N.Y. Att'y Gen. Letitia James, *supra* note 66 (explaining that New York's Puppy Mill Pipeline Act will save animals from abuse and encourages adoption). Lawmakers passed New York's Puppy Mill Pipeline Act to curb abusive behavior by breeders. Press Release, N.Y. Att'y Gen. Letitia James, *supra* note 66. Under the new law, pet stores can partner with registered nonprofit rescue centers to highlight adoptable pets, and pet stores can collect a fee for showcasing these pets. *Id.* Hence, the new ban means prospective pet owners must acquire their pet either through a licensed, approved breeder or through rescue. *Id.*

[189] *See* Assemb. B. 637, 2025–2026 Reg. Sess. (N.Y. 2025) (providing a credit to offset up to $100 for the cost of adopting a pet). The proposed bill specifies that the credit is to be applied in the taxable year that the pet is adopted, following the year it is enacted. *Id.* Thus, the credit is not applicable in subsequent years and does not cover ongoing costs of ownership. *See id.* (providing that the credit only covers the initial adoption costs).

[190] *See* Thompson, *supra* note 135 (reporting pushback to Oregon's proposed deduction because of Oregon's budget deficit). Tax Fairness Oregon is a group that advocates for an equitable tax code by reading tax-related bills proposed on the state. *What We Do*, TAX FAIRNESS OR., https://taxfairnessoregon.net/about-us/what-we-do/ [https://perma.cc/L8RU-G52Q]. The organization commented that it would ideally like to support the proposal, but it would ultimately reduce Oregon's resources for other causes. Thompson, *supra* note 135.

[191] *See generally* Sarah Brady, *America's Debt Position by State and Worldwide*, FORBES (Dec. 7, 2023), https://www.forbes.com/advisor/banking/us-debt-by-state-and-worldwide/ [https://perma.cc/JVB8-9HMV] (providing data of the most indebted states); Barb Rosewicz, Joanna Biernacka-Lievestro, Alexandre Fall & Jill Hammelbacher, *9 States Struggle with Long-Term Fiscal Imbalances*, PEW CHARITABLE TRS. (Mar. 18, 2020), https://www.pewtrusts.org/en/research-and-analysis/articles/2020/03/18/9-states-struggle-with-long-term-fiscal-imbalances [https://perma.cc/9ML8-KCEA] (providing fiscal balance data for each state between 2006 to 2020).

[192] *See* Andrea Louise Campbell & Kimberly J. Morgan, *Using the Private Sector to Deliver Public Benefits*, SCHOLARS STRATEGY NETWORK (May 1, 2012), https://scholars.org/contribution/using-private-sector-deliver-public-benefits [https://perma.cc/KZ2P-C24W] (explaining that governments often rely on private actors to generate public benefits). This concept is known as "delegated governance," which is when the federal government utilizes private entities to provide public benefits, such as charities. *Id.*

it.[193] That issue is compounded by the poorly calibrated nature of the proposals that apply a uniform credit amount blanketly across taxpayers regardless of whether such credit would alter their behavior.[194] Specifically, millions of people already adopt pets without receiving a tax credit, and thus these taxpayers would receive a windfall for a behavior they would still engage in.[195]

The proposals are also seemingly less beneficial to lower-income taxpayers, which is precisely the group that needs financial assistance the most.[196] The Kansas Division of the Budget estimated that Kansas's proposed credit would only apply to 65% of pet owners, specifically those that owed state income tax.[197] As those are often higher-income taxpayers, a nonrefundable credit does little to remedy the costs of pet ownership for lower-income taxpayers that need the financial assistance to cover adoption fees and continuing pet ownership.[198] Additionally, the fact that some states do not have state income tax should not alone inhibit other states from enacting such expenditures, but this inevitably means tax based solutions would be necessary at the federal level to address the issue on a national scale.[199]

Although providing a nonrefundable credit or deduction might nudge taxpayers towards rescue facilities instead of breeders, this point is not fully developed and its efficacy is still unproven.[200] This is because bill sponsors have failed to provide empirical support that a tax credit would increase pet adoptions, whether that be from taxpayers adopting (rather than purchasing) their pets or acquiring new pets altogether.[201]

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[193] *See* AM. PET PRODS. ASS'N, *supra* note 30, at 12 (reporting that 58 million households own a dog, and 40 million households own a cat).

[194] *See, e.g.*, H.B. 2419, H. Comm. on Tax'n, 2023–2024 Reg. Sess. (Kan. 2023) (proposing a nonrefundable tax credit of up to $500 for a maximum of three animals to all taxpayers); Assemb. B. 637, 2025–2026 Reg. Sess. (N.Y. 2025) (proposing a nonrefundable tax credit with no phaseouts).

[195] *See* AM. PET PRODS. ASS'N, *supra* note 30, at 32 (indicating that 19% of all current dog owners acquire their pet from an animal shelter or humane society); Surrey, *supra* note 18, at 719 (arguing that tax expenditures provide a windfall to taxpayers for activities they would have otherwise still engaged in).

[196] *See* Leah Carson Kanoy, Note, *The Effectiveness of the Internal Revenue Code's Adoption Tax Credit: Fostering the Nation's Future*, 21 U. FLA. J.L. & PUB. POL'Y 201, 216 (2010) (noting that a nonrefundable credit offers the greatest benefit to higher-income taxpayers because they have income to offset).

[197] *See* PROFFITT, *supra* note 130 (estimating that only 65% of the credit would be used because it is nonrefundable).

[198] *See* Kanoy, *supra* note 196, at 216 (highlighting that, as applied to the Adopted Child Income Tax Credit, nonrefundable credits are less helpful to lower-income taxpayers); Norris, *supra* note 35 (reporting on the financial struggles of lower-income pet owners).

[199] *See generally* Andrey Yushkov, *State Individual Income Tax Rates and Brackets, 2024*, TAX FOUND. (Feb. 20, 2024), https://taxfoundation.org/data/all/state/state-income-tax-rates-2024/ [https://perma.cc/9VAW-CTUH] (listing states with no state income tax). The seven states without state income taxes are Alaska, Florida, Nevada, South Dakota, Tennessee, Texas, and Wyoming. *Id.*

[200] Minton, *supra* note 131.

[201] *See id.* (pointing out the lack of evidence for the efficacy of the proposals).

Superficially, a recurring refundable credit could address both sides of the overpopulation crisis.[202] Providing an initial credit to incentivize the adoption of a pet aids in remedying the overpopulation issue by removing pets from shelters.[203] Once adopted, a recurring credit is critical to ensure low-income taxpayers can continue to afford pet care.[204] Although the proposal is ambitious, such a credit could be utilized in conjunction with income limits, ensuring that low-income taxpayers receive assistance for the care of their adopted pet while simultaneously reducing the tax expenditure effect.[205] Without a recurring credit that both incentivizes the initial adoption and addresses the continuing costs of pet ownership, the policy would appear costly from a tax expenditure perspective and would fail to provide a permanent solution to the overpopulation issue.[206] The issue with this solution is that pet ownership would be prioritized above the adoption tax credit and child and dependent care credit, both of which are nonrefundable.[207] Many critics of the I.R.C. believe that the tax system currently does not provide large enough tax credits for childcare, and thus incurring such a large expenditure and leapfrogging two valuable initiatives, among others, might be difficult to justify.[208]

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[202] *See* U.S. DEP'T OF TREAS., *supra* note 74, at T.3 (estimating the tax expenditure for the Child Tax Credit to be over $306 billion). The Child Tax Credit is the largest refundable tax credit in the I.R.C. *See id.* (providing tax expenditures). Other refundable credits include the Earned Income Tax Credit, Fuel Tax Credit, and American Opportunity Tax Credit, which is partially refundable. INTERNAL REVENUE SERV., *Refundable Tax Credits*, *supra* note 83. Another way that refundable credits might increase costs is through administration and compliance, as more low-income taxpayers would file returns. Batchelder et al., *supra* note 13, at 30. Additionally, refundable credits may also decrease the average tax rate for households for lower-income taxpayers, reducing the government's income. JANET HOLTZBLATT, CONG. BUDGET OFF., REFUNDABLE TAX CREDITS 2 (2013), https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/43767_RefundableTaxCredits_2012_0_0.pdf [https://perma.cc/LS72-EWQH].

[203] *See* BARRETT, *supra* note 142, at 2 (arguing that a tax credit would reduce homeless pet population by increasing demand for sheltered animals); Sen. Kevin S. Parker, Sponsor Memo, S.B. 6191, 2023–2024 Reg. Sess. (N.Y. 2023) advocating for New York's tax credit on the grounds that adoptions will increase).

[204] *See* Norris, *supra* note 35 (commenting on the struggle of pet owners to continuously support their pet); s*ee also* AM. PET PRODS. ASS'N, *supra* note 30, at 37, 146 (overviewing increasing costs for cat and dog ownership).

[205] *See* Batchelder et al., *supra* note 13, at 51 (explaining that mechanisms exist for limiting the cost of tax expenditures, including contribution floors, contribution caps, and income limits).

[206] *See* Minton, *supra* note 131 (suggesting that a tax deduction could be costly without any proof of its underlying chances of success).

[207] *See Schedule 3 (Form 1040)*, INTERNAL REVENUE SERV. (2024), https://www.irs.gov/pub/irs-pdf/f1040s3.pdf [https://perma.cc/4XQR-9SAC] (listing nonrefundable credits, including the adoption credit and credit for child and dependent care expenses); *see also* CRANDALL-HOLLICK, *supra* note 20, at 4–5 (detailing tax benefits available to taxpayers that adopt children, including eligibility requirements, qualifying expenses, and calculating the credit).

[208] *See* CRANDALL-HOLLICK, *supra* note 20, at 16 (suggesting the Adoption Tax Credit is ineffective in part because the tax benefits are too small compared to the costs incurred to adopt); Emily Wielk & Brittany Walsh, *Time to Adjust the Child and Dependent Care Tax Credit for Inflation*, BIPARTISAN POL'Y CTR. (July 23, 2024), https://bipartisanpolicy.org/download/?file=/wp-content/

Another potential avenue to provide tax breaks for pet adoption is to extend the current framework of *Van Dusen* to cover adoption and ownership costs, qualifying them as charitable contributions at the federal level.[209] Most animal rescue facilities are already eligible 501(c)(3) organizations that may receive charitable deductions.[210] Therefore, a logical extension is to permit permanent adoption costs and limited expenses to be deducted from income, so long as the animal is adopted from an eligible organization.[211] The major flaw in this solution is simply the inapplicability of the tax break to taxpayers that most need it, as lower-income taxpayers will most often use the standard deduction and therefore would see no financial benefit from adopting their pet.[212] That said, permitting charitable deductions like that in *Van Dusen* might open the door for higher-income taxpayers that do itemize their returns to adopt,

uploads/2024/09/BPC_CDCTC-Blog_R04-002.pdf [https://perma.cc/YE3A-BW8R] (advocating for the expansion of the Child and Dependent Care Tax Credit). One major criticism of the credit is that it is nonrefundable, and thus taxpayers that do not owe federal income tax cannot benefit. Wielk & Walsh, *supra*. Congress last updated the maximum credit amount of $2,100 in 2001, yet childcare increased at a higher rate than inflation and family income. *See id.* (providing a graph of the changes since 2000).

[209] *See* Van Dusen v. Comm'r, 136 T.C. 515, 516 (2011) (holding that taxpayers can deduct as a charitable contribution expenses incurred caring for foster animals in conjunction with a charitable organization).

[210] *See* THE HUMANE SOC'Y OF THE U.S., THE HSUS SHELTER ADVOCATE TOOLKIT: ALL SHELTERS ARE NOT ALIKE—THE IMPORTANT DIFFERENCES THAT CAN AFFECT THE MISSION (2012), https://www.humanesociety.org/sites/default/files/docs/all-shelters-are-not-alike.pdf [https://perma.cc/SVZ2-85SK] (noting that most rescues, sanctuaries, and privately owned and operated shelters are 501(c)(3) organizations). An animal rescue is an organization that works with people to foster animals, a sanctuary houses animals for the duration of their lives, and a shelter provides housing to pets in need. *Understanding Animal Welfare Organizations: Types of Shelters, Rescues, and Services*, SHELTER ANIMALS COUNT (Oct. 23, 2024), https://www.shelteranimalscount.org/understanding-animal-welfare-organizations [https://perma.cc/E3Q7-977D] (explaining the differences among a government animal shelter, a humane society, an animal rescue, and a sanctuary). As of October 2024, there are 4,915 animal shelters throughout the country. *Id.*

[211] *See Van Dusen*, 136 T.C. at 524 (determining that the taxpayer was allowed to deduct expenses because she provided services in affiliation with the charitable organization). The court noted that the taxpayer had a strong connection to the foster organization, despite the IRS's claim that she was an independent worker. *Id.* at 525. This analysis can seemingly be applied to adoption costs by merely asking whether the taxpayer worked with an eligible organization to rescue the dog or cat. *See id.* at 524 (holding that the taxpayer could deduct her expenses because her work was performed in coordination with the charitable organization).

[212] *See* Eastman, *supra* note 94 (displaying data on how many taxpayers use the standard deduction). Prior to the TCJA, 3.7% of taxpayers itemized their return in the lowest quintile (0%–20% of highest income), which dropped to 1.2% following the TCJA's enactment. *Id.* In the middle-income ranges, the change is more staggering. *See id.* (displaying the data across quintiles). For the income group of 40% to 60%, the percentage of taxpayers who itemized their return dropped from 21% to 5.3%. *Id.* For the income group of 60% to 80%, that number dropped from 45.3% to 13.8%. *Id.* For the income group of 80% to 90%, under the pre-TCJA law, over two thirds of taxpayers itemized their return, which dropped to below 31% following the TCJA. *Id.*

rather than purchase, their pet.[213] Without empirical support behind these tax expenditures, however, there remains a risk of incurring budget losses while not making strides in the shelter crisis.[214] The reality remains that this issue has several underlying variables, including macroeconomic inflation and housing concerns.[215] Thus, tax-based solutions alone would not completely remedy the issue, as more affordable housing options that welcome pets are also needed.[216] As a result, tax policy is not the proper forum to address the multi-faceted concerns of the shelter crisis.[217]

B. The Preferability of Other Solutions

Despite the proposals having worthwhile public policy aims and humane motives, the primary failure of using tax expenditures to address the shelter crisis is that it simply would not adequately fix some of the most substantial problems.[218] Granted, policy initiatives do not need to solve every facet of a complicated issue to be effective.[219] As of now, however, tax expenditures would be a prohibitively expensive leap of faith to make for a well-intentioned initiative that does not have data demonstrating the effects on taxpayer behavior and presumably detracts from more effective shelter spending.[220]

The implementation of more direct shelter funding can attack the issue from multiple angles, while simultaneously being a more efficient use of re-

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[213] *See* Gerald Auten, David Splinter & Susan Nelson, *Reactions of High-Income Taxpayers to Major Tax Legislation*, 69 NAT'L TAX J. 935, 960 (2016) (concluding that high-income taxpayers respond to tax changes to reduce their tax burden). For example, as applied to raising the capital gains tax rate, realizations decreased. *Id.* at 939.

[214] Minton, *supra* note 131.

[215] *See, e.g.*, Norris, *supra* note 35 (reporting the effects of macroeconomic inflation on pet ownership); Torrella, *supra* note 35 (explaining the impact of the availability of pet-friendly housing and housing insecurity on pet surrenders).

[216] *See* O'Reilly-Jones, *supra* note 40, at 450 (arguing that pet bans in housing rentals lead to more pet surrenders or more expensive and undesirable housing). O'Reilly-Jones adds that the growing trend of pet owners considering their pet as a family member will potentially reduce surrenders and thereby exacerbate barriers to affordable pet-friendly housing. *Id.* at 450–51.

[217] *See* Minton, *supra* note 131 (advocating against tax credits to solve the overpopulation crisis). Tax incentives to remedy social issues as a whole are also controversial, particularly when compared to direct expenditures. *See generally* Surrey, *supra* note 18 (arguing the default government spending should be through direct expenditures).

[218] *See* O'Reilly-Jones, *supra* note 40, at 450 (articulating that housing insecurity may cause pet owners to consider surrender).

[219] *See* Bob Hudson, David Hunter, & Stephen Peckham, *Policy Failure and the Policy-Implementation Gap: Can Policy Support Programs Help?*, 2 POL'Y DESIGN & PRAC. 1, 2–3 (2019) (analyzing why public policy initiatives often fail, in part because problems are multifaceted with several underlying causes). Another reason the authors offer for persistent policy failure is overly optimistic expectations, including the complexity of the solution, a lack of evidence, and policymakers' understanding of behavior. *Id.* at 2.

[220] *See* Minton, *supra* note 131 (pointing to the absence of evidence supporting Oregon's bill).

sources.[221] Without providing windfalls to taxpayers, direct expenditures paid to shelters through project financing increase capacity, permitting more animals to be safe from euthanasia.[222] The direct spending programs also improve conditions and public education on the issue, and permit shelters to implement adoption initiatives.[223] Grants such as those seen in Michigan may also be used for spay/neuter programs that ease the long-term overpopulation crisis by limiting future offspring, an issue that contributes to euthanasia for space but is not sufficiently addressed with tax credits.[224] In essence, these proposals can be targeted towards specific initiatives that legislatures believe address shelters' most pressing needs.[225]

In addition to direct expenditures, New York's ban on the sale of animals in pet stores highlights the availability of alternative solutions.[226] Despite this law being designed to remedy dangerous commercial breeding conditions, New York's prohibition of retail pet sales siphons off one area of potential pet acquisition and thus could funnel pet seekers towards adoption at a lesser cost to the government.[227] Although this law is still in its infancy, policymakers should keep an eye on the impact it has on pet adoptions in New York.[228]

Hence, the likelihood would remain that a one-time nonrefundable credit or deduction might see an uptick in adoption, but that this proposal would not adequately aid lower-income taxpayers that feel the economic pressures of pet ownership more acutely.[229] As a result, the proposals fail to sufficiently address

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[221] *See* Press Release, Gov. Kathy Hochul, *supra* note 61 (providing justification for New York's Companion Animal Capital Fund); Surrey, *supra* note 18, at 726 (arguing that most tax incentives are inefficient).

[222] *See* Press Release, Gov. Kathy Hochul, *supra* note 61 (announcing New York's commitment to providing safe housing for sheltered dogs); *see also* Surrey, *supra* note 18, at 719 (arguing that tax expenditures provide windfalls to taxpayers).

[223] *See* Mich. Dep't of Agric. & Rural Dev. Animal Indus. Div., *supra* note 62, at 2 (allowing shelters to request funds that provide for care and protection programs, as well as public education programs); Press Release, Gov. Kathy Hochul, *supra* note 61 (announcing that funds for the Companion Animal Capital Fund will go towards enhancing shelters, increasing the quality of care and leading to more adoptions).

[224] Mich. Dep't of Agric. & Rural Dev. Animal Indus. Div., *supra* note 62, at 2 (allowing shelters to propose projects that further spay and neuter initiatives).

[225] *See id.* (requesting that shelters provide explanations and justifications for their requested grants).

[226] *See* Press Release, N.Y. Att'y Gen. Letitia James, *supra* note 66 (mandating that New Yorkers seeking to acquire a pet do so through a rescue facility or licensed breeder).

[227] *See id.* (reminding New Yorkers of the pet sale ban). Although the pet sale ban was designed to curb abusive "puppy mills," the ban also directly encourages adoption. *See id.* (allowing New York pet stores to partner with rescue facilities to promote adoption of certain pets). Puppy mills are large-scale commercial breeders that mistreat animals. *Id.*

[228] *See id.* (announcing that New York's pet sale ban went into effect December 15, 2024). This law also benefited shelters directly by permitting pet stores to advertise adoptable pets in the area and take a small fee if the pet is adopted. *Id.*

[229] See Batchelder et al., *supra* note 13, at 29–30 (arguing that refundable credits give more substantial benefits to lower-income taxpayers because they give them a relatively greater amount of

the issue of surrenders, one of the primary driving forces behind the overpopulation of shelters.[230] In sum, tax expenditures would not only be a less efficient means of addressing the shelter crisis, but more importantly, would be an incomplete way of doing so.[231] Instead, legislatures should focus their efforts on direct grants to shelters that enhance shelter conditions and capacity, thereby reducing euthanasia, in conjunction with legislation that makes pet ownership easier for low-income taxpayers.[232]

CONCLUSION

The overpopulation and euthanasia crises in shelters throughout the United States has been a result of decreased adoptions and increased surrenders. This in large part is due to macroeconomic inflation, housing concerns, and rising costs of ownership. Consequently, conditions in rescue facilities have worsened and have led to mass euthanasia of dogs and cats. As this problem has become more severe, states including New York have debated using tax credits or deductions to incentivize animal adoption, seeking to mitigate adoption costs and pushing taxpayers towards adoption as the main source of pet acquisition. Many issues persist in these proposals, including remedying the continuous costs of ownership, systemic issues in housing, and the significant effect these proposals would have on state budgets. Despite the proposed tax expenditures being well-intentioned, there is currently insufficient evidence of the proposals' efficacy. Although the country desperately needs to solve an issue that has both humane and public safety implications, tax expenditures are an inefficient and incomplete mechanism to widely resolve the issue plaguing shelters and pets. Instead, governments should devote resources to direct shel-

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spending power). Higher-income taxpayers currently receive a greater benefit than lower-income taxpayers when dealing with deductions because they have a higher marginal tax rate and thus save a higher percentage of a dollar than those with lower tax rates. *Id.* at 24. Moreover, non-refundable credits and deductions often provide weak incentives to low-income taxpayers because they cannot fully realize the tax benefit, if at all. *Id.* at 53.

[230] *See* Carbonaro, *supra* note 38 (reporting that the higher cost of pet ownership is particularly troublesome for taxpayers living in poverty); Norris, *supra* note 35 (noting that pet owners in lower income brackets are in danger of being priced out of the pet market); Torrella, *supra* note 35 (suggesting that pet surrender is often the result of housing insecurity and other economic pressures).

[231] *See, e.g.*, Carbonaro, *supra* note 38 (highlighting the effects of financial instability on pet owners); Norris, *supra* note 35 (explaining that macroeconomic inflation might price out pet owners from pet services); O'Reilly-Jones, *supra* note 40, at 434 (commenting on the effects of landlord-restrictions on pet owners); Torrella, *supra* note 35 (detailing various factors that exacerbate the issue of surrenders).

[232] *See, e.g.*, MICH. COMP. LAWS ANN. § 287.993 (West 2025) (providing funds to shelters to remedy overpopulation and encourage adoptions); Press Release, Gov. Kathy Hochul, *supra* note 61 (announcing that New York's Companion Animal Capital Fund improves shelter conditions and leads to more rescues).

ter expenditures that promote adoption and reduce euthanasia, while seeking solutions that address the root causes of surrenders.

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