March 2008 Addendum to Analysis of Child Support Issues:

Applying Scientific Decision Making
to the Issue of Residential Credits

Submitted to the
2007-2008 Washington State Child Support Work Group

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Section 1… EXECUTIVE SUMMARY

This March 2008 Addendum is intended to supplement the January 2008 Analysis of Child Support Issues and the February 2008 Addendum to that Analysis. The January Analysis focused primarily on determining the cost of one child as a percentage of total intact family spending. The February Addendum focused primarily on the inaccuracy of the "per capita assumption" which claims that children cost as much as adults. This March Addendum focuses primarily on the <u>process of scientific decision making</u> and the differences between this method of making decisions and less formal decision making methods.

Section 2 discusses the differences in decision making processes between judicial and scientific decision making.

Section 3 applies the process of scientific decision making to the issue of residential credits. Section 3 also provides a critique of Dr. Betson's article on calculating residential credits.

Section 4 addresses allegations made by a work group member during the February 2008 Child Support Work Group meeting that I had in some way misrepresented the more than 100 studies I cited in the January Analysis and/or February Addendum. A child support research reference library is provided to aid Work group members who wish to conduct their own investigation of this issue.

Section 5 describes problems with the Van der Gaag 1982 study which was the basis of the Wisconsin 17 % Flat rate model used in several States.

Section 6 addresses a concern raised at the February 2008 Child Support Work Group meeting challenging me to present evidence that there is a relationship between excessively high child support rates as a "financial incentive" for increased divorce rates. I promised the Work group I would provide a summary of that evidence.

Section 7 presents a ranking of child cost studies from best to worst.

This March Addendum continues to advocate for two themes, both of which are strongly supported by the Washington State legislature and current Washington State law: First, that <u>child support obligations should be "**equitably divided**" between the two parents (RCW 26. 19.001).</u> Second, that it is in the best interest of the child to preserve and **foster the child's relationship with both parents** after divorce. (RCW 26.09.002) Both of these themes recognize that child support obligations should be neither too low nor too high. Children are harmed if the support obligation is set so low that the child's basic needs are not met. Less well recognized is the fact that children are also harmed if child support obligations are set so high that they far exceed meeting the financial needs of the child and thereby create an unintended financial incentive for divorce.

One additional concern raised in the March Addendum, that was not raised in the January Analysis or the February Addendum, is evidence now provided in this addendum that <u>Dr. Betson and his associates at PSI misrepresented the conclusions of the Bassi and Barnow 1993 study.</u> [1] Betson and PSI have repeatedly claimed that this study supported the Betson 1990 Rothbarth per capita result of **25%** of total family spending as being a "lower bounds" for the cost of one child. A recent review of this study exposed the fact that this claim is not true. Instead, Bassi and Barnow, on pages 484 and 485, concluded that the <u>Lazear and Michael 1988 marginal Rothbarth result of **16%** was a "lower bounds"</u> for one child.

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[1] <u>Bassi, L. J. & Barnow, B.S.,</u> (1993). Expenditures on children and child support guidelines, *Journal of Policy Analysis and Management* 12 (3) 478-497.

Bassi and Barnow were clearly aware of the Betson 1990 25% Rothbarth estimate as they used the Betson 1990 Engel per capita result of 33% as an "upper bounds" for one child. This revelation continues a disturbing pattern of misrepresentations by Dr. Betson and PSI; leading to the conclusion that one can have very little faith in anything written by Dr. Betson or by his associates at PSI.

As I have posted the Bassi and Barnow (1993) study on the Source Document reference library, described in Section 4, there are a couple of confusing points about this study that deserve clarification. First, on page 484, the authors state that the *"children in one parent households account for a much higher percentage of total expenditures in one parent households than do children in two parent households."* In footnote 16, the authors explain that this is to be expected since there are fewer individuals in a single parent household. (For example, a single parent with a single child would have a "per capita" child percentage of 50%).

Such a view however is entirely incorrect. Unless the non-majority parent is dead, the child still has two parents after divorce. And unless the child spends no time at the non-majority parent's household, the child has two households after divorce. Since the non-child costs associated with these two households is greater than the non-child costs in an intact household, and since it is most likely that the total combined income of the parents has not changed, the percentage ratio of spending on the child by both parents in comparison to the combined income of the parents has either remained the same or fallen. Thus, **the percent of total family spending spent on a child in an intact two parent household is likely to be the "upper bounds" of spending on children.**

Second, on page 485, the authors produce a chart which concludes that the percentage of income spent on children is much lower than the percentage of total family spending. The following is a version of that chart:

Number of children	% of Expenses 1988 Lazear Rothbarth	% of Expenses 1990 Betson Engel	% of Income 1988 Lazear Rothbarth	% of Income 1990 Betson Engel
One	**16**	33	**11**	23
Two	27	49	19	34
Three	35	59	25	41

The reduction from 16% to 11% for one child was rationalized in that the authors tried to convert Lazear's % of expenses calculation back to net income and from there back to gross income by adding back 30% in taxes and savings to arrive at the percent of gross income figures. This calculation is only important if our State used Gross income to establish the Economic Table. In low to middle income families, there is very little savings. Thus, it is likely that percentage of total family spending is nearly equal to percentage of net income. Thus, the fourth column in the above Table is simply misleading.

Third, the chart on page 485 also indicates that spending on children by one parent families is greater than spending on children by two parent families. The figures in the chart are incorrect as they fail to account for both of the child's households after divorce. In addition, the number of children referred to lower down in the chart (the entire chart is not shown above) is for two children (not for one child). Thus, the figures have been artificially inflated by hiding the number of children being referred to. The lesson here is to be very careful whenever reading tables on child cost estimates.

Section 2…. Facts, Estimates, Opinions, and Misrepresentations

On Thursday, February 28, 2008, the day before the February 2008 Child Support Work Group meeting, I got a phone call from David Stillman, the Director of the Washington State Division of Child Support and the Chairperson of the Washington State Child Support Work Group. David stated that he was calling to discuss the February Addendum to the Analysis of Child Support Issues which I had sent to work group members a few days earlier and which David had just finished reading.

During the phone call, David expressed two concerns. First, he felt that the tone of the February Addendum was much harsher than the tone of the Analysis I had submitted to the Work Group in January 2008. His specific concern was that, while it was okay for me to criticize Dr. Betson's methods and conclusions, he hoped that I would refrain from making any kind of personal attack on Dr. Betson. David's second concern was that I may have stated some things as being "facts" when they were only "opinions" to which reasonable minds might disagree. David then cited a few pages in the Addendum as examples of his concerns.

Both of these are legitimate concerns which deserve serious consideration. I greatly appreciated David Stillman taking the time to call me and express his concerns. I tried to reassure David that it was not my intention to personally attack Dr. Betson, and that if I had unintentionally done so, I would amend the February Addendum to eliminate any offensive language. My disagreement is with Dr. Betson's methods and conclusions and not with Dr. Betson as a person. I understand that his interest in this matter is the same as my own… we are both trying to protect children from harm. We simply have entirely different views about how to best protect children of divorce from harm.

The second concern raised by David Stillman is a more difficult matter. <u>How does one distinguish between facts and opinions?</u> How does one respond in a polite manner when one believes that falsehoods have been presented to the Work Group as facts? Certainly the February 2008 Addendum does have a harsher tone that the January 2008 Analysis. But as I explained to David Stillman, I had done substantial additional research since submitting the January Analysis. This more recent research has led me to become increasingly negative about PSI reports in general and Dr. Betson's methods in particular. I believe in honesty and in the scientific method. It was very difficult for me to read one thing in a PSI report and/or a Betson report and then later read in a "source document" that what PSI and/or Dr. Betson had written was simply not true. Five examples of these misrepresentations are provided in Section 4 of this Addendum. But there were literally dozens of other misrepresentations made by PSI and/or Dr. Betson. We as a Work Group will have a hard time reaching any kind of consensus when we are bombarded by an avalanche of claims that have no basis in fact.

This raises the issue of how to tell fact from opinion. It has been claimed that ***"there are lies, damned lies, and statistics."*** By this, it is implied that you cannot trust statistics because just about any conclusion can be justified from the same set of data if the data is manipulated enough. This common belief is harmful to the problem solving process in that, without a trust in statistical results, there is no real way to "scientifically" resolve disputes. This lack of trust in statistics, resulting from those who have misused statistics, leads to the belief that there is no such thing as a "fact". There are merely "opinions."

Truth becomes relative and decisions are then based upon voting and what Betson would call "normative values." But there is an alternate view that I think is a much better way to solve problems and make decisions. I believe there are such things as facts and that many questions can be resolved objectively and scientifically. In a moment, a few specific examples will be offered in support of this view. But before getting into the specifics of scientific decision making, I want to define and clarify some important terms:

FACTS: A fact is something that actually exists and is beyond reasonable dispute. A fact is based upon substantial evidence. In science, "hard data" derived from observations of actual samples is in the category of a fact. The data may be interpreted in different ways, but the data itself is (hopefully) derived from real people and honestly and accurately reported. One of my primary concerns about Dr. Betson's method is his elimination of the data from over half of the intact families from his sample. It is a fact (and not merely an opinion) that Dr. Betson eliminated about 22,000 intact families from his latest analysis. It is my opinion that this is not acceptable in the scientific method. The reason it is not acceptable is that the data is the factual part of science. Data is what is real. No scientist is allowed to eliminate data merely because the data disagrees with the assumptions and model of the author.

MODELS: Models are not real. They are what we create to represent reality and to make predictions about reality. Models are based on assumptions (also called hypotheses) which may or may not be valid. The primary role of science in general, and statistical methods in particular, as a decision making tool, is to determine the reliability and validity of models in comparison to facts. For example, the Betson Rothbarth model is based entirely on the assumption that there is a consistent relationship between the cost of adult clothing and the cost of raising children. Betson's 1990 study confirmed that variation in the cost of adult clothing is only able to explain 8% of the variation in the cost of child rearing. Put in plain English, Dr. Betson confirmed that there is not a consistent relationship between the cost of adult clothing and the cost of child rearing. Thus, Dr. Betson should have rejected the Betson Rothbarth model in 1990.

SCIENTIFIC DECISION MAKING AND THE NULL HYPOTHESIS:
Decision making in science is substantially different from how the legal system makes decisions and/or how the general public makes decisions. The general public typically has an informal method of making decisions in that there are no explicitly defined rules. The public might read the paper or listen to some experts (appeals to authority) or rely on their own past personal experiences (appeals to common sense). They then vote. Whoever wins the vote is declared the winner. Thus, the public often decides things based upon opinions. This habit re-enforces the belief that all decisions are based upon personal opinions. The 2005 Child Support Work Group appears to have based its opinion almost entirely on an "appeal to authority" in that there was little critical examination of Dr. Betson's model, assumptions, claims, methods or conclusions.

The legal system has two more formal decision making standards. There is a civil standard of "preponderance of evidence" or a 51% chance of being right. Then there is the criminal standard of "beyond a reasonable doubt." In either case, a judge renders a decision, called an Opinion, hopefully based in part on the facts presented and on the applicable rules of law. Thus, the legal system's method also leads to the belief that all decisions are based on opinions.

Science has an entirely different decision making process with an entirely different and more objective set of rules. In science, when one proposes a model contending there is a relationship between two variables, the burden of proof is on the person proposing the model. In other words, the presumption is that the hypothesis is false. Thus, science strongly assumes that there is not a relationship between two variables. This assumption is called "**the null hypothesis**."

The null hypothesis is similar to the "presumption of innocence" in the legal system. However, in the legal system, a judge or jury can decided based upon whatever "evidence" they wish to consider that a person is guilty. The weighing of evidence, such as determining the credibility of witnesses is a pretty arbitrary practice. (For example, highly credible scientific studies have confirmed that neither judges nor juries can reliably assess the credibility of witnesses). Thus, decisions really are the "opinion" of the judge or the "opinion" of the jury.

By sharp contrast, the subjective opinion of the scientist is pretty much irrelevant to the decision making process in science. Instead, **decisions in science are objectively based upon statistical analysis**. The Null Hypothesis is retained unless the analysis of the data shows that the alternate hypothesis is in fact supported by the data. Thus, science places a great deal of weight on data and on statistical analysis to make objective decisions and very little weight on subjective personal opinions.

Scientific models, to be valid, must account for not only the evidence presented in the current model, but also all past evidence related to the model. Thus, a scientific experiment is expected to include and even begin with a "literature review" summarizing past experiments, past models, past data and past statistical analysis. Contrary evidence, and especially contrary data, is given a special place in this review process. It is fatal to any model if it fails to account for and provide a plausible explanation for data which is contrary to the proposed model.

Under the decision making rules of the scientific method, the burden was on Dr. Betson to provide data and analysis of data to confirm that there was a relationship between spending on adult clothing and spending on children (and thereby disprove the Null Hypothesis). The fact that the explained variation of the Betson Rothbarth model turned out to be less than 10% should have been the end of the Betson Rothbarth model because decision making in science is pretty straightforward. If there is not a consistent relationship between the model and the data, it is time to move on to a better model. It is troubling that Dr. Betson continues to persist in advocating a model he knows is not accurate based upon assumptions he knows are not valid.

In addition, the burden was on Dr. Betson to release his data set for public inspection. Science is a public process which requires full disclosure. Instead, Dr. Betson asks the jury of public opinion to trust him even though the jury has never been allowed to examine the evidence he used to make his conclusions. It is highly disturbing that Dr. Betson, like Dr. Weitzman before him, refuses to release his data set.

In addition, science requires the replication of results using a variety of methods and sources. This is the "gold standard" described in the January 2008 Analysis. No result of any single study should be accepted until it has been independently replicated by alternate means. Smith [2] (2006, page 461) describes this process:

> *"By incorporating studies by researchers with multiple perspectives using multiple methods, the researcher is able to cancel out the deficiencies of each one (provided the findings converge). Dependable knowledge is thus possible only by mixing methods and finding convergence in their findings. "*

It is therefore highly troubling that Dr. Betson has used only top down methods (food and clothing as indirect proxies) and only one sample source (the CEX).

Levin (2006, page 523) [3] also discusses the importance of replication in scientific research. This author states:

> *" Most important, researchers should attempt to reproduce the outcomes and conclusions based on one sample in other samples (i.e., as independent replications). When it comes to establishing scientifically believable findings it is truly the case that "an ounce of replication is worth a ton of inferential statistics" (Steiger [4], 1990, page 176)."*

It is therefore highly relevant that no one has ever been able to replicate Dr. Betson's methods or conclusions. The one study claimed by Dr. Betson to be a replication (McCaleb et al., 2004) instead actually refuted Dr. Betson's methods and conclusions.

By sharp contrast, the January 2008 Spring Analysis compared six different models, using six different methods and several different data sources all of which converged on a central tendency of 20% total cost or 15% Economic Table cost. The decision making process had nothing to do with opinion and instead was the result of analysis of six different sets of data. In the February Addendum, several additional methods and sets of data were added which also converged around the same central tendency. This March Addendum adds two more sources which converge around the same result.

Finally, the scientific method requires careful consideration for sample selection and sample accounting. One is simply not permitted to get rid of huge chunks of data that do not agree with one's model any more than one is permitted to get rid of huge chunks of profits to lower one's tax bill. According to Chromy (2006, page 645) [5]:

> *"A non-response bias analysis can be used to evaluate probable bias based on proxy variables that are known and available for both respondents and non-respondents; **such an analysis is required by National Center for Education Statistics standards and guidelines** (2002) for its surveys that do not meet acceptable response rates."*

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[2] Smith, M.L. (2006) Multiple Methodology in Education Research, Chapter 27 in *Handbook of Complimentary Methods in Education Research*, Lawrence Erlbaum Associates, NJ.

[3] Levin, J.R., (2006) Probability and Hypothesis Testing, Chapter 31 *in Handbook of Complimentary Methods in Education Research*, Lawrence Erlbaum Associates, NJ.

[4] Stieger, J.H. (1990) Structural Model Evaluation: An interval estimation approach. *Multivariate Behavioral Research*, 25, 173-180.

[5] Chromy, J., (2006) Survey Sampling, Chapter 38 in *Handbook of Complimentary Methods in Education Research*, Lawrence Erlbaum Associates, NJ.

In fact, there are at least three kinds of errors that must be accounted for in scientific studies. These include not only non-responders, but also incomplete responders and sampling measurement errors. Dr. Betson's studies had all three kinds of errors and none of them were properly accounted for. Dr. Betson's sample was intact families. During the six years of CEX data under consideration, there were about 33,000 intact families contacted by the CEX. About one third or 33% refused to participate. These were the non-responders. Another third completed less than three interviews. These were the incomplete responders. The final third, or 11,000 intact families, completed three or more interviews. These were used by Dr. Betson. However, he failed to note in his later studies that his first 1990 study had found substantial differences between the incomplete and complete responders such that including the entire sample would have certainly rendered his model invalid. This is simply not acceptable scientific practice. Instead, **Dr. Betson was required to perform and provide a sample analysis, yet he failed to do so.** (Actually, he did so in 1990 and then ignored his own results).

The third kind of error is equally troubling. It included respondents giving false answers. It is certain that measurement errors are common with the CEX in that low income responders typically claim to spend almost twice as much as they report that they earn. This is clearly not possible. In addition, high income responders report that they only spend about half of what they earn. This leads to a reported savings rate of 50% or more. It is known from other more reliable sources that very few families have such high savings rates. Thus, we know that the CEX is an inaccurate source of information for multiple income groups. This is why it should never be used as a sole source of information. Yet it was used as the sole source of information by Dr. Betson.

On page 99 of a 2000 article written by Dr. Betson on assessment of poverty, [6] Dr. Betson admits: *"The CEX design is problematic in several respects for purposes of poverty measurement and research has documented some quality problems with the data (see Silberstein, 1989)."*

Thus, Dr. Betson was aware of and had read the Silberstein (1989) article. [7] This article described and documented "response errors" in reporting on clothing costs and that these response errors were greater for incomplete responders (page 128). For example, 13% of respondents reported no clothing costs. The article also noted that 40% of respondents under the age of 25 failed to participate due to "mobility." This is important as this is close to the median age range of parents filing for divorce. The article also noted that it is "easier to report (accurately) when fewer family members are involved (page 134). Also renters had more recall difficulty that home owners and low income participants had more recall errors than higher income participants. This was claimed to be due to "low cooperation with the survey" by low income participants. It was also noted that two-thirds of all respondents were female. Most were ages 40 to 60. All of these results confirm the concerns of sample response bias raised by Spring in the January 2008 Analysis of Child Support Issues. Thus, Dr. Betson was fully aware of all of these problems in the CEX, but failed to account for any of them.

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[6] Betson, D., Citro & Michael, (2000) Recent Developments for Poverty Measures in US Official Statistics, *Journal of Official Statistics*, 16 (2) 87 – 104.
[7] Silberstein, A.R. (1989) Recall Effects in the US Consumer Expenditure Survey, Journal of Official Statistics 5 (2) 125-142.

SCIENTIFICALLY CREDIBLE ESTIMATES: Estimates are different from opinions in that estimates are derived from data sets using statistical analysis. Scientifically credible child cost estimates, using accepted scientific methods, range from a lower bounds of about 11% of total intact family spending (Rogers Cost Share estimate) to an upper bounds of about 20% of total intact family spending (Spring, 2008). The Betson's Rothbarth and Betson Engel estimates are not scientifically credible estimates because they are both per capita estimates. They are thus based upon the assumption that children cost the same as adults. Since the per capita assumption is known to be false, neither of these estimates is scientifically credible. The Betson Rothbarth estimate is also not credible because it is based upon the additional assumption that there is a relationship between spending on adult clothing and spending on children. This assumption is also known to be false. Given these two facts, it is truly amazing that either of the Betson estimates are still being given any serious consideration.

PERSONAL SUBJECTIVE OPINIONS: Opinions are based largely on our personal experiences. It is safe to say that those paying child support payments believe they are too high while those receiving child support payments believe they are too low. In a Democracy, Opinions do matter. Certainly, the reason "per capita" estimates, such as the Betson estimates, continue to persist (and are even popular despite the fact that they are based upon false assumptions) is that public opinion supports raising child support rates out of the (equally false) belief that artificially inflating child support rates will somehow help children after divorce. The question is whether child support tables, which mandate transfers of income from one parent to the other, should be based on personal opinion or on scientifically credible estimates. Federal law requires that these decisions be based upon the best most credible scientific evidence. Thus personal opinions or even past experiences should really have nothing to do with this decision.

MISREPRESENTATIONS What is the difference between a "difference of opinion" and "deliberate misrepresentation"? Certainly one critical difference has to do with whether one is describing and debating a fact or an opinion.

SPECIFIC EXAMPLES OF MISREPRESENTATIONS
For example, it is a fact that Lazear and Michael reported a result of 16%. It is also a fact that Betson misrepresented this result as being 19% in order to claim that his own result of 25% was similar to the Lazear result.

 It is also a fact that Deaton and Muellbauer got a result of 11% as being a "lower bounds." It is also a fact that Bassi & Barnow (1993) used a result of 16% as a lower bound. It is also a fact that Dr. Betson attempted to fool our Work group into believing that his Betson-Rothbarth estimate of 25% is a "lower bounds" and is somehow supported by the 11% Deaton estimate, and the 16% Lazear estimate used for a lower bound by Bassi & Barnow.

It is also a fact that at the November 2007 child support meeting, Dr. Betson made false allegations against the Rogers Cost Shares website. It is also a fact that at the December 2007 Child Support meeting, Dr. Betson made a false claim that Florida State study (McCaleb et al, 2004) had replicated and supported his methods and conclusions when in fact they had refuted them.

It is also a fact that Dr. Betson has repeatedly claimed there is a consistent relationship between spending on clothing and spending on children. It is also a fact that no consistent relationship exists.

Finally, it is a fact that PSI has repeatedly claimed that the Washington Economic Table is based upon Williams Income Shares model. And it is a fact that the Washington State Table is not currently based on the Williams Incomes Shares model and never has been based on the Williams Incomes Shares model. Instead the Washington Table is now and has always been a political compromise "hybrid" Table based upon a combination of Income Shares, and Cost Shares estimates together with a series of math tricks intended solely to make the Table more politically acceptable.

None of the above issues are in any kind of reasonable doubt. Thus, none of these issues can be accurately described as "opinions." The question raised by David Stillman was really, given these serious violations of ethical standards on the part of Dr. Betson and PSI, were the statements I made in the February Addendum uncalled for? Put another way, could my concerns have been stated in more polite and objective terms?

To answer this question, we will next look at the sentences in the February 2008 Addendum which David Stillman found particularly inappropriate. The following is the list David Stillman provided me of the six sentences he found objectionable:
1. Page 31: *The basis for the current Economic Table, is every bit as shameful as the manipulations of data by Weitzman, Williams and Betson* (referring to the three math tricks used to create the 1982 Judge Shellan Economic Table).
2. Page 34: *These "math tricks" are every bit as outrageous as any math tricks used by Lenore Weitzman and/or Dr. Betson.* (referring to the three math tricks used to create the Judge Shellan 1982 Economic Table).
3. Page 41: *What is clear is that legal corruption and statistical dishonesty were rampant back then, and the same problem still exists today in the form of Dr. Betson and his associates at PSI.* (referring to the three math tricks used to create the Judge Shellan 1982 Economic Table).
4. Page 47: *Thus, the real reason Betson was forced to deliberately mis-report Lazear's result was to hide the fact that Betson had used a per capita adjustment.* (referring to page 194 of the Betson 1990 study).
5. Page 48: *But if he was truly interested in intact families, there is no excuse for eliminating the thousands of intact families that clearly would have refuted his model. Betson's 1990 study confirms that this deception was deliberate.* (referring to Betson deleting more than 22,000 intact families to artificially raise the percentage of explained variation).
6. Page 61: *Deliberate distortions of the data cannot be defended.* (referring specifically to Dr. Betson's misrepresentation of the Florida State 2004 study and his misrepresentation of the Deaton 1988 study).

There is no doubt that Dr. Betson misrepresented the results of the studies described above. I therefore think that David Stillman's real objection was my contention that Betson manipulated and distorted his results and the results of others "deliberately." The other option would be to give Dr. Betson the benefit of the doubt and claim that these errors were all accidental or perhaps even just "differences of opinion." But would such a claim be accurate?

Certainly humans are not perfect and an innocent mistake here or there should be forgiven. But there is a clear pattern to Dr. Betson's mistakes. He has repeatedly taken numerous crucial facts and turned them upside down, all in an effort to support his model and thereby artificially raise child support rates.

I further think the evidence and examples I have provided are abundant and all of them are beyond any reasonable doubt. I therefore stand by my contention that Dr. Betson's many misrepresentations were in fact deliberate.

These examples have included but are not limited to:

1. Misrepresenting the Cost Shares website.
2. Misrepresenting the Florida State 2004 study results.
3. Misrepresenting the Lazear and Michael 1989 study results.
4. Misrepresenting the Bassi and Barnow 1993 study.
5. Misrepresenting the Deaton and Muellbauer 1988 study.
6. Misrepresenting the (lack of a) relationship between spending on adult clothing and spending on children.
7. Misrepresenting the number of intact families involved in the CEX survey. In the 2006 PSI Oregon report, he hid the fact that he had deleted over 22,000 intact families from his latest study. Had he included these 22,000 "incomplete and non-responders" to his analysis, the percentage of explained variation of his model would have fallen from about 30% to less than 10%, thus exposing the fact that his model was invalid.
8. Misrepresenting his Betson-Rothbarth estimate as a marginal estimate when in fact it is a per capita estimate.
9. Misrepresenting his Betson-Rothbarth 25% result as a lower bounds when in fact there were numerous other studies that had arrived at credible results far lower than his 25% Betson Rothbarth result.

Despite the abundance of these specific examples, a Betson supporter might still insist that these "misrepresentations" were all merely "differences of opinion." But It is very hard to see how a Lazear result of 16% can be reported by Betson as being 19% and be called a difference of opinion.

Still, by far the most incriminating "**smoking gun**" confirming that Dr. Betson's actions were deliberate were the two pages from the Betson 1990 study which I passed out at the beginning of the January 2008 Child Support Work Group (pages 130 and 131). The following chart is from page 43 of the February 2008 Addendum. The data in this chart was taken directly from pages 130 and 131 of the Betson 1990 report:

Explained variation of complete versus incomplete responders

Indirect proxy Method used	Type of intact family	**Type of responders Complete = 3+ interviews**	**Percent of Explained variation**	Betson (1990) Reference page
Rothbarth 2	With children	**All responders**	9*	130
(Adult clothing	No children	**All responders**	7*	130
As proxy)	With children	**Only complete**	23	131
	No children	**Only complete**	22	131

Note the dramatic difference between complete and incomplete responders in the percent of explained variation for the Betson-Rothbarth method.

This result of 8% for all responders confirms there is no consistent relationship between spending on adult clothing and spending on children <u>when all responders are included</u>. However, this fact is hidden from view if only "complete responders" are used. This table clearly shows why Betson had to eliminate the 11,000 intact families who were incomplete CEX responders from his later samples and why he failed to include an analysis of the 11,000 plus non-responders to the CEX. It was to artificially raise the percent of explained variation by only including complete responders.

I had predicted at the December 2007 Child Support Work Group meeting and in the January 2008 Analysis of Child Support Issues that **including incomplete responders would dramatically lower the explained variation.** The above Table, taken directly from Betson's 1990 study confirms that Betson was fully aware of this, which is why Betson, like Weitzman before him, refused to release his data set for further analysis. **Pages 130 and 131 of the Betson 1990 study are the "smoking gun" confirming his actions were deliberate and pre-mediated** in that these pages confirm that Betson was fully aware that including "incomplete responders" in his analysis would lower the percentage of explained variation to below 10% and thereby render his Betson- Rothbarth model to be invalid.

The next question is whether the conduct of Dr. Betson, Dr. Weitzman, and others described in the February Addendum has been "shameful" and/or "outrageous." I guess the answer to this question depends on one's point of view. If you believe that it is more important to raise child support rates than to comply with the scientific method, then perhaps their actions can be justified. However, I believe that not only are these actions a direct attack on the principles of the scientific method, but more important, they have been extremely harmful to children. These actions by Betson, Weitzman and others led to dramatic increases in child support payments. Beginning in about 1982 and continuing to the present day, these child support obligations have been at least 20% to 30% higher than what was likely spent on the child by an intact family before divorce. They have thus acted as a hidden incentive for divorce. They have also resulted in dads either making the payments and living out of the back of their car. Or if they failed to make the payments, they resulted in jail time and resentment on the part of the mother who honestly believed she was entitled to such extremely high child support payments.

In many of the above cases, it is likely that these extremely high child support payments resulted in thousands (if not millions) of children losing their relationships with their fathers. There is no question that many dads and many children committed suicide because of child support obligations that were so high they could not possibly be met (at least not by lower income fathers). I would therefore like to make the following corrections to the February Addendum:
1. In my opinion, Dr. Betson's mispresentations were deliberate.
2. In my opinion, Dr. Betson's actions were shameful and outrageous because they caused a severe harm to children of divorce and to their families.
3. In my opinion, Dr. Betson's actions were statistically dishonest.
4. However, I cannot say the actions of Dr. Betson were "legally corrupt" because I am not a judge. I will say however that his "one sugar bowl" model appears to be contrary to at least two sections of Washington State law in that his model does not "equitably divide" the cost of child rearing between parents (RCW 26.19.001) and does not "foster the child's relationships with both parents" (RCW 26.09.002)."

Section 3: Residential Credits, State law and Scientific Research

One of the primary focuses of this addendum is on the most equitable way to calculate a residential credit for shared parenting situations. Thirty years ago, very few mothers worked full time. As a consequence, very few fathers were involved in shared parenting and caring for children in intact families. Thus, 30 years ago, the majority of families were in traditional "one wage earner, one caregiver" family structures. As a consequence, residential credits were much less of an issue.

However today, virtually all intact families are structured such that <u>both </u>parents work and <u>both</u> parents have cared for the child since infancy. It is likely that over 90% of all mothers now work close to full time. It is also likely that very few of these parents can afford the high cost of day care. Instead, many parents adjust their work schedules to permit them to alternate caring for the child. Thus, the most common structure today is a <u>"two-wage earner/two caregiver" family model</u>. It is likely that close to 90% of all intact families practice some form of shared parenting.

After divorce, in order to maintain and <u>foster </u>the child's existing relationships with <u>both</u> parents, it is in the best interest of the child to spend a significant amount of time in each of the child's new households. However, currently less than 4% of all parenting plans have a residential credit for direct expenses incurred by the lower time parent. Thus, a residential credit is essential not only so that child costs are fairly shared by both parents, but to preserve and foster the child's relationship with both parents.

Dr. Betson has made it clear that he is opposed to shared parenting. Instead, he believes that the child only has "one sugar bowl" and that the child's sugar bowl belongs at the mom's house. It was the one sugar bowl assumption that caused him to go to such great lengths to artificially inflate child rearing costs. It therefore should come as no surprise that Dr. Betson's residential credit method would also promote retaining as much sugar as possible in the mom's sugar bowl. However, the real question is not whether the Betson Residential credit method, and many similar methods used in other States, is contrary to shared parenting, but <u>whether such methods are in compliance with Washington State law and are supported by existing scientific research.</u>

Residential Credits and Washington State Law

The Washington State Parenting Act (RCW 26.09.002) states in part:
*"The State recognizes the fundamental importance of the parent/child relationship to the welfare of the child; and that **the relationship between the child and each parent should be fostered** unless inconsistent with the child's best interest."*

Thus, the Washington State Parenting Act is based on the assumption that the child will not only retain their relationships with both parents after divorce, but that the relationship between the child and each of their parents **SHOULD BE FOSTERED.** This section of the Parenting Act is entirely in keeping with the scientific research on child development which strongly supports the fact that it is in the child's best interest to retain and foster their relationships with both parents after divorce. Most important, the Washington State Parenting Act promotes the assumption that <u>the child will have two residences (and two sugar bowls) after divorce.</u> Thus, according to the Parenting Act, the child typically does not reside solely with either parent. Instead, the child resides with both parents and has two households. In other words, Washington State law recognizes that both parents and therefore both households are important to the child.

There is second section of the Parenting Act (RCW 26.09) that is directly relevant to the question of residential credits. RCW 26.09.285 states:

*Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, **this designation shall not affect either parent's rights and responsibilities under the parenting plan.***

In re Marriage of Kimpel , 122 Wn. App. 729, (2004), Division III of the Washington State Court of Appeals stated:

«1» *The "state and federal statutes" likely referred to in RCW 26.09.285 include the Food Stamp Program, 7 U.S.C. § 2015; the Criminal Code (Kidnapping), 18 U.S.C. § 1204; federal regulations issued on Veterans' Benefits, 38 C.F.R. 3.24, 3.57, and 3.850; Social Security, 42 U.S.C. § 1396r-la; and Juvenile Justice and Delinquency Prevention - Missing Children, 42 U.S.C. § 5773 and § 5775. None are argued here.*

This statement by the Court of Appeals along with the fact that the words "custody" and "custodial parent" were deliberately excluded from the Parenting Act (and more recently excluded from the Relocation Act of 2000) by the Washington State legislature make it clear that Custody Designation can not be used as a basis to treat the custodial parent's household as being in a "financially preferred" position over the non-custodial parent's household. Instead, <u>Washington State law specifically limits the importance of custody</u> and requires that we treat both parents and thus both parents households "equitably."

In complete accordance with the above language, the Washington State Child Support Act (RCW 26.19.001) states in part: *The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to <u>meet a child's basic needs</u> and to provide additional child support <u>commensurate with the parents' income, resources, and standard of living.</u> The legislature also intends that<u> **the child support obligation should be equitably apportioned between the parents.**</u>*

Case law has referred to this section of the Child Support Act as the three **"core considerations" and "primary intentions" of the Child Support Act.** It is therefore important to reflect on how each of these three core considerations might relate to (and even require) a residential credit.

1. **<u>Meeting the basic needs of the child.</u>** This is the most important core consideration of the Child Support Act. The child's basic needs include such things as shelter, food and clothing. For the lowest income group (two minimum wage earners), the Spring (2008) analysis concluded this amount was $360 per month or about 15% of the combined monthly net income for two minimum wage earners. Importantly, child care and health care are not considered to be basic needs as low income parents can rarely afford these things and rarely have access to them. Instead, low income parents and other family members typically provide child care in complex and informal arrangements. Also important is the fact that once the child's basic needs are met, as parental income rises, it is commonly accepted that the percent of total combined family income spent on the child falls gradually. Some have interpreted this section as meaning that a child's basic needs must be met in the custodial parent's household before a residential credit can be considered for the non-custodial parent. This is not exactly what the current law says.

Instead RCW 26.19.075 (Standards for deviation from the standard calculation) states in part: (1) Reasons for deviation from the standard calculation include but are not limited to the following:

(d) Residential schedule. The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis **if the deviation will result in <u>insufficient funds</u> <u>in the household receiving the support to</u> meet the basic needs of the child…"**

Thus the current law specifically refers to maintaining sufficient funds in the "household receiving the support" to meet the basic needs of the child The transfer payment is only a concern when the receiving parent has such a low income that they are unable to meet the basic needs of the child unless the residential credit is eliminated. But how often is this likely to be the case?

Assuming the most common family situation, where the couple only has one child, and the worst case financial situation, where both parents either work at minimum wage or have their income imputed at minimum wage, the following describes their total family situation before and after divorce. At $8 per hour (a proxy for Washington minimum wage) x 40 hours per week equals $320 per week x 52 weeks equals $16,640 annual gross income. Assuming a 10% 'low income" federal tax bracket, annual net income would be $15,000 for each parent and <u>monthly net income at Washington State minimum wage would be about $1,250 for each parent. The combined monthly net income (CMNI) for two minimum wages earners is about $2500.</u>

Assuming that the parents both are at minimum wage, both would be responsible for 50% of the combined total obligation. Using the Spring (2008) estimate that the total obligation is 15%, reflecting the fact that the couple likely spent 15% of total family spending on the child before divorce, the total obligation after divorce is $360. Each parent's share of this total obligation is $180. Thus, if the child spent all the time with only one parent, that parent's total net income would be $1,250 + $180 = $1,430 which is over 125% above the federal poverty guideline for a household with two members (the parent and the child).

If we further assume a straight per day cross credit approach and assume that the child spends 20% of their time with the lower time parent (70 days a year or 6 days a month), the residential credit (for child costs directly incurred at the lower time parent's household) would be 20% times the total obligation of $360 or about $72. This would reduce the transfer payment to $180 - $72 = $108 per month. Thus, the income in the higher time parent's household would be $1,250 plus $108 = $1,358. In addition, child tax credits average between $150 to $250 per month in even the most pessimistic estimates. Assuming the higher time parent receives these tax credits, the higher time parent will always be able to meet the basic needs of the child, defined as 125% of the federal poverty guideline, even if the lower time parent receives a residential credit.

Thus, the only conceivable situation in which the higher time parent would not be able to meet the basic needs of the child is <u>if the higher time parent was physically or mentally unable to work.</u> It is hard to imagine a case where a parent is physically or mentally unable to work, but still is physically and mentally able to care for the child (which is also a lot of work). Thus, in such rare cases, the parent more physically and/or mentally able to work should also be designated as the child's higher time parent. In any case, meeting the child's basic financial needs is rarely an issue. However, <u>meeting the child's emotional need to retain a relationship with both parents is always an issue.</u>

2. **Commensurate with the parents' income, resources, and standard of living.**
   The most important aspect of this phrase is that the legislature uses the plural form (parents) and ties this to "standard of living." Thus, both parents' income and both parents standard of living must be taken into account. In addition, the child support modification statutes make it clear that both parents' current income and current standard of living are what matter most… not their former standard of living that they had while they were married. This section of the Washington State Child Support Act makes it clear that you cannot have a child support system that requires the lower time parent to live out of the trunk of their car in order to maintain an artificially and unrealistically higher standard of living in the higher time parent's household. Clearly Washington State law is markedly different from the Betson "one sugar bowl" model which attempts to maintain the standard of living in the higher time parent's household at a level equivalent to the standard of living the higher time parent enjoyed prior to divorce.

3. **The child support obligation should be equitably apportioned between the parents.**
   The third "core consideration" of the Washington State Child Support Act is that the total obligation should be "equitably apportioned." Thus, the transfer payment should not place an unfair financial burden on either parent. This section requires not only that parents not be required to spend more on the children after divorce than they spent during marriage, but also that the total obligation be fairly divided between the two households in considering the current incomes and current expenses of the child's two households rather than merely protecting one of the child's two households. There is only one mathematical method for insuring this equitable division and that is the straight per day cross credit approach described in the Spring 2008 Analysis.

It is not fair to the child to try to maintain an unrealistically high standard of living in one of the child's households at the expense of depriving the child of the second household. Thus, the Washington State Parenting Act combined with the Washington State Child Support Act assumes that a child will normally have two homes after divorce and that child support obligations will be fairly divided between the two parents.

Two recent decisions, In re Marriage of McCausland, 159 Wn.2d 607, 152 P.3d 1013 (2007) and State ex rel. M.M.G. v. Graham, No. 77858-2, slip op. at 15 (Wash. Feb. 1, 2007) are relevant to this issue. Under McCausland, to exercise its discretion properly, **the trial court must articulate a rational basis for its decision that reflects the support statute's core considerations (i.e., RCW 26.19.001)**. It is not fair to children or parents to maintain an unrealistically high standard of living in one of the child's households at the expense of depriving the child of the second household or forcing the child to have a much lower standard of living in the second household due to a an excessively high transfer payment from the parent who is in worse financial circumstances to the parent who is in better financial circumstances.

The Graham court acknowledged just this situation, noting that "a deviation could be warranted in a situation where the children's residential time is shared between parents but should be focused on the legislature's primary intent to **maintain reasonable support for the children in each household.**" Graham, 123 Wn. App. at 940-41.

Washington State Residential Credit history and current language

Page 8 of the 1985 Washington State Child Support Commission report [8] confirms that a simple cross credit method was used for calculating the residential credit in cases of shared physical custody (now called shared parenting). This section of the report referred to this method being used since 1982. This method continued to be used until it was replaced in 1991 with the current residential credit language. Thus, for about ten years, from 1982 to 1991, our State used the straight cross credit approach advocated by Spring 2008.

Among the Principles listed on page 8 of the 1987 Washington State report [9] was the following:

A schedule should recognize the involvement of both parents in the child's upbringing. It should take into account the financial support provided directly by parents in shared physical custody or extended visitation arrangements. .

On page 11, the authors described the model chosen by the Commission:
At least 18 states have adopted or are considering adoption of child support schedules that are based on the Income Sharing Model or on a hybridization of the Income Shares Model with the Cost Sharing Model. The model suggests first that parental income be totaled. Next, the percentage of that total income that would have been spent on the children had the family remained intact is calculated and allotted to child support. Finally, each parent pays the percentage of child support that would correspond to their relative share (percentage) of the combined total income. **The actual flow of child support payments will then depend on the amount of time the child spends with each parent.**

Thus, it was a intention of the legislature that the total obligation as set forth in the Washington State Economic Table was intended to be the total cost of raising the child, which is then divided between the parents based upon the ratio of the parents' current net income and based on the parents ratio of time spent with the child in the child's two households.

In cases where one parent does not does spend any time with the child and therefore does not incur any direct costs in caring for the child, the transfer payment in fact should all go to the parent who is caring for the child the entire time. However, in cases where the lower time parent spends significant time with and financial resources on the child, a residential credit is essential to insure that the total obligation is equitably shared between the parents.

It is clear from both of these historical sources that this total cost was intended to be divided between parents based not only on percent of income, but also on percent of time spent with both parents (with an explicit residential credit). However, over time, this residential credit was gradually modified. At some point, a "90 Night or 25% bright line threshold" was added. This appeared to have been added to eliminate the right of the most typical "every other weekend" fathers from asking for a residential credit.

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[8] Uniform Child Support Guidelines, Washington State Association of Superior Court Judges, by the Family Law Committee and Administrator for the Courts, revised effective January 1, 1985.
[9] Washington State Report to the Legislature, November, 1987 by the Washington State Child Support Schedule Commission.

This 25% threshold was extremely controversial and was opposed by Father's Rights groups who argued that <u>all</u> residential time must be taken into account. Thus, in 1991, this "bright line" threshold was abandoned in favor of more general language being a "<u>significant amount of time.</u>" This change was made at the insistence of lower time fathers who felt that the "90 Night" threshold failed to recognize direct costs dads who had less than 90 nights incurred. These dads claimed that they spent just as much on housing costs as the higher time parent and thus they were being "double billed."

Sadly, when the bill went before the House for a vote, Rep. Applewick staged a misunderstood colloquy that has had a chilling effect on a lower time parent's ability to get a residential credit ever since. The Applewick Colloquy was his attempt to explain what might be considered "significant time". Applewick stated that the meaning of the term **"significant time"** .. **"will be decided on a case by case basis"** and that the new law **"rejects the bright line ninety day rule."** Applewick then added *"presumably residential time in excess of 35% and up to 49.9% would be significant time."*

However the fact that more than 35% would presumably be significant time, does NOT mean that less than 35% would not be significant time. The m<u>atter was left up to the trial court with the instructions to decide the issue on a "case by case" basis with the understanding that 35% or more would presumably meet the threshold and less than 35% would be decided on a "case by case" basis.</u> The original intend was that if dads could provide evidence, on a case by case basis, that they had significant direct costs during their residential time, they could get a residential credit even if they spent less than 90 days caring for the child. However, the Applewick Colloquy has since been mis-interpreted to mean that the bright line test was moved from 25% to 35%.

Thus, the attempt by lower time fathers to get their direct costs recognized instead led to a reduction in residential credits such that by 2003, less than 4% of all parenting plans in Washington State had a residential credit of any amount.

The current residential credit law (RCW 26.19.075) reads:

*Standards for deviation from the standard calculation states in part: (1) Reasons for deviation from the standard calculation include but are not limited to the following: (d) Residential schedule. The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis **if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child…** When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.*

RCW 26.19.075(1)(d) currently grants judges discretion to deviate from the standard calculation when the child spends a significant amount of time with the obligated parent. However, there is no statutory guidance on either who should get a residential credit or how to determine the amount of the residential credit. This causes increased conflict between parents and increased litigation as neither side is able to predict from one judge to the next whether the credit will be granted and for how much. The problem with this language is not just the language itself, but the manner in which it is currently being interpreted. The failure to provide a consistent residential credit leads directly to inequitable child support awards, reductions in child support compliance and huge numbers of children losing all contact with their fathers after divorce.

Residential Credits and Scientific Decision Making

Sadly, over half of all children of divorce eventually lose all contact with their lower time parent (typically their father). Thus, in over half the cases, children of divorce spend all of their time in the care of only one of their parents (typically the mother). In such cases, the lower time parent would incur no direct costs associated with caring the child and therefore the entire obligation would be spent in the higher time parent's household. However, in most other cases, there would be child costs incurred by both parents in both households. The question then becomes how to equitably divide the total obligation when the child in fact has two households. The way to answer this question scientifically would be to examine the child-related costs incurred in each household on a per day basis.

In the past, it was commonly assumed that lower time parents had few if any expenses related to their residential time, and that higher time parents incurred nearly all of the expenses of child rearing. For example, after advocating the Betson-Rothbarth method, the PSI 2003 Arizona report noted on page 36:

*(7) **Visitation costs are not factored into the schedule. Since the Schedule is based on expenditures for children in intact households, <u>there is no consideration given for visitation costs.</u>***

Thus, since all intact family studies assume that the higher time parent has the child 100% of the time and incurs 100% of the expenses, t**he Washington State Economic Table <u>assumes that the higher time parent pays for 100% of all child costs</u> and that the lower time parent does not have any direct costs associated with the child.** This includes the assumption that the lower time parent fails to buy the child presents, clothing, food, and has no transportation costs associated with visitation and does not pay for an additional bed and bedroom for the overnight visits of the child.

One likely reason for the failure of past legislatures to adopt a more equitable residential credit was the lack of scientifically credible studies comparing the costs of higher and lower time parents on a per day basis. Thankfully, this lack of knowledge has been addressed in the past few years.

From a scientific decision making standpoint, there are three possibilities. It could be that the higher time parent incurs greater child costs on a per day basis. Alternately, the lower time parent might incur greater child costs on a per day basis. However<u>, the NULL hypothesis is that, in the absence of contrary information, child costs are about the same in both households on a per day basis.</u> For a decision to be scientifically based, we are required to retain the NULL hypothesis unless and until it is disproven.

Evidence that might disprove the Null hypothesis is obtained by examining the results of scientifically credible studies. To date, there have been three credible studies done on this topic. These are Murray Woods & Associates (1999), [10] Henman and Mitchell, (2001) [11], and Fabricius and Braver (2003). [12] These three studies all confirmed that the lower time parent's direct child related costs are typically similar to the higher time parent's child related costs on a per month basis.

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[10] <u>Murray Woods & Associates</u> (1999) The Behavior and Expenditures of Non-resident Parents During Contact Visits *(Policy Research Paper Number 75). Australia: Department of Family and Community Services.*

[11] <u>Henman, P. and Mitchell, K.,</u> (2001) [11]Estimating the Costs of Contact for non-residential parents: A budget standards approach, *Journal of Social Policy*, 30 (3) 495–520.

[12] <u>Fabricius and Braver (2003)</u> Non-Child Support Expenditures on Children by Non-residential Divorced Fathers, *Family Court Review*, Vol. 41

Since the lower time parent has the child fewer days per month, the lower time parents direct child costs are typically greater than the higher time parent on a per day basis.

Murray Woods (1999) found that, of non-custodial parents who had visitation with their children, with the standard residential schedule being about 20% of the time, about 90 percent of these parents provided a separate bedroom for the child. Given that housing is the single greatest component of child costs, this is a very surprising result that casts the "no NCP expense" assumption of the Betson Rothbarth model into doubt even for parents who only care for their children 20% of the time or more.

Henman and Mitchell (2001) also confirmed that child costs in the non-majority time parent's house were typically greater on a per day basis than child costs in the majority time parents house. This was because the lower time parent was paying for costs, such as a bedroom for the child, even on days when the child wasn't there.

Fabricius and Braver (2003) reached conclusions identical to the 1999 and 2001 studies. This study provided more detail on how much non-majority parents (primarily fathers) actually spend on their children while the children are in their care. Rather than asking majority mothers for this information (as the Consumer Expenditure Survey does) or non-majority fathers for this information, the authors deliberately sought out a less biased source of information… the children of divorce. In a survey of several hundred young adults who had been children of divorce, the authors found that **fathers direct expenses on children increased in a linear fashion according to the amount of time the fathers spent with their children.**

Contrary to the standard assumption that lower time parents do not incur child costs, even fathers who were given little residential time with their children still incurred significant direct expenses. For example, even when children only spent an average of 10% of their time with their father, 40% of those fathers provided a bedroom for the child. Of children who only spent 25% of their time with their fathers, 77% of those fathers provided the child with a bedroom of their own. Thus, **when fathers have 20% or more of time with children, over 50% of such fathers incurred monthly direct child related costs which were similar to the mother's direct child related costs!** This result confirms that most non-majority parents with 20% or more time with the children incur not only significant un-credited child costs, but child costs that are comparable to the child costs incurred by majority parents on an annual basis and much higher than majority parent costs on a per day basis! On page 12 of their report, the authors concluded, ***"The current findings suggest that the typical assumptions about the economics of noncustodial fathers may simply be wrong".***

Thus all three scientifically credible studies on this subject reached the same conclusion using substantially different methods and sources of information. Equally important, no study has ever shown that higher time parents per day costs were greater than lower time parents per day costs. Thus, the assumption that lower time parents have no direct expenses is invalid and results in the lower time parent being overcharged, typically by hundreds of dollars each month in un-credited child-related expenses. In addition to ignoring the straight line increase in costs for non-majority parents, the current system and other commonly used residential credit models ignore the fact that the majority parent's expenses are reduced every day the child is not with that parent. While the majority parents expenses may not be lowered in a "straight-line: per day fashion, the non-majority parents non-credited per day child expenses will always exceed those of the majority parent as the non-majority parent will have more days per year when the child is not with that parent, yet the parent is still incurring child costs (such as for the room the child is not using).

Since both parents incurred nearly identical fixed "child cost" expenses on a monthly basis (such as paying for a bed room for the child whether the child is in the bedroom or not), it is far more likely that the non-majority parent has higher daily costs than a parent who has a higher percentage of time with the child.

Given the straight-line relationship just described, the only equitable solution is a straight-line cross credit calculation. To better illustrate the disparity and inequitability of the current system, consider the case where both parents make a median income and the mom cares for the child 70% of the time. (Note that this example is taken from page 147 of the Spring 2008 Analysis).

Median Combined Income, equal income and unequal parenting time.

PARENTING TIME ADJUSTMENT INCOME SHARE: 50-50 COST (TIME) SHARE: 70-30	HIGHER TIME PARENT	LOWER TIME PARENT
COMBINED OBLIGATION: $600 (from Child Support Economic Table) **INCOME SHARE =** (Combined Obligation X Income ratio)	50%X $600 = $300	50%x $600 **= $300** **(Pre credit child support)**
PERCENTAGE TIME WITH THE CHILD	70%	30%
COST SHARE: (amount paid directly) = (combined total obligation x % time with child)	($600 x 70%) = $420	($600 x 30%) **=$180=** **Residential credit**
TRANSFER AMOUNT = Income share minus cost share	0	($300 - $180) = $120
Funds for child after transfer	300+ 120=420	300-120=180
Percentage of child funds after transfer	70	30
Amount Higher Time parent receives per day with the child	21 days	**420/21 = 20 per day**
Amount Lower Time parent receives per day with the child	9 days	**180/9=$20 per day**

Note that without the residential credit, the lower time parent would pay the higher time parent $300 per month. Thus, the higher time parent would receive (and currently does receive) their own $300 plus the lower time parent's $300 each month. As the higher time parent cared for the child 21 days per month, the higher time parent receives $600 divided by 21 days equals **$28.57 per day** for each day the child is with that parent. By contrast, **the lower time parent receives $0.00 per day** for each day the child is with the lower time parent. Given that the child cost is in fact about $20 per day for each parent, as determined by the Economic Table, the lower time parent is currently over-charged 9 times $20 or $180 each month while the higher time parent is overpaid this same amount each month. This difference does not take into account tax credits to the higher time parent of at least $150 to $250 per month. Thus, **the total current disparity is $360 plus $150 equals $510 each month.**

Put another way, during marriage both parents likely contributed about $225 each to the child (after dividing up the $150 monthly child tax credit). But after divorce, the dad paid $300 in child support plus direct costs of 9 days times $20 per day or $180 for a total of $480 per month, while the mom paid 21 times $20 or $420 in direct costs minus $300 in child support received from the dad equals $120 minus the $150 per month tax credit meaning **the mom does not have to pay anything for the child after divorce as the dad and the federal government are picking up the entire cost of the child**. Thus, the current system promotes divorce by giving the mom a huge financial incentive for divorce. She likely will get the house and the child and the full tax credit while the dad gets all the bills. This example explains why so many dads wind up living out of the trunk of their cars while the mom's "sugar bowl" is filled to over flowing. Thus, failure to provide a residential credit is contrary to the existing scientific research and **contrary to the "equitable" distribution requirement of RCW 26.19.001.**

We have previously mentioned that Washington State law requires that child support obligations should be <u>"equitably divided" between the two parents (RCW 26. 19.001).</u> It is therefore worthwhile to examine what is meant by the term "equitable." Black's Law Dictionary [13] defines "equitable" to mean "*consistent with the principles of justice.*" "Equitable distribution" is defined as (*Family Law*), "*fair, but not necessarily equal allocation, taking into account the particular circumstances such as the relative earning capacities of the spouses.*" The root term "equity" refers to "*fairness, impartiality and evenhanded dealing.*"

One obvious example of "equitable" division of the total child cost obligation is the manner in which the Economic Table total obligation is divided between parents based upon each parent's ratio of their combined total income. Instead of merely dividing the obligation equally between the parents, the division is based upon each parent's percentage of the two parent's total combined income. The "higher income" parent pays a higher amount, but ***both parents pay the same percentage of their personal "per dollar" income*** toward the total obligation. Gender bias and custodial status bias are both avoided by referring to one parent as the "Higher Income" parent and the other as the "Lower Income" parent.

Using the intact family as an analogy, and the Income Shares assumption that the total cost spent on the child after divorce should be the same as the total cost spent on the child before the divorce, this total cost is divided up over a unit of analysis or total period of time. This period of time in the Economic Table is one month (using the monthly combined net incomes of the two parents). However, this monthly net income was likely determined by using the annual net incomes of the parents and then dividing by 12. The total dollar obligation is divided based upon the ratio of dollars available to each parent. Note that neither the higher or lower income parent is put in a "preferred financial position." Therefore the distribution is equitable even though it is not equal. .

The "time sharing obligation" can also be calculated in an identical equitable manner to the "income sharing obligation. The unit of analysis can be one day, one month or one year. Just as a child might have a "lower income" and "higher income" parent, a child might also have a "lower time" and a "higher time" parent. Just as both parents <u>pay </u>the same percentage based upon the ratio of their income to total income, so also should both parents <u>receive </u>the same percentage based upon the number of days the child is with them in comparison to the total number of days with both parents. Thus, <u>a per day credit rule is similar to a per dollar expense rule.</u>

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[13] Garner, B.A., (2007) Black's Law Dictionary, Eighth Edition, Thomson West Publishing, St. Paul MN., Page 578.

Gender bias and custodial status bias are both avoided by referring to one parent as the "Higher Time" parent and the other as the "Lower Time" parent. The equitable division of this unit of analysis is to determine which parent the child is with on any given day and/or night and then allot an expense for the child to that parent for that day and/or night. Using the example offered by Betson, the cost per 24 hour period was about $30 ($900 per month total obligation divided by 30 days). For lower income parents, the cost might be $20 per day. In any case, the per day cost incurred by the parent is simply the daily cost multiplied by the number of days each month the child spends with that parent.

This approach therefore treats <u>receival</u> of the total obligation in the same equitable manner as we currently treat <u>disbursement</u> of the total obligation. Division of time is treated in the same manner as division of income.

The advantage of this approach is that <u>neither parent is placed in a more preferable financial position.</u> Thus, this approach is more in keeping with Washington State law which require "equitability" and ignoring 'custodial status" and Federal laws which require avoiding gender bias. Most importantly, it reduces the current financial incentive for divorce and also reduces the current financial incentive to fight over who will get the most time with the child. However the time is divided, <u>each parent will receive the same reimbursement on a per day basis.</u>

Problems with the Betson Method for Calculating a Residential Credit

Dr. Betson's article on residential credits [14] was sent to the work group in March 2008. AS Betson has declared himself to be a proponent of the "one sugar bowl" assumption, it should come as no surprise that his model actually discourages shared parenting. We will therefore consider some of the specific shortcomings of this model.

On page 1 on his report, Betson begins, as he often does, with a carefully controlled and completely atypical example in order to exaggerate the threat of providing a residential credit. Specifically, he uses an example in which the father makes <u>twice</u> the income of the mother. While fathers typically make slightly more than mothers, there are very few cases in which the father's income is twice the mother's income. This is especially true in a middle income example as used by Betson wherein the monthly total obligation is about $900 per month.

Betson also uses calculations based upon the weekly amount of the total obligation instead of the monthly amount of the total obligation. Using a week as the unit of time reduces the actual dollar amount of the disparity by 75% thereby making the problem appear to be much less than it really is. Finally, Dr. Betson uses the case wherein both parents care for the child 50% of the time in order to maximize the residential credit. <u>This situation currently occurs much less than 10% of the time</u>. Thus, the total situation as described by Betson occurs extremely rarely (probably less than one percent of the time).

These three "math tricks" along with many other math tricks Betson has employed over the years reveal that Dr. Betson is a mathematical genius, but call into question his willingness to fairly present his argument. Nevertheless, the simple cross credit method of calculating the residential credit using the example proposed by Betson would yield the following result:

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[14] Betson, D.M., (2002) Shared Parenting, Visitation and Child Support, Work Product of Indiana Judicial Review of Support Guidelines.

PARENTING TIME ADJUSTMENT INCOME SHARE: 70-30 COST (TIME) SHARE: 50-50	HIGHER TIME PARENT	LOWER TIME PARENT
COMBINED OBLIGATION: $900 (from Child Support Economic Table) **INCOME SHARE =** (Combined Obligation X Income ratio)	30%X $900 = $270	70%x $900 **= $630** **(Pre credit child support)**
PERCENTAGE TIME WITH THE CHILD	50%	50%
COST SHARE: (amount paid directly) = (combined total obligation x % time with child)	($900 x 50%) = $450	($900 x 50%) **=$450=** **Residential credit**
TRANSFER AMOUNT = **Income share minus cost share**	0	($630 - $450) = $180
Funds for child after transfer	270+ 180=450	630-180=450
Percentage of child funds after transfer	50	50
Amount Higher Time parent receives per day with the child	15 days	**450/15 = 30 per day**
Amount Lower Time parent receives	15 days	**450/15=$30 per day**

Thus, each parent would receive about $30 per day during the days they cared for the child. This is simply the total monthly obligation of $900 divided by 30 days per month. The monthly transfer of $180 converts to a weekly transfer payment of about $40 per week. Thus, contrary to Betson's claim, a simple cross credit approach does yield the appropriate answer (that the higher income parent pays 70% of the total obligation).

Betson's proposal to add a "150% multiplier" to the total obligation

Beginning on page 4 of his article, Betson proposes that shared parenting should require a higher total obligation than what he calls "sole custody." Referring to the child having two homes instead of one, Betson states:

 "*These duplicated expenses from shared parenting will increase the total costs of raising the child and should be reflected in the support obligation. For simplicity (and we will see later the following assumption is common), we will assume that when shared parenting is adopted by the parents then 50 percent of normal child expenses must be duplicated and should be reflected in the Basic Child Support Obligation (Line 4) by multiplying the BCSO by 1.50.*"

Betson then gives an example showing that this assumption would raise the transfer payment from the higher income parent to the lower income parent by 50% (from $40 per week to $60 per week); or using the monthly example shown above, the monthly transfer payment would increase from $180 per month to $270 per month, even though the parents had a 50-50 shared parenting arrangement.

At the bottom of page 8, Dr. Betson states that "*The second policy decision is how much of the cost of raising the child will be duplicated when shared parenting is undertaken by the parents? **Empirical data does not exist to answer this question..**"

There are two problems with this assertion. First, Betson is asking the wrong question. The correct question is, given that the parents are obligated to spend $900 on the child (the same amount as if they were still married), what is the most equitable per day division of that total obligation? As noted above, there is ample empirical data to answer this question. The answer is that the empirical data supports a straight line cross credit division.

The second problem is that Dr. Betson's model includes the hidden assumption that parents can arbitrarily increase their income by 50% to pay for the 150% multiplier. In short, Betson assumes that the standard of living can be maintained in both households after divorce. It is far more likely that income will remain the same and therefore that both parents will incur a lower standard of living after divorce. There is also a mountain of empirical evidence supporting this assumption. Thus, there is plenty of empirical data, and none of this data supports adding a 150% multiplier.

On page 10, Dr. Betson complains that below a residential time of 50%, the costs to the father rise disproportionately to the drop in his time with the child (such that the father winds up paying 80% of the total obligation instead of 70%). Betson notes that this problem is related to the fact that the father's estimated fixed costs do not fall with a reduction in time. **But this problem only exists if one adds a 150% multiplier.** To reduce the inequity effect of the 150% multiplier, Betson proposes a gradual increase in the "duplicated costs" (by which he means the 150% multiplier is phased in instead of occurring all at once). However, if one does not add the multiplier to begin with, one does not need to use a complex formula to reduce its "cliff effect" impact.

There are numerous flaws with Betson's argument of adding a "150% Multiplier" to the total obligation, even if the multiplier is only "phased it":

1. **Adding a 150% multiplier is contrary to the scientific literature on the cost of child rearing.** The scientific literature has a wide range of views as to the cost of the child. However, using the example given by Betson, if the total combined obligation is $900 per month, this is assumed to be the total amount that was spent on the child prior to the divorce. Using the current economic table, and assuming the $900 includes child care and medical care, it is likely that this amount is about 20% of total family spending and/or total family net income. This makes total family net income of the Betson example about $4,500 per month. Divorce is often related to one parent losing their job. However, assuming that both parents retain their current employment, **the NULL hypothesis would be that their incomes would remain the same after divorce as it was before divorce**. All scientific research also confirms that their child related expenses would remain the same (at $900 a month). What would change is that the family would have to pay for two homes instead of one. Assuming equal shared parenting, as in the Betson example, each parent would get $450 of the $900 total obligation. Thus, the total amount spent on the child would remain the same even though the amount spent in each household would be cut in half. But even $450 per month is more than enough for each parent to meet the basic needs of the child, especially if each parent only cared for the child half the time.

2. **Adding a 150% multiplier requires a "ghost income" increase of 50%.** According to the scientific research on spending on children, the only way to increase the amount spent on the child 50% is to increase the combined income of both parents by 50%. Thus, adding a multiplier of 150% would raise the total combined obligation in the Betson example from $900 to $1350 per month. This in turn requires a 50% increase in the combined income of the parents.

Only those few parents who could increase their income 50% would be able to have shared parenting arrangements. (This is called the "Ghost Income" problem of the 150% multiplier because the 150% multiplier assumes a 50% increase in income). Thus, Betson is assuming an increase in income that does not exist.

3. **Adding a multiplier is contrary to Washington State law.** As discussed earlier, Washington State law requires that <u>the child support payment reflect the CURRENT income and standard of living of both parents</u>. Thus, if the child has two homes, and the parental income has not increased, all that is requires is that the shared parenting arrangement meet the basic needs of the child. This requirement is almost always met even if both parents suffer a drop in living as a result of divorce and the additional cost burden of a second house.

4. **A 150% multiplier is based on the assumption that the pre-divorce family standard of living can and/or should be maintained in both households after divorce.** It assumes that costs can be duplicated without lowering the standard of living. This is a false assumption. Nothing in Washington State law requires that the pre-divorce standard of living be maintained in either household. Nor does the scientific literature support this as a possibility. Instead, it is highly unlikely that the amount spent on the child can rise by 50% after divorce.

5. **Adding a multiplier increases the financial incentive for divorce**. One of the purposes of a residential credit is to equitably divide the cost of child rearing between the parents. Adding a multiplier artificially raises the cost of child rearing thus continuing the financial incentive for a higher time parent to seek a divorce.

6. **If one were going to use a multiplier, one should use 50% rather than 150%**. Rogers argues that what matters after divorce is not the total combined income, but rather the average of the two incomes. As Rogers (2005) has correctly observed, "***The average income is the maximum standard of living that can be sustained in both households***". Put another way, while before divorce each parent had access to the full 100% of combined income, after divorce each parent only has access to about 50% of the combined income. Thus, if there is to be parity between parents to minimize conflict between parents, then both parents should experience a 50% drop in their standard of living after divorce (and the child will also experience a 50% drop in their standard of living at both households). Thus, the multiplier should be 0.5, not 1.5.

If a multiplier is to be used to represent the true economic situation after divorce, <u>the multiplier should be 50%, not 150%.</u> However, a more honest solution is to simply reduce the economic table to the 15% flat rate we have proposed for "actual child costs", and then not use any multiplier at all. Even if the current table is retained (i.e., adopting the status quo option), it would still be more equitable to use the straight line cross credit calculation. In other words, <u>the cross credit calculation yields the most equitable result regardless of the economic table it is used with.</u> Thus, the use of a multiplier cannot be justified by any economic argument.

<u>Betson's proposal to add a minimum threshold to qualify for a residential credit.</u>
On page 5 Betson next assumes that there will be a 35% threshold stating: "*I have assumed that a parent must spend at least 35% of the overnights for the case to be considered a shared parenting situation.*"

There are numerous flaws with this assumption of adding a 35% minimum threshold. The first is that it assumes that a lower time parent does not incur any direct expenses for the child until they reach the 35% threshold. Clearly this assumption is not correct. Instead, it is known that nearly all lower time parents incur direct costs associated with caring for the child during their time with the child. According to all three studies done on this subject, <u>at about 20% of the time, the majority of lower time parents are paying for a bedroom</u> for the child in addition to food and clothing. Thus, their direct child related costs are nearly identical to the higher time parent on a per month basis and substantially higher than the costs of the higher time parent on a per day basis. This is because the father pays for the extra room even on days when the child is not there.

Thus, the less time the child spends at a household, the greater the per day cost is to that household. Therefore, if anything, parents who spend only 20% of their time with the children should receive **a HIGHER credit on a per day basis** than parents who spend 40% or 60% of their time caring for the child. Put another way, parents who spend little time with their children are automatically penalized by incurred child related expenses even though the child is rarely there. Thus, there is no scientific basis for a threshold above 20%.

Third, the higher the threshold is, the greater the "cliff effect" of the threshold. On page 10, Dr. Betson complains that the cross credit approach has a cliff effect, such that adding or subtracting one night to put it over or under a 35% threshold will save or cost one of the parents over $1,000.00. On Page 17, Dr. Betson notes that there is a 50% reduction in the NCP support obligation if the parents have equal incomes and the threshold is set at 35% of overnights. He then notes that this reduction rises to 67% if the threshold is raised to 40% of overnights. In response to this cliff effect problemof a 35% threshold, on page 11, **Dr. Betson proposes that the threshold for a residential credit begin at <u>14.3 % of overnights</u>.** He explains that a 14% threshold would reduce the cliff effect which would exist if the threshold were at 35% of overnights.

The fourth problem of arbitrary thresholds is that they lead to conflict and gamesmanship between the parents wherein each is seeking a financial advantage. This conflict can only be reduced if nearly all parents with residential time receive a credit for direct costs incurred during their residential time. This conflict is reduced by lowering the threshold and increased by raising it. The whole point of residential credits is to treat all parents as equally as possible and to eliminate any distinction between parents in order to reduce conflict between parents after divorce.

Betson's comments on Other States Treatment of Shared Parenting

On page 7, Betson begins to comment on other States treatment of Shared Parenting. Just before this section, he claims: "*Once these modifications have been made to the (Indiana) Court of Appeals method of computing obligations in the shared parenting situation, the approach is called Cross Crediting which was first proposed by Robert Williams of Policy Studies, INC.*"

This statement is inaccurate in two respects. First, Cross Crediting did not historically involve adding a 150% multiplier or require a 35% minimum threshold. Second, it was not first proposed by Robert Williams. Instead, the formula was in common use in the State of Washington as early as 1982. In fact, Robert Williams, the founder and owner of PSI, is every bit as much an opponent of shared parenting as Dr. Betson, who is commonly employed by PSI to advocate for their attempts to artificially raise child support payments.

It is therefore pure silliness to claim that Robert Williams was the first person to develop the concept of cross crediting. What Dr. Betson should have said is that Robert Williams was the first person to develop the concepts of "355 thresholds" and "150% multipliers" as artificial constructs intended to greatly reduce residential credits.

On page 11, Dr. Betson makes the claim that 10% of items, such as clothing costs, are paid exclusively by the custodial parent. On page 16, Dr. Betson supports this claim by noting, "*This is a reasonable assumption based upon Indiana Parenting Guidelines that stipulate that the child's clothes must travel with them.*" There is no evidence to support either of these assumptions. In fact, it is more likely that the clothing costs will be paid for by the parent with the higher income or alternately that each parent will pay for clothing for the child to use at their home.

It is silly to assume that any clothes other than the clothes on the child's back will come with them. My daughter, who is 8, has a whole closet full of clothes at <u>both</u> households. She could not possibly travel to school (where most transfers occur) with all her clothes. In addition, parents have different tastes and standards in clothing. For example, I routinely allow my daughter to buy her own clothes while her mother does not. Thus my daughter has "girls clothes" to wear at our house and "boys clothes" to wear at her mothers house. In conclusion, the Betson method for calculating a residential credit is not supported by the scientific literature or Washington State law. Instead, a simple cross credit approach with no threshold and no multiplier offers the most equitable division of total child rearing costs.

<u>**An additional reason for a 20% minimum threshold:**</u>

In addition to an economic justification for a 20% minimum threshold, there is a strong child developmental justification for a 20% minimum threshold. The child development research is clear that children are severely harmed by the loss of either parent after divorce. Thus, a child has an emotional need to retain a significant relationship with each parent. Briefly described in the Parenting Act, under "parental functions", both parents have an "<u>emotional obligation</u>" to the child's developmental wellbeing, just as they both have a <u>financial obligation</u> to the child's wellbeing.

Unfortunately, some parents do actually drop out of the child's life after divorce. This places a huge emotional and financial strain on the remaining "single" parent and on the child. A minimum 20% threshold for a residential credit may be in the best interest of the child's emotional development if it were used for the purpose of encouraging both parents to remain in the child's life and/or discouraging parents from dropping out of the child's life (or in other words, used to penalize parents who failed to spend the minimum time needed with their children). It can also be viewed as a financial reward for doing the right thing or simply as compensation for direct expenses incurred by the lower time parent while they are caring for the child.

Such a threshold would need <u>to include the standard visitation schedule that has existed in the past,</u> so that most lower time parents who continue to stay involved in their child's life would be financially compensated for the direct expenses they incur. This common visitation schedule sadly is only "every other weekend", or about 5 days a month, or about 60 days per year. Adding a two week vacation in the summer (also common) results in a minimum visitation schedule of 20%. Less than half of all lower time parents even have this schedule (which is hated by lower time parents for fairly good reasons in that it is difficult to maintain their relationship with their child during such short periods of time).

In addition, the research in this area confirms that once the child spends 20% of their time at the lower time parents house, the majority of those lower time parents pay for the child to have their own bedroom at the lower time parents house. This is significant for two reasons. First, this is a huge expense for the lower time parent and places their monthly direct child costs on a par with the higher time parent.

But more important, from a child developmental standpoint, it is extremely important to the child to have their own bedroom at both houses. It is not merely time spent with the parent, but a sense of place and ownership that assists the child into trusting that they have an ongoing "secure base" with both parents. The child's bedroom is a significant physical symbol to the child that the child has a permanent ongoing relationship with each parent that is there even if the child is at the other parent's house and that there will be a familiar place that belongs to the child and will be waiting for the child when the child returns.

An important advance during the past few years has been the increased use of "extended weekend" schedules wherein the lower time parent cares for the child every other weekend from the release of school on Fridays until the start of school on Mondays (or the start of school on Tuesday if it is a three day weekend). Such an extended schedule should help to improve the quality of the relationship between the lower time parent and the child without reducing the amount of quality time the child spends with the higher time parent on the other alternating weekend. This new schedule also greatly reduces the number of direct transfers between parents. Such a schedule, should it become more common, would result in the lower time parent caring for the child about 7 days per month or 84 days per year or about 24% of the time.

Nevertheless, it is reasonable to assume that if the lower time parent spends less than 20% of their time with the child (less than 70 days per year), the child's emotional development will be harmed. It is also likely that the lower time parent will not pay for the child to have their own bedroom at the lower time parent's house. Therefore setting a residential credit threshold of 20% will hopefully increase the likelihood that the lower time parent will continue to spend at least 20% of their time with the child and will pay for the child to have their own bedroom at the lower time parent's house in order to maintain their relationship with the child. Such a policy would also insure that the higher time parent would get some brief emotional breaks from caring for the child.

In conclusion, a 20% minimum time threshold can be justified for child developmental reasons as being in the best interest of the child, as well as supported for economic reasons. However, a 150% multiplier cannot be justified for any reason.

For more examples of how a straight line residential credit would be calculated in a variety of time and income situations, see Spring (2008) Analysis of Child Support Issues submitted to the work group in January 2008.

For a more detailed discussion of the accounting errors introduced by using multipliers and thresholds to determine residential credits, see Rogers, R.M., (2006) A Brief Economic Critique of North Carolina's Child Support Guidelines, pages 33-38). Cost Shares Website, www.guidelineeconomics.com (Also posted on the Child Support Research library as described in Section 4 of this Addendum).

Public Policy Questions discussed by the Residential Credit Sub-committee:
(based upon a one hour conference phone call on March 24, 2008)

1. **Will a parenting plan or residential schedule be required to get an Residential Credit?**

The sub-committee agreed that since the residential credit is determined based upon the residential time in the parenting plan, and since the legislature strongly favors parenting plans, that a parenting plan with a specific residential schedule should be required for the lower time parent to receive a residential credit and that the percentage of time as determined by the court-ordered residential schedule would be the basis for the determination of the residential credit.

2. **Should the adjustment be permissive or presumptive?**
   The subcommittee was unable to agree on this issue.
   Advantages of making the residential credit presumptive include:
   - Making awards more predictable and uniform therefore reducing the number of contested cases.
   - Reducing the number of deviations thereby making the federal government less concerned about the high number of deviations in our State.
   - Insuring that child support awards treat both parents fairly and equitably.

   Advantages of making the residential credit permissive include:
   * Giving judges greater flexibility in setting child support awards.

3. **What if the parents are low-income?**

The subcommittee agreed that If a low-income adjustment (SSR) is applied for the obligor, the Residential Credit cannot be applied. However, given that full time minimum wage would normally be imputed to all parents, this situation should rarely occur.

4. **What if the primary residential parent is on TANF?**

The subcommittee agreed that a residential credit would not be permitted if the primary residential parent is receiving TANF. The TANF income threshold is currently $440 per month including child support. However, given the assumption that full time minimum wage would normally be imputed to all parents, this situation should rarely occur.

5. **What will the definition of shared parenting time be?**

There was general agreement that there should be some minimum threshold. However, there was not agreement as to what the threshold should be. It was noted that the higher the threshold was, the greater the "cliff effect" would be around the threshold and therefore the greater the potential would be for conflict between parents as they may try to increase or decrease the time around the threshold.

An option suggested by David Spring would be 20% of the total residential time as this would include most lower time parents who pay for a separate bedroom for the child, according to the three studies done on this issue. Since these parents incur direct costs that are similar to the higher time parents cost on a per month basis and are much greater than the higher time parents cost on a per day basis, the equitable standard of State law would seem to mandate a residential credit for such parents.

Dr. Betson has proposed a 15% threshold which is apparently used in the State of Indiana. Michelle noted that a child support computer program commonly used in Washington State automatically calculates a residential credit for any time over 25%. However Alvin noted that some trial courts refuse to give a residential credit even for 35% of the time. Alvin supported a 10% threshold. Thus, the threshold range in the sub-committee was from a low of 10% to a high of 25%.

The following chart converts these percentages to number of days the child spends in the lower time parent's household:

%	# days per year (or per month)	Example of lower time parent's (LTP) residential schedule to meet this threshold
10	36 (3)	LTP cares for child during 5 weeks of 10 week summer vacation, but not at all during school year due to large distance between parents households.
15	54 (4 ½)	LTP cares for child every other weekend. (SAT/SUN)
20	72 (6)	LTP care for the child every other extended weekend (FRIDAY PM to MONDAY AM).
25	90 (7 ½)	LTP cares for the child every other weekend plus half of the summer.

6. Which residential credit formula is most equitable?

Michelle expressed a preference for Dr. Betson's formula which includes a phased in 150% multiplier. David and Alvin expressed a preference for a straight line credit formula without a 150% multiplier. We all agreed that there should be a work group monthly meeting (preferably the April meeting) devoted to the issue of residential credits, and at that meeting, proponents of each method (and any other method endorsed by one or more work group members) be given 30 to 60 minutes to explain the benefits of their model, and the drawbacks of competing formulas to the work group.

7. What happens with the other child support expenses like child care, medical expenses, etc?

There was general agreement that additional child-rearing expenses like child care, health insurance, etc are still prorated based on income and there should be no additional weight based on the time split between the parents. In addition, medical costs of either parent should be included in the total medical costs. Also child care costs of either parent should be included in the total child care costs.

An additional public policy question not yet discussed by the Residential Credit Sub-committee:

How to address changes in the residential schedule and residential credit over time?

A frequent concern is how to adjust the residential credit if a parent does not take full advantage of their residential time with the child and therefore incurs less or no direct costs caring for the child.

There are two primary concerns. First, the lower time parent might seek a residential credit purely to lower the transfer payment and then not actually spend time with the child. Second, the higher time parent might use some tactic to drive the lower time parent out of the child's life, such as by voluntarily relocating the child a thousand miles away from the lower time parent. Some language is needed to reduce either parent from using the residential credit for their personal financial gain and to increase the chances that the child's important relationships with both parents will be continued after divorce. The following language is proposed by David Spring.

Either parent may seek an adjustment to increase or decrease the residential credit based upon providing evidence of a substantial change in circumstances to the court. The court shall make a written finding as to which parent was primarily responsible for the change in circumstances. If the court finds that the obligor parent failed to take full advantage of their residential time with the child, the court shall reduce the residential credit to the credit the parent would have received based upon the time actually spent caring for the child. If the court finds that actions of the higher time parent , such as voluntarily relocating the child so far away from the lower time parent as to make the prior residential schedule impractical, then the prior residential credit shall be retained. In cases where both parents or neither parent was primarily responsible for the change in residential schedule, the court will make an equitable determination on a case by case basis.

Three examples of changing the residential credit over time:

<u>Example One: Lower time parent fails to use residential time with child:</u>
The parents agree to a schedule whereby the lower time parent cares for the child every other weekend from the release of school on Thursday to the release of school on Monday during the school year plus 50% of school holidays and summer vacation. For the sake of argument, assume that this schedule is 30% of the total time, and that there is a minimum threshold of 20% of residential time required to receive a credit.

However, the lower time parent's work schedule does not permit them to care for the child on Fridays or Sunday nights or any school vacations or any time during the summer. For example, the lower time parent's employer requires the lower time parent to fly to Asia for the entire summer. The higher time parent files a motion to adjust the child support order and provides the court with evidence in the form of a contemporaneous calendar showing the actual times the lower time parent had cared for the child in the preceding year. If the court makes a written finding that the lower time parent's time with the child has fallen below the 20% threshold, then the residential credit is eliminated. However, should the lower time parent's work schedule change such that they are able to take full advantage of the residential credit during the following year, they may later file a motion to restore the residential credit.

<u>Example Two: Higher time parent relocates child away from lower time parent:</u>
The parents agree to a schedule whereby the lower time parent cares for the child every other weekend from the release of school on Thursday to the release of school on Monday during the school year plus 50% of school holidays and summer vacation. For the sake of argument, assume that this schedule is 30% of the total time, and that there is a minimum threshold of 20% of residential time required to receive a credit.

However, the higher time parent files a Notice of Intent to relocate the child per RCW 26.09.430 and the lower time parent files a timely objection to the relocation. After a trial per RCW 26.09.520, the court permits a relocation and amends the residential schedule in the parenting plan such that the lower time parent now only cares for the child 20% of the time, mainly during summer vacation. The residential credit would be retained at 30% because the actions of the higher time parent led to the change in the residential schedule. However, should the lower time parent fail to take advantage of their residential time during the summer, then the higher time parent may later seek to have the residential credit eliminated.

Example Three: How to resolve cases wherein both parents may have contributed to the reduction in time for the lower time parent?
In some cases, such as the case of the million dollar mom, it may not be clear which parent was primarily responsible for the change in the residential schedule. In the case of the million dollar mom, wherein she filed for a petition to modify the residential schedule based upon the dad's "emotional abuse" of the child, the court may find that putting the child in time-out for hitting another child was not emotional abuse and thus, the dad had not abused the child and therefore retain the residential credit even though the mom had succeeded in driving the dad out of the child's life. Alternately the court may agree with the mom and find the dad had abused the child and therefore eliminate the residential credit.

In all three cases, the policy should discourage either parent from attempting to use the credit for financial gain. And the court may use the residential credit to help foster the child's ongoing relationships with both parents after divorce per RCW 26.09.002.

Section 4…. Deciding who has misrepresented source documents

At the February Child Support meeting, one of the Work Group members claimed that I misrepresented source documents used in my January Analysis and/or my February Addendum. This person did not provide a single specific example to support her allegation. However she cautioned the work group to read the source documents used in my January Analysis and February Addendum before reaching any conclusions as to their meaning. While I did my best to accurately quote the more than one hundred articles and studies I cited in the January Analysis and February Addendum, I too think it would be useful for Work Group members to read the source documents and decide for themselves who has or has not been fully honest in the course of this debate.

Contrary to the opposing side, I have provided several specific examples wherein Dr. Betson misrepresented various important sources. These examples included:

1.   **Betson misrepresented the authors of the Florida State (2004) study**. Dr. Betson claimed at the December 2007 meeting that this study replicated his method, when in fact the Florida State authors used a marginal Engel method instead of the Betson per capita method. These authors also specifically commented on, refuted and rejected the Betson Per Capita Engel method.

2.   **Betson misrepresented the Rogers Cost Shares Website.** At the November meeting, Dr. Betson claimed that Rogers "guaranteed" to lower child support payments when in fact Rogers specifically stated that there were no guarantees.

3.   **Betson misrepresented the Lazear and Michael (1988) child cost estimate**. In Betson's 1990 study, on page 194, Betson claimed that Lazear and Michael reported a total child cost of 19%. In fact, what Lazear and Michael really reported was a total child cost of 16%. Had Betson reported the correct result, he would have been forced to admit that his own result of 25% was "statistically different" from the Lazear and Michael result of 16% and therefore he would have has to explain why they were different (namely that Lazear used a marginal method while Betson used a per capita method).

4.   **Betson misrepresented Deaton & Muelllbaur's (1986) "lower bound" conclusion**. Dr. Betson has repeatedly used the Deaton study to claim that Deaton supported Betson's Rothbarth method as a "lower bounds." In fact, what Deaton really concluded was that his own Rothbarth result of **11% was a lower bounds.** Deaton was simply noting that it was likely that **children cost more than 11% of family spending and thus that "11% is a lower bounds."** It is extremely misleading to claim that a Betson Rothbarth result of 25% of total family spending is somehow supported by a study that concluded that one child is 11% of total family spending. It is even more misleading to refer to the Betson Rothbarth estimate of 25% as a "lower bounds" when numerous prior studies had gotten results ranging from 11% to 20%. Instead of being a lower bounds, it would be more accurate to describe the Betson Rothbarth per capita result of 25% as being one of the **highest** estimates of child rearing costs ever claimed.

5.   **Betson misrepresented Bassi & Barnow's (1993) "lower bound" conclusion.** Dr. Betson and PSI have repeatedly used the Bassi and Barnow study as a second source to claim that the Betson Rothbarth result of 25% was a "lower bound." However, while Bassi and Barnow used the Betson Engel 1990 per capita estimate of 33% for an upper bounds, they specifically chose the Lazear Rothbarth 1988 marginal estimate of 16% for a "lower bounds." Subtracting 3% for child care and health care leaves an Economic Table cost of 13% for a lower bounds (see Bassi and Barnow, pages 484-485).

It is disturbing (and highly ironic) that some work group members can allege, without providing any specific examples, that I have somehow mis-reported results, while at the same time these same individuals continue to ignore the numerous specific examples of Dr. Betson mis-representation of data. I therefore challenge those who have made allegations against me to either offer examples to support those allegations or to formally apologize for having made false and irresponsible allegations against me.

At the same time, I would like to make it easier for all Work group members as well as the general public to verify the accuracy of my claims about Dr. Betson and the inaccuracy of Dr, Betson's many claims. I have therefore compiled the following reading list of 13 studies and articles confirming my claims. While all of these articles and studies are open for educational, non-commercial use, some of them can be difficult to obtain. I have thus posted PDF's of several of the most important source documents on the Washington Shared Parenting website (www.WashingtonSharedParenting.com) so that work group members and members of the public can download and read these source documents and decide for themselves who is or is not accurately reporting these studies.

In addition, I am offering to assist any interested parties in obtaining any other source documents that I have referred to in my January Analysis or February Addendum. I am confident that an independent review of these source documents will confirm that I correctly quoted and represented their conclusions.

These are 13 of the more than one hundred source documents I have cited, listed in relative order of importance, with a brief comment on each:
McCaleb, T.S., Macpherson, D.A., & Norrbin, S.C., (2004) *Review and Update of Florida's Child Support Guidelines*, Report to the Florida State Legislature, Florida State University Department of Economics, Tallahassee, Florida.
The Florida State authors compared their marginal Engel result to the Betson-Per Capita Engel result using the same data set and found that merely changing from their marginal method to Betson's per capita method raised the child cost estimate dramatically with no change in the underlying data.

Regarding the Betson per capita adjustment, the Florida State authors noted on page 34:
*Following Espenshade, (the Florida State study) uses the log of total family expenditures and its square and the log of family size to control for total family spending and economies of scale. The Betson model uses the log of **per capita** family expenditures and its square and the log of family size to control for total family spending and economies of scale. There does not appear to be any substantive economic rationale for choosing one of these specifications over the other, but this **difference in specification seems to be driving the differences in estimates.**

Rogers, R.M., (2007) Cost Shares Website, www.guidelineeconomics.com.
This website is loaded with studies refuting Dr. Betson's assumptions and methods. Most relevant to the March Addendum topic of residential credits is *Rogers, R.M., (2006) A Brief Economic Critique of North Carolina's Child Support Guidelines, pages 33-38).* Thus, this article has been posted in the Child Support Research library now available at WashingtonSharedParenting.com.

Lazear E. P. & Michael, R.T. (1988) *Allocation of Income within the Household*, Chicago: University of Chicago Press. Unfortunately, this book does not exist as a PDF. I obtained a copy of the book through the University of Washington library and quoted the book exactly in the February Addendum. The Lazear result of 16% is also correctly quoted on pages 484 – 485 of the Bassi and Barnow (1993) study which is available as a PDF and has been posted as part of the Child Support "Source Documents" Reading library. Betson misquoted the result as being 19% on page 194 of his 1990 study.

Deaton, A. & Muellbaur, J. (1986) On Measuring Child Costs: With Application to Poor Counties, *Journal of Political Economy*, 94 (4) 720 – 44.
This study concluded that a Deaton Rothbarth estimate of 11% of total family spending was a "lower bound." Betson later turned this result on its head by claiming that his Betson Rothbarth per capita result of 25% was a lower bound. The Deaton article is very short (only 24 pages). It is therefore pretty easy to read and decide for yourself what Deaton actual meant.

Bassi, L. J. & Barnow, B.S., (1993). Expenditures on children and child support guidelines, *Journal of Policy Analysis and Management* 12 (3) 478-497.
This study concluded that a Lazear & Michael marginal Rothbarth estimate of 16% of total family spending was a "lower bounds." Subtracting 3% for child care and health care yields an Economic Table lower bounds of 13%. Betson and PSI have since turned this result on its head by claiming that the Betson Rothbarth per capita estimate of 25% was a "lower bounds." See Bassi and Barnow, pages 484-485.

Pearce, D. (2006) Self Sufficiency Standard for Washington State, Center for Women's Welfare, School of Social Work , University of Washington.
This study is a bottom up county by county comparison of child costs in Washington State. This study was one of the six sources selected as the basis of determining that one child is 20% of total family spending (supporting an Economic Table "upper bounds" of 15%). (note that the current Economic Table Upper bounds is about 20% and Betson proposes to raise the Lower Bounds to 25% and the Upper Bounds to 30%).

Reyes-Morales, S.E. (2003) Characteristics of Complete and Intermittent Responders in the Consumer Expenditure Quarterly Interview Survey, *Consumer Expenditure Survey Anthology*, 25-29. This study confirmed that incomplete responders to the CEX have different characteristics from complete responders. This study also confirmed that the CEX contacts more than 20,000 families every year. Thus, Dr. Betson's 6 year sample referred to in the 2006 Oregon PSI report was over 120,000 family units from which Betson eliminated all but 11,000 extremely stable and wealthy families on which he based his results.

Fabricius and Braver (2003) Non-Child Support Expenditures on Children by Non-residential Divorced Fathers, *Family Court Review*, Vol. 41
This study confirmed that child costs on a per day basis in the lower time parent's house are similar to or greater than child costs per day in higher time parents house.

Henman, P. and Mitchell, K., *(2001)* Estimating the Costs of Contact for non-residential parents: A budget standards approach, *Journal of Social Policy*, 30 (3) 495–520
This study also confirmed that child costs on a per day basis in the lower time parents house are similar to or greater than per day child costs in higher time parents house.

Kuhn, R. & Guidubaldi, (1997) "Child Custody Policies and Divorce Rates in the United States", Paper presented at the 11th National Conference of the Children's Rights Council, Washington, D.C.
This study confirmed that child custody policies, and by extension child support policies, have a direct effect on divorce rates. Thus, policies which favor one parent over the other are harmful to children in that such policies encourage divorces.

Bradshaw, J. & Skinner, C. (2000) Child Support: The British Fiasco, *IRP Focus*, 21 (1) 80-86.
 This study was quoted extensively in the February 2008 Addendum. It offers solutions that are highly applicable to child support problems in the US.

Baskerville, S. (2008) From Welfare State to Police State, *The Independent Review*, 12 (3) 401-422.
This article described numerous problems with child support policies in the US.

Wilson, K.C., (2003) The Multiple Scandals of Child Support, Second Edition, Richmond, VA: Harbinger Press.
This article also described numerous problems with child support policies in the US.

Section 5: Van Der Gaag's (1982) 17% estimate was also based in part upon a "per capita" method.

In the early 1980's, Van der Gaag and associates conducted a study and wrote a series of articles, including one book, on estimating the cost of children. Similar to Spring (2008), Van der Gaag analyzed several indirect (top down proxy) estimates of child cost and compared these to several direct (bottom up) cost estimates. The following conclusions are taken from his book [15] and one of his later articles. [16]

Van der Gaag's writings are historically important because they were the basis for the State of Wisconsin adopting a 17% Flat Rate Table which is still being used in many States today. In the 1982 book and article, Van der Gaag summarized 11 Child Cost studies conducted between 1950 to 1982. Unfortunately, on page 92 of the article, the chart Van der Gaag created used a misleading column labeled "Percent of Increase needed." This term meant the percent increase needed for one child in comparison to the amount spent by a childless intact couple with no children. This percentage is misleading because all current economic studies and tables refer to the "percentage of spending on one child in comparison to total intact family spending by a couple with one child." As is explained below, the chart employs a math trick which artificially inflates the percentage cost of child rearing.

Van der Gaag did clarify this issue in the text of his paper. But if one only looks at the chart, one might assume the percent of cost for one child was much higher than it actually was. In the text of his article, Van der Gaag used the example of a childless couple that spent $12,000 annually. His estimate (discussed in more detail below) was that the cost of a single child was **25%** more than this amount for the childless couple or $3,000. Converting this into the modern standard would be done by taking the total expenses of the intact family with one child ($12,000 + $3,000 = $15,000) and dividing this by the estimated cost of the child ($3,000) = **an estimate that the child costs 20% of total intact family spending**. This 20% of total family spending is identical to the conclusion of the six methods used by Spring (2008) for the total cost of one child.

However, the Economic Table cost estimates are different in that the Spring result was for 2007 wherein the estimate of child care and health care is **5%** of total family spending. Thus, the Spring (2008) result converts into an Economic Table estimate of 15% of combined family income. The Van der Gaag study was based primarily on 1970's studies wherein the estimate of child care and health care costs were **3%** of total family spending (see the Spring February 2008 Addendum for more detailed analysis of this issue). Thus, **the Van der Gaag Table estimate for his 1982 study was 20% minus 3% = 17%. This was likely the reason <u>the Wisconsin legislature subsequently chose 17% for their flat rate Economic Table.</u>**

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[15] Van der Gaag, J. (1982) On Measuring the Cost of Children, Institute for Research on Poverty (IRP) Special Report 32C, Child Support Technical Papers, Volume 3, University of Wisconsin, Madison 1-152.

[16] Van der Gaag, J. (1982) On Measuring the Cost of Children, Children and Youth Services Review, 4 (1-2) 77-109.

Looking back on Van der Gaag's study, he did an admirable job of summarizing the historical literature. One criticism is that while he acknowledged the fact that Engel methods drastically over-estimated the cost of child rearing, he made no effort to calculate the degree of over-estimation. And he later used the Espenshade Engel (per capita) estimate of 32% to artificially inflate his result as is discussed below.

On the plus side, he listed two direct cost estimation studies done during the 1970's. These were Kapteyn & Van Praag (1976) [17] and Goedhart et al., (1977). [18] The average of these two studies was 15% additional cost above spending by a childless couple. This converts into 12% for a total child cost compared to total intact family with one child spending. Subtracting 2% for child care and health care for the early 1970's yields an estimated Economic Table cost of about 10% for that time period. This result was nearly identical to child support awards in this time period, thus refuting the claims made by Eden and Weitzman in the late 1970's that child support awards were too low.

Van der Gaag also cited a study that he and Smolensky had just completed. [19] This study, based upon a "constant utility function" concluded that child costs averaged 18% above the cost for a childless couple. **Van der Gaag's childless couple result of 18% converts into a child cost <u>as a percent of total intact family with one child spending</u> of 15% and an economic table estimate of 15% - 3% = 12%.**

Van der Gaag then used a second math trick to further inflate his cost estimate. He took his own 18% (above a childless couple) estimate and averaged it with the Espenshade Engel (per capita) estimate of 32% and split the difference to arrive at his final estimate of 25% above the childless couple cost. (see Van der Gaag article, 1982, page 90). This second math trick was even more troubling than the first in that Van der Gaag had just spent several pages describing why per capita methods in general, and the Engel method in particular, over-estimated child rearing costs. Thus, he was fully aware that the Espenshade Engel estimate was too high, but he used it anyway in order to artificially raise his result.

Had he simply used the result of his own study, **Van der Gaag's childless couple result of 18% converts into a child cost <u>as a percent of total intact family with one child</u> spending of 15%.** Subtracting 3% for child care and health care for the late 1970's, this result converts to an Economic Table cost of 12%. Therefore **the Wisconsin State legislature should have used an estimate of 12% for their Economic Table estimate.** This is truly sad because all the later States simply relied upon the claim that Van der Gaag's estimate was 17%, when in fact, **<u>the Van der Gaag study actually supported an Economic Table estimate of 12%.</u>**

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[17] Kapteyn, A. & Van Praag, B. (1976) A new approach to the construction of family equivalence scales, European Economic Review, 7 313-335.
[18] Goedhart, T., Halberstadt, V., Kapteyn, A., & Van Praag, B. (1977) The poverty line: concept and measurements. Journal of Human Resources. 12, 503-520.
[19] Van Der Gaag, J. & Smolensky, E., True household equivalence scales and characteristics of the poor in the US. (unpublished?).

I hate to sound like a broken record, but as was the case with many other studies:
1. Van Der Gaag knew that child costs were 10% to 15% of total family spending.
2. The author then hid this fact by using a very subtle math trick (% of childless couple spending) to artificially raise the estimate listed in his Table (in this case to 18%).
3. The author next used "splitting the difference" with a "per capita" method (Espenshade's 32% Engel estimate) to artificially further raise the cost of the child (in this case to 25%), even though the author had just got done admitting that the Engel method always greatly over-stated the cost of a child.
4. Thus, Van der Gaag's 17% flat rate cost estimate is as much "per capita" nonsense as anything put forward by Eden, Shellan, Weitzman, Williams or Betson.

It is troubling that so many studies have at their source per capita estimates that were known to be false yet were used anyway to artificially inflate otherwise credible child cost estimates. Equally troubling is what the State of Wisconsin did with Van der Gaag's 17% estimate. In a 1983 letter [20], the standard was initially explained to be based upon **17% of GROSS income** (see page 4). This converts into about 12% of net income, which likely was close to actual existing orders in the early 1980's. It was further explained to be the obligation of a completely "absent parent." Thus, there was assumed to be no residential time. In cases where there was residential time, the initial model provided for a simple cross credit calculation (see page 5 of the 1983 letter) similar to that used by the State of Washington in the 1980's and as described by Spring, 2008. Apparently over time, the 17% rate was changed from per cent of gross to percent of net (thus raising the rate without any change in underlying data). In addition, the residential credit was eliminated (further raising the rate without any change in the data). Today, the current Washington State Child Support Work Group faces a similar choice in that we are once again being asked to raise the rate even though there has been no change in the underlying data for more than 40 years.

There are currently three choices available to this work group. The first choice is the Betson Rothbarth per capita estimate of 25% for one child. This result might be politically popular as the general public might see any increases in child support rates as "benefiting the children of divorce." However, there are no credible scientific studies supporting this estimate.

The second choice is the Spring (2008) Economic Table estimate that the <u>maximum</u> single child cost, excluding child care and health care, is 15%. Adding 5% for child care and health care results in an estimated total child support obligation for one child of 20%. This result is supported by over a dozen credible scientific studies.

The third choice is to do what the legislature did in 1991 (and what Van der Gaag did in 1982) and split the difference between the 15% marginal estimate and Betson's 25% per capita estimate. This compromise between marginal and per capita estimates would retain the current Table estimate of about 20% which results in a total child obligations of about 25%. My hope is we will finally acknowledge that NCP's have been over-charged for the past 20 years and return to the marginal cost estimates of 10 to 15% that were the basis of child support orders before the Weitzman hysteria of the 1980's.

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[20] Reivitz, L. (1983) Percentage of Income Standards for Setting Child Support Awards, Memorandum to Members of the Wisconsin Judiciary, December 20, 1983 from Wisconsin Dept. of Health and Social Services.

Section 6… Evidence that Excessively High Child Support Orders Promote Divorce

The following is taken from the Analysis of Child Support Issues I submitted to the Work Group on January 5, 2008. I am sending it out in response to comments and concerns made at the February 2008 Child Support Work group meeting regarding whether excessively high child support payments might lead to higher divorce rates.

The two principal studies I was referring to are Kuhn and Guidubaldi, (1997) [21] and Willis (2004) [22]. The Willis study is presented as a chapter in the Comanor book cited in the Analysis (and that is where I read it was the Comanor book). However, the Chapter in the Comanor book was taken from an article in a peer reviewed scientific journal. There are at least three or four other studies I read on this topic over the past few years that I did not cite simply because I did not have time to look up the citations. But all studies have agreed that incentives (whatever they may be) do increase divorce rates.

The premise is that if child support rates are substantially greater than what parents spent on a child during marriage, and in particular if they were so high a CP could "retire" on the child support payment, there would be a financial incentive for the eventual CP to seek divorce. In this same manner, if child support payments were set too low, or imagine if they were not required at all, there would be a financial incentive for the eventual NCP to seek divorce (as they would be paying far less for the child after divorce than during marriage). This is why it is so important that child support rates be neither too high nor too low as either is harmful to the child.

I want to make it clear, that I am not saying (as some claimed at the February Work Group meeting) that financial incentives were always the main reason for seeking a divorce. Instead, I was merely referring to the fact that there currently is a financial incentive for CP's to seek divorce as child support payments are currently set much higher than couples typically spend on children during marriage. This incentive is readily apparent in the fact that mothers (eventual CP's) seek divorce at a rate which is twice the rate that fathers (eventual obliges) seek divorce. <u>We will know we have achieved equity in child support rates when the rate of fathers seeking divorce equals the rate of mothers seeking divorce.</u>

Naturally, some on the Work group may disagree with this position. For example, some referred to antidotal stories and personal experiences that the people they talked to seeking divorce never referred to the financial benefits of child support as a reason for seeking divorce. I would respond that <u>what people actually do is more important than what they say</u>.

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[21] Kuhn, R. & Guidubaldi, (1997) "Child Custody Policies and Divorce Rates in the United States", Paper presented at the 11th National Conference of the Children's Rights Council, Washington, D.C.

[22] Willis, R.J. (2004) Child Support and the Problem of Economic Incentives. In The Law and Economics of Child Support Payments, edited by W. S. Comanor, 31-59, Cheltenham, U.K.: Edward Elgar.

If the burden of child rearing were more equitably divided between the parents after divorce, and if residential time with the child was more evenly divided after divorce, then both parents would have a more equal incentive to work out their problems instead of filing for divorce. When the burden and consequences for divorce are placed almost entirely on the father, then the mother has far less incentive to work on the marriage and thus, mothers are twice as likely to file for divorce. According to a study published in the American Law and Economics Review, women currently file more than two-thirds of divorce cases in the US. [23]

In their study "Child Custody Policies and Divorce Rates in the US," Kuhn and Guidubaldi concluded that women anticipate advantages to being single, rather than remaining married. When women anticipate a clear <u>gender bias</u> in the courts regarding custody, they expect to be the primary residential parent for the children and the resulting financial child support, maintaining the marital residence, receiving half of all marital property, and gaining total freedom to establish new social relationships. In their detailed analysis of divorce rates, Kuhn and Guidubaldi conclude that acceptance of joint physical custody (shared parenting) may reduce divorce rates. *"**States whose family law policies, statutes, or judicial practice encourage joint custody have shown a greater decline in their divorce rates than those that favor sole custody**. **Put simply, when divorce becomes a less attractive alternative to marriage, we should expect less divorce.**"*

Child support should be about supporting the child. All too often, excessive child support winds up becoming "hidden alimony." However, RCW 26.09.001 expressly limits child support to the needs of the child, not the hidden support of the custodial parent. However, even if we believe that one child represents 20% of total family spending, then in the vast majority of cases where spending equals income, every increase of $1000 in income (such as raising the "cap" on child support payments of $1000 per month as has been proposed for very high wage earners) would result in only $200 actually going to the child. The remaining $800 per month would wind up being spent by the custodial parent on the custodial parent.

Thus, raising child support payments to the point that they are way beyond the needs of the child (in other words more than $1000 per month beyond the needs of the child) is a clear violation of RCW 26.09.001. Even if the $800 transfer from the NCP to the CP does not entirely support the CP, this is not the point. The NCP should only be expected to pay for their fair share of costs to support the child. They should not be expected to pay any of the expenses used solely for the CP and not at all related to the child. Anything beyond the expense of the child is a financial incentive for divorce even if it is not the primary reason for divorce.

Thus, my position (and Washington State law) is that child support payments should not be too low or too high. Instead, the total combined obligation should reflect what the parents likely spent on the child before divorce and also take into consideration the current financial circumstance of both parents after divorce.

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[23] Brinig, Margaret; Douglas W. Allen (2000). "These Boots Are Made for Walking: Why Most Divorce Filers are Women". *American Law and Economics Review* 2 (1): 126-129

As Kuhn and Guidubaldi concluded (FROM ANALYSIS, page 56-58):
Providing benefits to majority parents after divorce they do not have in marriage (high child support rates, guaranteed child care payments, guarantees health insurance payments, no need to consult with the other parent on financial decisions) may encourage divorces.

There is substantial evidence that increasing child support awards in fact increases divorces. First there has been a rise in the rate of divorces since child support awards were dramatically increased in the 1980's.

Second, States that have adopted Shared Parenting laws, including credits for shared parenting and associated reductions in child support, have seen dramatic decreases in divorce rates. States with high levels of joint physical custody have significantly lower divorce rates on average than other states. States that favored sole custody had more divorces involving children. These findings indicate that public policies promoting sole custody may be contributing to the high divorce rate. (Kuhn & Guidubaldi, 1997).

Third, it is known that mothers are twice as likely to file for divorce as fathers. In the present gender-biased judicial system, mothers receive "custody" of the child nearly 90% of the time despite the fact that numerous studies have shown that <u>both parents are equally capable of raising the child.</u> If judges awarded custody equally between parents, and if parents shared equally in raising the child and if the burden fell equally on both parents, one would expect that both parents would be equally likely to file for divorce. Clearly the fact that mothers file for divorce twice as often as dads is strong evidence that our current system is extremely biased in favor of mothers.

The Income shares model promotes divorce in that it requires that the level of spending and standard of living be maintained in the mother's household, but not in the father's household. The Income shares model <u>takes into account the income of both parents after divorce, but fails to consider the expenses of both parents after divorce.</u> Thus, fathers are financially penalized for divorce and mothers are not.

The doubling in child support rates in the late 1980's resulted in "windfalls to the custodial parents" (Christensen, 2001, page 66), many of whom are middle-class and upper-middle class divorcing women. Excessively high child support rates created an incentive to create more fatherless children, through either divorce or unwed childbearing. Current child support rates are so high that, according to a study by Robert Willis (2004), **less than one third of child support payments are actually spent on children;** the rest is profit for the custodial parent. Willis concluded that support levels **that greatly exceed the actual cost of child rearing have created** *"an incentive for divorce by the custodial mother"* **(page 42).**

As an example, let's suppose that extensive research confirms that the actual child cost in a median income intact family is $360 per month excluding child care and health care. Let's also assume that the family cannot afford child care during marriage and therefore each parent cares for the child while the other parent is at work. Let's also assume that the father's income is 20% greater than the mother's income Sterling (2003) confirmed that the median fathers income was $1800 per month and the median mother's income was just above minimum wage at $1500 per month..

Thus this example is pretty typical. Before the divorce costs are shared between parents according to their net incomes. Thus, the mother pays about $160 of the child cost each month and the dad pays about $200 of the $360 child cost.

Then after divorce, the mother insists on taking the child to the maternal grandmother's house for child care and demands $500 a month for child care while at the same time depriving the father of the right he used to have to care for the child while the mother was at work. Also, as the current economic table is set at doubled the actual cost of the child, the Table lists an estimated cost of $708 per month exclusive of child care. (As is explained in the February Addendum, the cost for the child over the age of 12 (Column B in the current Washington State Economic Table) is set almost entirely on the Eden 1977 per capita estimate which is double the marginal estimate for that time period). The total "estimated child expense listed on the mother's work sheet is $708 for the basic obligation plus $500 child care equals $1208. The father's share is 55% of this amount or about $665 per month. This is $465 more per month than the father paid before divorce on child rearing expenses. Meanwhile, the mother no longer pays anything for child rearing expenses as the dad is now forced to cover the full cost of the child. Adding tax benefits, the current financial incentive for divorce is over $600 per month for the typical mother.

Under the Betson Rothbarth model, the financial incentive for divorce would be even greater. The combined obligation would rise to $804 per month. The total support award would rise to $1304 per month. The dad's transfer payment would rise to $717 per month. Thus, the dad would be paying over $500 per month more in child costs per month than he paid while he was married. His remaining income would fall to $1100 per month, while the mom's income would rise to $1500 plus $717 = $2200 per month. Thus, the mom would now make twice what the dad made. Assuming the grandmother kicks back the $500 per month in child care payments, the mother's financial incentive to divorce equals $717 - $160 (what she used to pay for child costs)= $557 per month. Adding the tax credit pushes her financial incentive for divorce to over $700 per month. Of the father's $717 monthly payments, only $200 or 28% is actually spent on the child.

According to PHD Economist, Robert McNeely and legal scholar, Cynthia McNeely, *"This recent entitlement has led to the destruction of families by creating financial incentives to divorce"* (2004, page 170).

Kimberly Folse and Hugo Varela-Alvarez, also concluded that even if child support rates were set at an atypically low percentage of 17%, there would be an *"economic incentive for middle class women to seek divorce"* and thereby *"increasing the likelihood of divorce".* (2002, page 283 & 284).

Baskerville summarizes this incentive by stating *"A mother can simply escape the uncertainties, vicissitudes, and compromises inherent to a life shared with a working husband, by divorcing, whereupon the police function as a private collection agency who will force him, at gun point if necessary, to pay her the family income that she alone then controls"* (2008, page 413-414).

Section Seven: Grading the studies on costs of children

I recently served as a "science evaluator" at a Science Fair conducted at my daughter's Elementary School. There were over 120 Science Projects that the children had created. I was supposed to judge these projects based upon whether the children had followed the steps and decision making process of the Scientific method. All the students received awards for making their projects. However, if the students had followed all the steps of the scientific method (in other words, they had collected enough data that they actually proved their model and disproved the Null hypothesis), they were given a special medal for being a "Super Scientist." About 20 of the students received this award for doing an exceptional job on their projects. This was truly amazing as the average age of the children was only ten years old.

I personally interviewed many of the children. There were about equal numbers who had their mothers versus their fathers assist them with their projects (further evidence that fathers and mothers are about equally involved in their child's life).
Equally important, these children, for the most part, were able to understand the importance of the data in verifying their model.

This experience caused me to reflect on the various studies on child costs that have been done over the years. How many of these studies would qualify for a "Super Scientist" award? Sadly, the answer is not many. However, I would like to give out Super Scientist Awards to the following researchers who, in my opinion, did faithfully follow the dictates of the scientific method:

1. **Mark Rogers.. Cost Share Estimation method**… More than any other researcher, Mark Rogers has attempted to use all available data to accurately determine child costs using a bottom up methodology and to fairly divide this cost between parents. It is clear that Mark Rogers back ground is in Accounting, as he doggedly tracked down where ever dollar was spent. He also has a better understanding of the implications of the tax code than any other researcher. His estimate of 12% is much lower than my own estimate of 20%, but this is only because Rogers was determining a median cost while I was determining a maximum cost. In reviewing all of his estimates, the only area where I felt he had under-estimated costs was in food costs. But so did all the other researchers with the exception of Pearce (See page 172 of the January Analysis).

2. **Pearce and the Self Sufficiency Standard…** This researcher offered a unique window into child costs here in the State of Washington also using a bottom up methodology. The only area where I felt she had significantly under-estimated child costs was in the area of transportation (See page 172 of the January Analysis).

3. **McCaleb et al., (2004)** *Review and Update of Florida's Child Support Guidelines..* This group of researchers not ony did there own study of child costs, but they followed the important scientific protocol of analyzing and comparing their results with contrary results from other authors (by comparing their results to those of Dr. Betson). Their study, more than any other single study, refuted the Betson per capita methodology. The only real drawback of their study is that it was based upon an Engel estimation (which they admitted greatly overstates the cost of child rearing). They got a total Engel cost of about 22% which converts to a non-Engel cost of about 18% and an Economic Table cost of about 13%.

4. **Percival et al., (1999) Estimates of the costs of children in Australian families.** This study is an excellent example of applying the scientific method to the issue of child costs. It includes a pretty good review of existing methods and accurately concludes that the Rothbarth method is not valid. It therefore used the Engel method and compared this result to a version of the ISO-PROP method first developed by Watts. This study's conclusions were remarkably similar to the Rogers estimate which found child costs were between 10% to 12%. This study also did an excellent analysis of explained variation which was the basis for my claim in December 2007 that the Betson Rothbarth method would become invalid if all responders were included. The only reason I did not cite this study more often in the January Analysis and the February Addendum was that it used an Australian sample. Critics might therefore claim it could not be applied to an American population.

5. **Lazear & Michael, (1988)** *Allocation of Income within the Household*. These authors made an excellent case for not using per capita estimates. The only shortcoming of their methodology was an over-reliance on the Rothbarth method. However, their Rothbarth method was substantially different from the Betson Rothbarth method, which is seen in the fact that their total child cost was estimated at 19% while the Betson Rothbarth per capita method resulted in an estimated total child cost of 25%.

6. **Fabricius & Braver (2003) Non-Child Support Expenditures on Children by Non-residential Divorced Fathers…** These authors proved that both parents are likely to have comparable direct child costs if the lower time parent cares for the child more than 20% of the time. Therefore a residential credit is essential if child support awards are to be equitable to both parents.

7. **Kuhn & Guidubaldi (1997) "Child Custody Policies and Divorce Rates in the United States…** These authors proved that child custody policies do have at least an indirect effect on divorce rates. Thus, when policies provide incentives for divorce, divorce rates rise and when policies treat both parents more equitably, divorce rates fall.

Taken together, these seven authors have shown how the scientific method can produce reliable, objective, and unbiased results which in turn can be used to reach more informed decisions regarding child support issues. Therefore all seven would qualify for "Super Scientist" awards.

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