MINORITY REPORT ON THE ECONOMIC TABLE, December 2008

The following recommendation is written by David Spring, with the support of Work Group member Senator Jim Kastama. Other work group members who support some sections of this report include Senator Mike Carrell, Administrative Law Judge Robert Krabill, Alvin Hartley, Jason Doudt, Colleen Sachs and Angela Cuevas.

Regarding Issue 6:
Whether the estimated cost of child rearing, as reflected in the economic table, should be based on the Rothbarth estimate, the Engel estimator, or some other basis for calculating the cost of child rearing

The Betson-Rothbarth estimate suffers from several serious drawbacks. [1] It is based on using spending on adult clothing to estimate the cost of child rearing in intact families. Dr. Betson's own analysis of this method is that adult clothing purchases explain less than 10% of the variation in child rearing costs. [2] In plain English, this means **there is almost no relationship between spending on adult clothing and spending on children.** In order to try to create a relationship where no exists, Dr. Betson eliminated over 95% if the Consumer Expenditure Survey respondents (including all of incomplete responders) from his sample. [3] These exclusions led to extremely biased results which greatly inflated the Betson-Rothbarth estimate of the cost of child rearing in intact families.

Many PHD economists have criticized the Rothbarth method for being unreliable and invalid and have also reported an inconsistent relationship between spending on adult clothing and spending on children. For example, Bradbury (1994) reported that adult clothing expenditures (Rothbarth model) was only able to explain 1% of the variation in child spending. On page 133, Bradbury noted *"the estimates are still far from the precision required for policy applications… the large degree of variation in clothing expenditure meant that these were not statistically significant… the standard errors for all these estimates are quite large, and so it is difficult to make any strong inferences*." [4]
We therefore cannot support the Betson Rothbarth method as a basis for our Economic Table.

The Betson Engel method is based on using spending on food to estimate spending on children. The Engel method results in a percentage of explained variation that is much higher than the Rothbarth method. In his 1990 study, Dr. Betson estimated the explained variation to be about 50% and in their 2004 study, McCaleb et al. estimated the explained varation to be 68%. [5]
In plain English, this means there is a strong relationship between family spending on food and total spending on children.

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[1] See Spring, D (2008) Analysis of Child Rearing Costs, submitted to the Washington State Child Support Work Group, January 6, 2008, Section Three, pages 60 to 90 for a more detailed explanation of the drawbacks of the Betson Rothbarth method.

[2] Betson, D. (1990) Alternative Estimates of the Cost of Children From the 1980-86 Consumer Expenditure Survey, *Institute for Research on Poverty*, University of Wisconsin, Special Report No. 51. page 130.

[3] The exact number of exclusions is unknown because Dr. Betson refuses to release this information despite repeated requests from Work Group members that he disclose this information.

[4] Bradbury, B. 1994, Measuring the Cost of Children, *Australian Economic Papers*, June 1994, 120-138.

[5] 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, page 13.

Despite this relationship, the Betson Engel method still suffers from several series drawbacks. Like the Betson-Rothbarth method, Dr. Betson systematically eliminated over 95% of the Consumer Expenditure Report (CEX) reponders (including all of the incomplete responders) [6] in order to artificially drive up the cost of child rearing.
Dr. Betson also used a "Per Capita adjustment" with both his Rothbarth and Engel calculations. The "per capita" assumption is that children cost the same as adults. For example, if two adults live in a one bedroom apartment costing $800 per month and they move to a two bedroom apartment costing $1,000 per month, the marginal or additional cost of housing for the child would be $200 per month (or 20% of the total intact family housing cost). But the "per capita" estimate would be $1,000 divided by three people or $333 per month or 33% of the total family housing cost. Dozens of PHD Economists have severely criticized the "per capita" assumption as being a knowingly false means of driving up the cost of child rearing from about 20% to about 33% of total family costs. [7]
We therefore cannot support the Betson Engel method as it is known to have used many math tricks to artificially inflate the cost of child rearing.

In 2004, the Florida State legislature funded a study on child rearing costs conducted by three leading PHD economists from Florida State University (McCaleb et al, 2004). These three economists chose a "marginal Engel" method in part because of the high level of validity and reliability of this method (including a high percent of explained variation) and in part because the original Florida State Economic Table was base on a "marginal Engel" study on the cost of children conducted by Espenshade in 1984. [8]

The authors of the Florida State study specifically rejected the per capita adjustment in the Betson Engel method stating on page 34 of their report:
*Following Espenshade, we (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.***

The authors of the Florida State study also included incomplete responders in their "marginal-Engel" analysis. These two substantial differences between the Betson Engel Per Capita method and the Florida State Engel Marginal method (i.e., usage of a marginal adjustment factor and usage of a less biased sample) greatly increased the percentage of explained variation from about 50% to about 68%. This means the Florida State Engel method was more robust at explaining variations in family spending on children than the Betson Engel method.

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[6] Incomplete CEX responders tend to be up to 10 years younger and much poorer than complete responders. Because they have higher fixed expenses, they likely spend less on children. See Spring, D (2008) Analysis of Child Support Issues, submitted to the Washington State Child Support Work Group, January 6, 2008, Section Three, page 78 for a more detailed explanation of this subject.
[7] See Spring, D. (2008) Addendum to Analysis of Child Support Issues, pages 17 to 20 submitted to the Washington State Child Support Work Group on February 20, 2008 for a more detailed discussion of this topic.

[8] Espenshade, T. 1984, *Investing in Children: New Estimates of Parental Expenditures*, The Urban Institutes Press, Washington DC.

Because the Florida State 2004 study is still the most robust, reliable and statistically valid study on the cost of child rearing ever produced, **we recommend that the Washington State Legislature use the Florida State University method and adopt the associated Economic Table as the basis for revising our current Economic Table.**

Response to reasons given by other Work Group members for not endorsing the Florida State Table.

The primary reason given for not supporting the Florida State table was that it would not result in a substantial increase in child support awards over our current Economic Table. There was a persistent belief by many Work Group members that the Economic Table must be raised due to "inflation" since the original Table was adopted in 1990. There is no doubt that the absolute cost of raising a child has risen since 1990. However, the Economic Table adjust for increases in child costs because as income goes up, so does the amount for child support. What is relevant is not inflation, but whether the RATIO of child costs to total costs has gone up. Numerous studies have concluded that there has been no significant change in this ratio since 1990. For example, comparing Betson's 1990 studies of the per capita Engel and Rothbarth methods (using 1980 to 1987 CEX data) to his more recent studies using 1996 to 1998 CEX data confirms that during this 15 year span of time, **Betson found that total child cost rate had fallen slightly**. Ten studies from five different sources have all confirmed that there has been <u>no significant change in child rearing costs in more than 40 years.</u> [9]

Stability of Child Cost Estimates over Time

Study	Per Capita	Per Capita
Method >>>	Rothbarth Cost	Engel Cost
Beginning	25%	33%
Estimate yr	(Betson, 1990)	(Betson, 1990)
Ending	26%	30%
Estimate yr	(Betson, 2001)	(Betson, 2001)
Change	**<+ 1%>**	**<minus 3%>**
over time	**In 15 years**	
		In 15 years

Betson (1990) used 1980 to 1987 CEX data. Betson (2001) used 1996 to 1998 CEX data.

It is therefore disturbing that the very members of the Work Group most supportive of adopting one of Dr. Betson's tables are the same people who maintain that we need to change to his Tables due to "inflation" given that all of **Dr. Betson's studies have concluded that there has been no significant change in the cost of child rearing since 1990.** In short, these Work Group members are willing to endorse the portions the Dr. Betson's studies which support their pre-determined goal of raising the Economic Table, but they refuse to endorse the portions of Dr. Betson's studies that conclude there has been no change in the cost of child rearing since 1990.

A second criticism of the Florida State University Economic Table is that the Florida State Legislature never adopted the Florida State University Table. Given the failure of Work Group members to understand that the Economic Table is independent of inflation, it would not be surprising if members of the Florida State legislature suffered from a similar confusion. Many members of the Child Support Work Group has said publically that they were intent on raising

[9] See Spring, D. (2008) Addendum to Analysis of Child Support Issues, page 22 for a more detailed explanation of studies on the stability of child costs over time.

the Economic Table either because they belonged to groups intent on raising the Table or because they personally believed that the Economic Table should be raised. No doubt there were legislators in Florida who also simply could not accept the fact that as a percentage of total income there has been no significant change in the cost of child rearing since 1990.

At the current median combined monthly net income level of $4,000 per month, **the Florida State University Table results in an increase of about 7% over the current Table** (when the current table is reduced to a single age column and has had the deduction for medical expenses). Meanwhile, **the Betson Rothbarth Table even with adjustments at the lower and upper ends results in an increase in child support rates of over 40%. The Betson Rothbarth-Engel average results in an increase in child support obligations of 70%.** Enacting such huge increases in the face of numerous studies showing no increase in the percentage cost of raising a child over time is outrageous.

Raising child support rates well beyond what was likely to be spent on the child in an intact family also creates a huge financial incentive for divorce. The doubling in child support rates in the late 1980's resulted in "windfalls to the custodial parents" [10]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), **<u>less than one third of child support payments are actually spent on children</u>;** 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".* [11]

Sadly, such dramatic increases are unlikely to have any benefits for children of divorce. Instead, according to a study conducted by the Washington State Division of Child Support: *"If the obligor's support obligation exceeded **<u>20%</u>** of the obligor's gross income, especially obligors in the lower economic echelons, the less likely the obligor would be able to pay even the current support obligation, which in turn results in increasingly large accruals of back-support."* [12]

The federal Office of Child Support Enforcement (OCSE) has also recognized that more than $90 billion dollars in arrears (the vast majority of arrears claimed in 2004) is based upon awards that are beyond the parents' ability to pay: *"The best way to reduce the national child support debt is to avoid accumulating arrears in the first place. The best way to avoid the accumulation of arrears is to set appropriate orders initially… Designing a system that establishes appropriate orders will encourage payment of child support"* (U.S. HHS, 2004).

It is also disturbing that the slim majority of the Work Group who did not endorse the Florida State University Table chose to ignore the testimony of over one hundred members of the public who spoke at the three public hearings held in Washington State in 2008. As in 2005, over 90%

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[10] Christensen, B. (2001) The Strange Politics of Child Support. *Society.* 39 (1) page 66.

[11] Willis, R.J. (2004) Child Support and the Problem of Economic Incentives. In The Law and Economics of of Child Support Payments, edited by W. S. Comanor, 31-59, Cheltenham, U.K.: Edward Elgar. See page 42.

[12] Carl Formoso, Ph.D., <u>Determining the Composition and Collectibility of Child Support Arrearages, Vol. I: The Longitudinal Analysis</u>, Washington State Division of Child Support's Management and Audit Program Statistics Unit May 2003. *Id.* at pages 1 and 37.

of those who spoke opposed any increase in the Economic Table. Lower time parents consistently stated that excessively high child support rates had them close to bankruptcy and living out of their cars. **Even the majority of the higher time parents who spoke at these public hearings urged the Work group not to increase the Economic Table**. They testified that raising child support rates would only increase defaults and thereby reduce the actual amount they receive. Instead, they wanted rates lowered so that the lower time parent might actually be able financially to survive and spend more time with their child.

For all of the above reasons, we urge the Legislature to adopt the Florida State University 2004 study and associated Economic Table as the basis for revising and updating our current Economic Table. [13]

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[13] Additional reasons for rejecting the Betson methods and for adopting the Florida State Table are provided in David Spring's 2008 January Analysis of Child Support Issues and February Addendum to the Analysis. These references also include a detailed history of child support Tables and a detailed summary of the research on the cost of raising children from 1960 to the present day. Questions and comments can be emailed to the author: wildernessspting@aol.com.

MINORITY REPORT ON THE RESIDENTIAL CREDIT
The following recommendation is written by David Spring, with the support of Work Group member Senator Jim Kastama. Other work group members who may support this report include Senator Mike Carrell, Administrative Law Judge Robert Krabill, Alvin Hartley, Jason Doudt, Colleen Sachs and Angela Cuevas.

Issue 14: Whether the residential schedule should affect the amount of the child support obligation
As with their decision on the Economic Table, the majority of the Work Group has chosen to recommend a 150% multiplier be added to the Economic Table whenever there was a request for a residential credit. This multiplier ignore the scientific research on the cost of child rearing in shared parenting situations. **There are three studies on this costs of child rearing in shared parenting arrangements and all three support using a simple "per day" credit with a 20% threshold and with no multiplier.** Even Dr. Betson has admitted there are no scientific studies which support the use of any multipliers.

The purpose of the 150% multiplier is to eliminate any substantial residential credit for over 90% of all divorced parents. It is a direct attack on shared parenting in that without an equitable residential credit, shared parenting is financially almost impossible.

All three studies done on the cost of shared parenting concluded that **parents who care for the child 20% of the time (and therefore provide the child with a bedroom) have much higher "per day" costs than the other parent who cares for the child 80% of the time**.. This is because the lower time parent is paying for the child's bedroom even on days when the child is not there. An important study was conducted by **<u>Fabricius and Braver</u>** which has shed new light on how much non-majority fathers actually spend on their children while the children are in their care. [14] Rather than asking majority mothers for this information (as the CEX 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 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 of the Betson-Rothbarth model that NCPs' do not incur child costs, even fathers who were given very little residential time with their children still incurred significant direct expenses. For example, children who spent an average of 20% of their time with their father, 77% of those fathers provided a bedroom for the child. Given that housing is the single greatest component of child costs, this is a very surprising result confirming that most non-majority parents incur not only significant un-credited child costs, but per month child costs that are comparable to the child costs incurred by majority parents! 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".*** …. the non-majority parents non-credited 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).

[14] Fabricus and Braver, (2003) *Non-Child Support Expenditures on Children by Non-residential Divorced Fathers, Family Court Review, Vol. 41, 2003*

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.

Henman and Mitchell (2001) also conducted a det*ailed comparison of the ratio of costs incurred by majority and non-majority parents, and concluded that the lower time parent's per day child costs were greater than the higher time parent's per day costs once time with the lower time parent exceeded 20%.* [15]

Murray Woods and Associates (1999) [16] found that, of non-custodial parents who had visitation with their children, 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 confirms that the vast majority of lower time parents are incurring per day child costs far greater than higher time parents.

Yet despite this consistent research on per day costs, the Work Group has recommended a method (the Williams 150% multiplier) which gives the higher time parent a far greater share of the per day cost than the lower time parent. For example, the chart below shows that at an 80%/20% time split (currently the most common residential schedule), the lower time parent should receive a credit of 20% of the total obligation with the higher time parent receiving 80% of the total obligation. **With the 150% multiplier, the 20% parent receives nothing even though 75% of more of them are providing the child with a bedroom!**

The following chart also confirms that the 150% multiplier results in the higher time parent receives per day costs at rates much greater than the lower time parent even when the lower time parent cares for the child 35% of the time. This preferential treatment for the higher time parent is contrary to existing Washington State Law.

The Washington State Child Support Act (1988) states in part:
RCW 26.19.001 states: *The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living.* ***The legislature also intends that the child support obligation should be <u>equitably apportioned between the parents</u>.***

<u>It is clearly not equitable when the lower time parent has much higher per day costs than the higher time parent yet receives no credit at all.</u>

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

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

TABLE TWO: RESIDENTIAL CREDIT AS A PERCENT OF THE TOTAL OBLIGATION WHEN BOTH PARENTS HAVE EQUAL INCOME
(Per day cost at $900 total obligation

% of time with child	Traditional Per day Credit with NO multiplier	Betson Graduated Multiplier	Williams 150% Multiplier
0%	0%	0%	0%
10%	10%*	5%*	0%
20%	**20% $30/day**	**10% $15/day**	**0% $0.00/day**
30%	30%	25%	20%
40%	40%	35%	35%
50%	50%	40%/60%	50%
60%	60%	65%	65%
70%	70%	75%	80%
80%	**80% $30/day**	**90% $34/day**	**100% $30/day**
90%	90%	95%	100%
100%	100%	100%	100%

The 1987 Washington State Child Support Commission report stated on page 3:
The Objective was to propose a schedule which would establish an adequate level of support for children and would be equitable to the parents.
Among the Principles listed on page 8 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.*
On page 12, the authors add: *The proposed schedule uses a hybrid Income and Cost Sharing Model* similar to *the one described in the previous section. It was chosen over the alternatives because of* ***its neutrality regarding residential placement and because it is more equitable in regards to the parents' support obligation, while still providing economic protection for the children.***

The 1987 Child Support Commission also issued Residential Credit work sheets showing that the simple and fair "per day" method was used to calculate residential credits.

Clearly it has been the intention of our legislature to remain neutral regarding the residential placement of the child by treating both parents as equitably as possible. Adding a 150% multiplier would end 20 years of neutrality by giving a huge financial preference to the higher time parent. The predictable result of such favoritism will be a huge increase in child custody litigation as both parents fight over who will be the financially preferred parent.

The Washington State Parenting Act states:
"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."* RCW 26.09.002

<u>Washington State Law thus assumes that the child will have two households after divorce and that the relationship between the child and each parent should be fostered</u>. In other words, State law recognizes that both households are important to the child.
Washington State law, in the form of the Parenting Act , does not support the concept of a "single parent" family. A child always has two parents.

Washington State law also does not support <u>the concept of a custodial parent.</u> The legislature believes that children are NOT objects to be owned, but instead, children are people with an emotional need for a life-long relationship with both of their parents. In 1987, when the Washington State legislature adopted the Parenting Act, they eliminated the concept of "custody" as not being in the best interest of the child.
RCW 26.09.285 precludes use of custody designation with any statute that does not require a designation of custody. RCW 29.06.285 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 stated:
The "state and federal statutes" likely referred to in RCW <u>26.09.285</u> 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. <u>3.24</u>, <u>3.57</u>, and <u>3.850</u>; 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.

Thus both case law and State law prohibit the use of the concept of custody except in those narrow cases where designation of custody is required. The Child Support Act is not one of those Statutes. Therefore it is against Washington State law to use designation of custody as a basis for forcing one parent to have a higher burden to support the child than the other parent or to place one parent in a privileged financial position just because they are the "custodial" parent.

Adopting a 150% multiplier would therefore be contrary to the past 20 years of advances for shared parenting in Washington State law and throw us back into the days where parents fought over which one would get control, physically and financially of the child.

The obvious solution to these problems is retain an equitable residential credit that treats both parents in a fair and equal manner for the costs incurred during their residential time with the child. The only way to treat both parents fairly is by **assuming that the per day child costs are equal at both households**. The only residential credit method that treats both parents fairly and equally is the traditional residential credit formula. For this and the many other reasons cited above, **we recommend that the Legislature retain the traditional "per day" credit method,**

but make the credit presumptive and lower the threshold needed to qualify for this credit down to 20% of residential time to be in keeping with the scientific literature on shared parenting. [17]

Proposal for preventing either parent from abusing the residential credit.
There is a danger that either parent may take actions intended to make the residential credit provision less equitable for the other parent. It is ironic that the majority wants a proposal to insure that the lower time parent treats the higher time parent fairly, but refuses to consider any proposed language to make sure that the higher time parent treats the lower time parent fairly. We have therefore included language intended to protect both parents from unfair treatment by the other parent.

See the Appendix on Residential Credits for proposed Statutory language.

[17] For a more detailed explanation of the benefits of a simple "per day" credit, see Spring, D. (2008) Analysis of Child Support Issues, Section 8, pages 154 to 158.