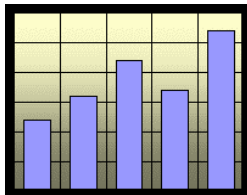

Alabama

Economic Report on Alternative Child Support Cost Schedules and Related Issues

March 31, 2006

**Submitted to:
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CHAPTER I

Executive Summary

Introduction

This report has been prepared under contract with the Alabama Administrative Office of the Courts. This report is part of the on-going review of Alabama's child support guidelines as mandated by the Family Support Act of 1988 [P.L. 100-485] as promulgated under federal regulations [45 CFR 302.56]. The explicit objectives of this contract are:

- Develop two alternative Basic Child Support Obligation (BCSO) schedules to the 2004 Policy Studies, Inc., Denver, Colorado, (PSI) proposal. The alternative schedules are: 1) Income Shares adjusted for a second household, and 2) Cost Shares.
- Provide a standard of living impact analysis of current guidelines, the 2004 PSI proposal, and the two new alternative BCSO schedules.
- Review and provide an economic critique of the 2004 report by Policy Studies, Inc. (PSI) to the Administrative Office of the Courts.

Key Findings

Alternative Basic Child Support Obligation Schedules

Alabama's current BCSO schedule under Rule 32 as well as the 2004 Policy Studies, Inc. proposed BCSO schedule are based on intact family data. Use of intact family data overstates available income and, in turn, child costs. In non-intact families, there is less available income due to the added cost of a second mortgage or rent and housing utilities. There are two economic solutions to a guideline presumption using intact family child costs:

- Make adjustments to the intact family data to reflect the additional adult overhead from two single-parent households compared to one intact household, and
- Use single-parent child costs based on an average of the two parents' incomes.

The 2004 Income Shares schedule with adjustments for a second household and the Cost Shares BCSO were developed. For one-child costs, for below \$5,500 in combined gross income, the PSI 2004 proposal is significantly higher than current Rule 32 or the two alternative schedules. At \$4,000 and higher in combined gross income, the Cost Shares schedule is significantly lower than the other schedules. For two through six children, the BCSO schedules are similar up to about \$4,000 in combined gross income. For incomes above this level, the Cost Shares schedule generally is the lowest cost schedule.

The PSI 2004 schedule adjusted for second households generally lies in between the PSI 2004 BCSO as proposed and the Cost Shares BCSO.

The current BCSO schedule is vastly out of date—being based upon 1972-73 Consumer Expenditure Surveys. The current Rule 32 cost schedule is also based on a child cost estimation methodology (the Engel methodology) that has generally been discredited as being unreliable and overstating child costs.

Standard of Living Analysis

Traditional standard of living impact analysis was conducted for all four cost schedules for one, two, and three-child scenarios up through \$6,000 in monthly gross income for the obligor and with 50 percent less to 100 percent more gross income being earned by the custodial parent. For all four BCSO schedules, the custodial parent ended up with a high boost to the custodial parent's standard of living—inclusive of the child costs. The standard of living outcomes generally did not conform to standards of equity. For example, when gross incomes of the custodial parent and non-custodial parent are equal, the custodial parent had a sharply higher standard of living on an after-tax, after-child support transfer basis. This is due to lack of parenting time adjustments and due to not sharing child-related tax benefits. This effect is greatest with Rule 32 cost schedules but also occurs even with the Cost Shares BCSO (but to a lesser degree) when used with the Rule 32 worksheet.

Child-Related Tax Benefits

A review of the Income Shares methodology found that the BCSO schedule has only a small portion of child-related tax benefits taken into account. Child-related tax benefits include head of household status, child dependency exemptions, child tax credits, additional child tax credits, and earned income credits. Typically, the custodial parent receives \$200 to \$400 per month in additional net income as a cost offset to gross spending on children.

Parenting Time Adjustments

A review of the Income Shares methodology finds that the BCSO schedule assumes that the non-custodial parent has no parenting time.

Rothbarth Methodology as a Lower Bound on Child Costs

The theoretical studies on Income Shares frequently make the statement that the Rothbarth methodology is believed to underestimate child costs because of statistical difficulties related to adults allegedly changing their preferences for types of goods consumed. The 2004 BCSO proposal by Policy Studies, Inc., is based on the Rothbarth methodology. A close review of these studies indicates that the Rothbarth methodology underestimates child costs only if parents do not like to share common household

goods with their children—parents must be selfish. The more realistic view is that parents generally do like to share with their children and this leads to overestimating child costs. There is no reasonable basis for the claim that Rothbarth estimates are a floor on child cost estimates. Empirically valid child cost estimates can lie below Rothbarth estimates.

Recommendations

In order to provide economic realism and a legal standard for fairness, the Alabama Child Support guidelines should:

- Apply a standard of equal duty of support;
- Reflect up-to-date child costs; and
- Reflect actual case circumstances that households are no longer intact and that the parents do not have the ability to pay as if they were living in one household.

Based on these criteria, the following modifications to Alabama’s child support guidelines are recommended:

- Update the Basic Child Support Obligation schedule with either the Income Shares BCSO schedule adjusted for second household costs or with the Cost Shares BCSO schedule;
- Adopt a self-support calculation that includes the standard Income Shares calculation and the obligor-only calculation;
- Presumptively share the child-related tax benefits either by pro-rating the child-dependency exemptions according to shares of combined adjusted gross income or by developing a schedule of the value of child-related tax benefits and treating them as a cost offset in the award calculation;
- Adopt the Arizona parenting time adjustment;
- Change the assumption for included medical expenses to \$250 per year per child (from the current \$200 per year per family) to reflect higher out-of-pocket medical expenses as incorporated in all three of the newer alternative BCSO schedules;
- Add a formula to take into account child care (day care) tax credits when day care is an add-on.

Key factors behind these recommendations are:

- The current BCSO schedule is based on significantly old data from the 1972-73 Consumer Expenditure Surveys and is based on a methodology (the Espenshade-Engel 1984 study) that has been generally recognized as excessive.
- The current Rule 32 self-support portion of the BCSO has been eroded by almost two decades of inflation. The self-support reserve should be brought up-to-date for current costs of basic needs.

- The BCSO schedule (not just in the current Rule 32 but in all proposed alternatives) does not take into account the vast majority of child-related tax benefits. Not doing so results in awards that do not reflect equal duty of support.
- The BCSO schedule does not include any built-in adjustments for standard parenting time of the non-custodial parent—in newly proposed schedules as well as the current Rule 32 version. Most states have a formula to take into account both parents' parenting time costs. Not doing so results in awards that do not reflect equal duty of support.
- The newly proposed BCSO schedules all incorporate \$250 per child per year for unreimbursed medical expenses.
- Child care tax credits are significant cost offsets.

Child Support Guidelines: A Legal Presumption or Mere Public Policy?

One issue in particular creates substantial disagreement over what should be the appropriate features of child support guidelines. And that issue is whether such guidelines are legal presumptions designed to assure the correct of amount of child support, or public policy choices designed to achieve a certain distribution of wealth. The author takes the position that child support guidelines are legal presumptions, and not public policy choices. When it is asked, for example, how long an unemployed worker should be eligible for unemployment benefits, a question of public policy arises. And when that determination is made from economic data, budget figures, and fiscal considerations, a public policy choice is made. But once this choice is made, the level of unemployment benefits is not presented in court as presumptive evidence against a litigant. Child support guidelines, however, are used as presumptive evidence in court against a child support obligor. There are stricter standards for legal presumptions than public policy choices.

The following summarizes key characteristics of a sound legal presumption for child support determination—the guidelines:

- Must be based on correct use of authentic economic data in their development;
- Must reasonably indicate in most cases an amount of child support due, assuming an equal duty of both father and mother to supply the reasonable needs of their children according to the resources available to each;
- Must be fully and fairly rebuttable;
- Shall not include arbitrary features; and
- Must be developed by responsible public authority on the basis of appropriate economic data and legal principles.

Documentation of these legal principles—with case citations—can be found in Appendix I.

CHAPTER II

Income Shares Child Support Guidelines and the Issue of Intact Family Data Overstating Child Costs

Rule 32 incorporates a schedule of Basic Child Support Obligations that is based on intact family child cost data. Regarding a legal presumption for child support determination, the issue is whether such a cost schedule reflects actual case facts and reflects the parents' true ability to pay. That is, does the available income assumed in the guidelines' presumptive cost schedule reflect the actual available income of the parents?

Background and Assumptions of the Income Shares Methodology

Alabama's child support guidelines are a variation of child support guidelines developed by Policy Studies, Inc. (Denver, CO), and are known as Income Shares. Alabama's guidelines are based on national research on child costs as discussed in *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, by David M. Betson, University of Notre Dame, September 1990. See *Rule 32, Alabama Rules of Judicial Administration, Comment*. See also *Alabama Updated Child Support Schedule*, February 25, 2004 by Jane C. Venohr and Tracy E. Griffith of Policy Studies, Inc., Denver, Colorado, submitted to State of Alabama, Administrative Office of the Courts, Montgomery, Alabama, pp. I-1 through I-2.

The relevance of these reports and research related to the version of Income Shares adopted by Alabama is that they provide the underlying facts for the guidelines for determining if the presumptive awards are economically appropriate when applied in specific child support cases in Alabama. The Alabama guidelines were designed to be applicable only if the household had certain economic characteristics. These underlying economic characteristics of the household include, among others:

- The household is intact.
- The child support award is based on combined parental incomes.
- The household does not have the additional overhead that is incurred by a separated family that would reduce income available to spend on children.
- The cost schedule assumes that the household has income available for children based on both parents sharing adult overhead costs as found in one, combined household.

Documentation of the Use of Intact Family Data for the Presumptive Child Cost Schedule

Whether Alabama's child support guidelines are based on intact family data is an economic issue for rebuttal because child support awards are determined for non-intact families. The fact that Alabama's child support guidelines have a child cost schedule based on intact family data is clearly documented in the 2004 report submitted by Policy Studies, Inc.

The child-rearing expenditures discussed in this report are estimates from samples of two-parent households. This is appropriate since the Income Shares model (upon which the Alabama guidelines are based) seeks to apportion to the child the amount that the parents would have spent if the household were intact.¹

Use of Intact Family Data on Child Costs Overstates Child Costs for Situations in Which There Are Two, Single-Parent Families

The use of intact family data results in child cost schedules that reflect situations in which for any given level of combined income (of the two parents), there is only one set of adult "overhead" or adult fixed costs such as housing and utilities. Once the fixed costs of a mortgage or rent payment and utilities are paid and shared by the two parents, the remaining after-tax income can be spent on other "things"—including children. In contrast, when the two parents are divorced or unwed, there are two sets of adult overhead for the same level of combined income. There is less after-tax income after paying for housing and utilities. There is less discretionary income available combined for other things—including children. In each of the two households, there is on average half of the income available less housing and utilities. Less income is spent on children in a divorced situation simply because in part there is less combined income after paying for adult fixed costs. This has been recognized in the forensic economic literature.

A joint income standard for child support imposes a greater burden on the NCP [non-custodial parent] than the CP [custodial parent]. The NCP is forced to pay for child costs assuming less burdensome intact family overhead that is not the actual circumstance. Instead, the NCP pays child support for intact family expenditure standards but truly can only afford one-parent household spending because of higher overhead. In contrast, the CP receives intact family based child support that exceeds one-parent based child support but actually spends on the child as though the CP is in a one-parent household because that indeed is the case. The intact family based child support that exceeds one-parent based expenditures is then a windfall—or profit—for the CP.²

¹ See *Alabama Updated Child Support Schedule*, February 25, 2004 by Jane C. Venohr and Tracy E. Griffith of Policy Studies, Inc., Denver, Colorado, submitted to State of Alabama, Administrative Office of the Courts, Montgomery, Alabama, p. II-8.

² See R. Mark Rogers and Donald J. Bieniewicz, "Child Cost Economics and Litigation Issues: An Introduction to Applying Cost Shares Child Support Guidelines," Reading #20 in *Assessing Damages in Injuries and Deaths of Minor Children*, ed. by Thomas R. Ireland and John O. Ward, Lawyers & Judges Publishing Co., Tucson, AZ, 2002, p. 358.

Use of Intact Family Data for the Child Cost Schedule Gives the Child the Right to a Higher Standard of Living than Either Parent

A simple example shows the economic inequity of using intact family data for child cost schedules. Assume that the mother and father each earn \$4,000 gross income per month. The child is entitled under intact family guidelines to a standard of living based on \$8,000 per month. In contrast, each of the parents spends on themselves based on \$4,000 gross income per month. In reality, the non-custodial parent is required to pay child support based on an intact family standard, the custodial parent receives child support based on an intact family standard, but the custodial parent only spends the child support as if in a single-parent household. Not all of the child support is spent on the child and the custodial parent receives a sizeable financial windfall from child support based on intact family data.

Solutions to the Presumption of Intact Family Child Cost Schedule's Conflict with the Fact that Child Support Is Applied to Non-Intact Family Situations

There are two economic solutions to the presumption of intact family child costs not fitting case facts of divorced or never married parents:

1. Use single-parent child costs based on an average of the two parents' incomes, or
2. Make adjustments to the intact family data to reflect the additional adult overhead from two single-parent households compared to one intact household.

Use of single-parent data is the more economically sound approach. Such an approach is discussed by Rogers and Bieniewicz in various economics articles and professional presentations.³ The child cost schedule should be based on single-parent household data and on an average of the two parents' incomes. Average income is the maximum standard of living that can be sustained in both households. The Income Shares intact family data on child costs can be at least partially corrected for the additional adult overhead of a second household to be maintained after divorce or in unwed situation. One can deduct the cost of a second mortgage (or rent) and utilities from combined income used in the "look up" of child costs. That is, the "look up" value of income should not be just combined gross income but combined gross income minus the additional mortgage and utilities. Should there be some question as to

³ See R. Mark Rogers and Donald J. Bieniewicz, "Child Cost Economics and Litigation Issues: An Introduction to Applying Cost Shares Child Support Guidelines," Reading #20 in *Assessing Damages in Injuries and Deaths of Minor Children*, ed. by Thomas R. Ireland and John O. Ward, Lawyers & Judges Publishing Co., Tucson, AZ, 2002, pp. 333-380. See also "Child Support Guidelines: Underlying Methodologies, Assumptions, and the Impact on Standards of Living," R. Mark Rogers and Donald J. Bieniewicz, Conference on the Law and Economics of Child Support Payments, University of California, Santa Barbara, September 20, 2002 as published in *The Law and Economics of Child Support Payments*, William S. Comanor, ed., Edward Elgar Publishing, 2004.

which parent's mortgage and utilities should be deducted, it may be reasonable to use an average of the two parents. The same cost schedule can be used but the income used should be redefined for this adjustment.

Adjusting a standard Income Shares cost schedule for a second household's expenses may be a more "comfortable" approach, given that it keeps the traditional Income Shares cost schedule as its starting point. Additionally, adjusting an intact family data cost schedule for the added cost of a second household is not a novel idea. Kansas has built in such a calculation in its presumptive child cost schedule. Kansas uses a variation of the Income Shares methodology. As noted in the Kansas guidelines:

The [child cost] schedules also include a built-in reduction from average expenditures per child (the dissolution burden), because of the financial impact on the family of maintaining two households instead of one.⁴

Virginia has conducted research into this approach. But this approach was not adopted not so much due to the second household adjustment but due to the novel approach to estimating the alleged standard costs.⁵

⁴ See Kansas Judicial Branch, Rules Adopted by the Supreme Court, Rules Relating to District Court, Administrative Order 180, Re: 2003 Kansas Child Support Guidelines, Kansas Child Support Guidelines, II(C).

⁵ See *Review of Child Support Guideline, Report to the Secretary of Health and Human Resources, the Honorable Jane H. Woods and the General Assembly of Virginia*, by Secretary's Triennial Child Support Panel, October 31, 2002, pp. 8-9. See also "Determining the Level of Child Support," discussion paper, submitted to Secretary's Child Support Guideline Review Panel, Richmond, Virginia, November 2002, by William M. Rodgers III, Associate Professor of Economics, The College of William and Mary, Williamsburg, Virginia, pp. 20-24. This study based child costs largely on per capita child cost from the U.S. Department of Agriculture and other sources. Per capita costs inappropriately assume that each child's share of housing costs (and others) is the same as each parent's share even though many adult costs are incurred whether the adults have children or not.

CHAPTER III

Income Shares with a Second Household Discount to Adjust Intact Family Child Costs

Adjusting Intact Family Cost Schedule for Reduction in Available Income Due to Second Household Expenses

Alabama's current child support cost schedule is based on intact family data as is the schedule proposed by Policy Studies, Inc. in 2004. That is, these cost schedules assume that the parents have available income after paying only one rent (or mortgage) payment and only have only one set of utilities. In contrast for the case before the court, the parents are not in an intact family and support two separate households. The two parents do not have the available, discretionary income assumed in the cost schedules.

To reflect the reduced available income due to maintaining a second household, a simple adjustment for a second household and related expenses is to subtract from combined income (used for "looking up" the child cost in the child cost schedule) the amount of gross income needed for paying for the second set of adult overhead of additional rent and utilities for housing.

Steps in the second household adjustment are the following:

- 1) Determine the traditional adjusted gross income for both parents;
- 2) Determine each parent's share of the traditional combined adjusted gross income;
- 3) Determine appropriate cost of maintaining a second household (mortgage or rent and utilities but not the cost of parenting time—the appropriate cost should vary by income)⁶;
- 4) Subtract the cost of maintaining the second household from combined adjusted income; and
- 5) Look up the Basic Child Support Obligation reflecting combined adjusted gross income less the cost of maintaining the second household.

With steps 1 through 5, one has the standard income figure (adjusted gross income) and the BCSO adjusted for the second household discount. These steps are repeated across income ranges and for one through six children in order to derive the Adjusted (for second household discount) Schedule of Basic Child Support Obligations. Steps 4 and 5 are further explained in more detail below.

⁶ Non-custodial parenting time costs are an issue that is separate from the cost of an additional housing unit. The second household costs exist even if the non-custodial parent incurs no child costs.

Data Source for One-Adult Housing Costs

Alabama's child support guidelines implicitly assume typical housing costs for an intact family. How much of total child costs is for housing must be inferred from separate data. A reasonably reliable data source is found with the U.S. Internal Revenue Service. The U.S. Internal Revenue Service establishes standards for allowable living expenses for tax payers with tax arrearages and need to determine how much income is available for paying back taxes on an installment basis. These data are part of the IRS's Collection Financial Standards. These data include allowable living expenses for housing and utilities and vary by income and are established on a county-by-county basis. Exhibit 1 shows a few of Alabama's county data in the IRS's allowable monthly housing allowances.

Exhibit 1.

County	Family of 2 or less	Family of 3	Family of 4 or more
Autauga County	912	1,073	1,234
Baldwin County	966	1,137	1,307
Barbour County	778	916	1,053
Bibb County	765	899	1,034
Blount County	840	988	1,136
Bullock County	750	882	1,014
Butler County	709	834	959

Source: U.S. Department of the Treasury, Internal Revenue Service, Collection Financial Standards, Alabama - Housing and Utilities Allowable Living Expenses, effective 1/1/2005.

One-adult housing costs are calculated by subtracting one child costs from the "Family of 2 or less" costs. One-child housing costs are defined as "Family of 3" costs less "Family of 2 or less" costs. These one-adult costs are put into a database along with median county income figures from the U.S. Census Bureau. These data are used to statistically estimate one-adult housing costs at \$50 increments in income.

However, these housing costs are paid out of after-tax income while the Schedule of Basic Child Support Obligations has income based on before-tax income. To fully take into account the total housing costs for the second household, the income tax paid on the income paying the housing costs must be added as a cost. Adding income taxes as a cost of housing fully takes into account the reduction in available income to the parents as a result of having to maintain two households instead of just one. One could argue that the appropriate income tax rate to use would be the marginal income tax rate. However, as a

conservative approach, for this study the average income tax rate was used inclusive of federal, state, Social Security, and Medicare taxes.

Example of Adjusting the Schedule of BCSO for Second Household Discount

An example of the calculation of the Adjusted Schedule of Basic Child Support (PSI 2004) is as follows for a situation in which the custodial parent has monthly adjusted gross income of \$3,000 and the non-custodial parent has monthly adjusted gross income of \$5,000.

Combined adjusted gross income is \$8,000. The appropriate value for housing costs should be based upon \$4,000—this is an average of the income available for the second house. The cost for a second house based on \$4,000 in monthly gross income is \$761 but with income taxes added the cost is \$1,020 per month. The housing cost of \$1,020 is subtracted from combined adjusted gross income of \$8,000, resulting in available combined adjusted gross income of \$6,980 per month. This is the “lookup” value for the child cost figure in the standard Schedule of BSCO. The cost associated with \$6,980 for one child is \$836 (with \$6,980 rounded down to \$6,950 for the lookup). One now associates combined adjusted gross income of \$8,000 with the \$836 one-child cost figure instead of the standard cost figure of \$921 per month. This process is repeated across income levels and numbers of children.

These second household adjustments are not made to the current Alabama Basic Schedule of Child Support Obligations due to the fact that this cost schedule is vastly out of date. The underlying data are more than 20 years old (being based on the 1972-73 Consumer Expenditure Surveys) and are based upon the Engel methodology which has been found to be unreliable and significantly overestimates child costs.

The BCSO for Income Shares with a second household discount has a self-support section (shaded area in Exhibit 2) as discussed in the self-support section in Chapter IV.

Tables: Alabama 2004 Income Shares with 2nd Household Discount Basis, Schedule of Basic Child Support Obligations

Exhibit 2.

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
	Monthly Basic Child Support Obligations Established at Discretion of the Court					
0-900						
950	50	50	50	50	50	50
1,000	60	60	61	62	62	63
1,050	95	96	97	98	99	100
1,100	130	131	133	134	136	137
1,150	165	167	169	170	172	174
1,200	200	202	204	207	209	211
1,250	215	238	240	243	245	248
1,300	223	273	276	279	282	285
1,350	231	307	311	314	317	321
1,400	238	333	344	348	352	356
1,450	245	344	378	382	386	390
1,500	253	354	408	416	420	425
1,550	260	364	420	450	455	460
1,600	268	375	432	482	489	494
1,650	275	385	444	495	524	529
1,700	283	395	456	508	558	564
1,750	290	406	468	522	574	599
1,800	297	416	480	535	588	633
1,850	305	427	492	548	603	656
1,900	312	437	503	562	618	672
1,950	320	447	515	575	632	688
2,000	327	458	527	589	647	704
2,050	335	468	539	602	662	720
2,100	342	479	551	615	676	736
2,150	349	489	563	629	691	752
2,200	357	499	575	642	706	768
2,250	364	510	587	655	720	784
2,300	372	520	599	669	735	800
2,350	379	531	611	682	750	816
2,400	386	541	623	695	765	832
2,450	394	551	635	709	779	848
2,500	401	562	647	722	794	864

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
2,550	409	572	659	735	809	880
2,600	416	582	671	749	823	896
2,650	424	593	683	762	838	912
2,700	431	603	695	775	853	928
2,750	438	614	707	789	867	944
2,800	446	624	719	802	882	960
2,850	453	634	731	816	897	976
2,900	461	645	743	829	911	992
2,950	468	655	755	842	926	1,008
3,000	476	666	767	856	941	1,024
3,050	483	676	779	869	955	1,040
3,100	490	686	790	882	969	1,055
3,150	497	695	801	893	982	1,069
3,200	503	704	811	905	995	1,083
3,250	512	716	825	920	1,012	1,101
3,300	520	728	839	935	1,029	1,119
3,350	529	740	852	950	1,045	1,137
3,400	529	740	852	950	1,045	1,137
3,450	538	752	866	966	1,062	1,156
3,500	547	764	880	981	1,079	1,174
3,550	555	775	894	996	1,096	1,192
3,600	564	787	907	1,012	1,113	1,211
3,650	571	797	919	1,024	1,127	1,226
3,700	577	804	926	1,033	1,136	1,236
3,750	582	811	933	1,041	1,145	1,246
3,800	587	817	941	1,049	1,154	1,255
3,850	591	823	947	1,056	1,161	1,264
3,900	596	829	953	1,063	1,169	1,272
3,950	600	835	960	1,070	1,177	1,281
4,000	605	841	966	1,077	1,185	1,289
4,050	609	847	973	1,084	1,193	1,298
4,100	609	847	973	1,084	1,193	1,298
4,150	614	852	979	1,092	1,201	1,306
4,200	618	858	985	1,099	1,209	1,315
4,250	623	864	992	1,106	1,217	1,324
4,300	627	870	998	1,113	1,224	1,332
4,350	630	873	1,001	1,116	1,228	1,336

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
4,400	632	876	1,003	1,118	1,230	1,338
4,450	635	878	1,005	1,120	1,232	1,341
4,500	637	880	1,006	1,122	1,234	1,343
4,550	639	882	1,008	1,124	1,236	1,345
4,600	641	885	1,010	1,126	1,238	1,347
4,650	643	887	1,011	1,128	1,240	1,349
4,700	643	887	1,011	1,128	1,240	1,349
4,750	646	889	1,013	1,129	1,242	1,352
4,800	648	891	1,015	1,131	1,244	1,354
4,850	650	893	1,016	1,133	1,246	1,356
4,900	652	896	1,018	1,135	1,249	1,358
4,950	654	898	1,020	1,137	1,251	1,361
5,000	657	900	1,021	1,139	1,253	1,363
5,050	662	907	1,028	1,146	1,261	1,372
5,100	669	916	1,037	1,157	1,272	1,384
5,150	676	925	1,047	1,167	1,284	1,397
5,200	683	934	1,057	1,178	1,296	1,410
5,250	690	943	1,066	1,189	1,308	1,423
5,300	697	952	1,076	1,200	1,319	1,436
5,350	703	961	1,085	1,210	1,331	1,448
5,400	703	961	1,085	1,210	1,331	1,448
5,450	710	970	1,095	1,221	1,343	1,461
5,500	717	979	1,105	1,232	1,355	1,474
5,550	724	988	1,114	1,242	1,367	1,487
5,600	731	997	1,124	1,253	1,378	1,500
5,650	738	1,006	1,133	1,264	1,390	1,512
5,700	745	1,015	1,143	1,274	1,402	1,525
5,750	749	1,021	1,149	1,281	1,409	1,533
5,800	751	1,023	1,152	1,285	1,413	1,537
5,850	753	1,026	1,155	1,288	1,417	1,542
5,900	755	1,029	1,158	1,291	1,421	1,546
5,950	757	1,031	1,161	1,295	1,424	1,550
6,000	759	1,034	1,164	1,298	1,428	1,554
6,050	761	1,037	1,167	1,302	1,432	1,558
6,100	761	1,037	1,167	1,302	1,432	1,558
6,150	763	1,039	1,170	1,305	1,435	1,562
6,200	765	1,042	1,173	1,308	1,439	1,566

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
6,250	767	1,045	1,176	1,312	1,443	1,570
6,300	769	1,047	1,179	1,315	1,447	1,574
6,350	771	1,050	1,182	1,318	1,450	1,578
6,400	773	1,053	1,186	1,322	1,454	1,582
6,450	775	1,055	1,188	1,325	1,457	1,585
6,500	776	1,057	1,190	1,327	1,460	1,588
6,550	778	1,059	1,192	1,329	1,462	1,591
6,600	779	1,061	1,194	1,331	1,464	1,593
6,650	781	1,063	1,196	1,333	1,467	1,596
6,700	781	1,063	1,196	1,333	1,467	1,596
6,750	782	1,065	1,198	1,336	1,469	1,599
6,800	784	1,067	1,200	1,338	1,472	1,601
6,850	785	1,069	1,202	1,340	1,474	1,604
6,900	787	1,071	1,204	1,342	1,476	1,606
6,950	788	1,072	1,206	1,344	1,479	1,609
7,000	790	1,074	1,208	1,347	1,481	1,612
7,050	791	1,076	1,210	1,349	1,484	1,614
7,100	793	1,078	1,212	1,351	1,486	1,617
7,150	794	1,080	1,214	1,353	1,488	1,619
7,200	794	1,080	1,214	1,353	1,488	1,619
7,250	796	1,082	1,216	1,355	1,491	1,622
7,300	797	1,084	1,217	1,357	1,493	1,625
7,350	799	1,086	1,219	1,359	1,495	1,627
7,400	800	1,087	1,221	1,362	1,498	1,630
7,450	802	1,089	1,223	1,364	1,500	1,632
7,500	803	1,091	1,225	1,366	1,502	1,635
7,550	806	1,095	1,229	1,370	1,507	1,639
7,600	809	1,099	1,234	1,376	1,513	1,647
7,650	813	1,104	1,239	1,382	1,520	1,654
7,700	817	1,109	1,245	1,388	1,527	1,661
7,750	821	1,114	1,250	1,394	1,533	1,668
7,800	821	1,114	1,250	1,394	1,533	1,668
7,850	825	1,119	1,256	1,400	1,540	1,675
7,900	828	1,124	1,261	1,406	1,547	1,683
7,950	832	1,129	1,266	1,412	1,553	1,690
8,000	836	1,134	1,272	1,418	1,560	1,697
8,050	840	1,139	1,277	1,424	1,567	1,704

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
8,100	843	1,144	1,283	1,430	1,573	1,712
8,150	847	1,149	1,288	1,436	1,580	1,719
8,200	851	1,154	1,293	1,442	1,586	1,726
8,250	855	1,159	1,299	1,448	1,593	1,733
8,300	859	1,163	1,304	1,454	1,600	1,740
8,350	862	1,168	1,310	1,460	1,606	1,748
8,400	862	1,168	1,310	1,460	1,606	1,748
8,450	866	1,174	1,315	1,467	1,613	1,755
8,500	871	1,179	1,321	1,473	1,621	1,763
8,550	875	1,184	1,327	1,480	1,628	1,771
8,600	879	1,190	1,333	1,487	1,635	1,779
8,650	883	1,195	1,339	1,493	1,643	1,787
8,700	887	1,201	1,345	1,500	1,650	1,795
8,750	891	1,206	1,351	1,507	1,657	1,803
8,800	896	1,212	1,357	1,513	1,665	1,811
8,850	900	1,217	1,363	1,520	1,672	1,819
8,900	904	1,222	1,369	1,527	1,679	1,827
8,950	908	1,228	1,375	1,533	1,686	1,835
9,000	908	1,228	1,375	1,533	1,686	1,835
9,050	912	1,233	1,381	1,540	1,694	1,843
9,100	916	1,239	1,387	1,546	1,701	1,851
9,150	921	1,244	1,393	1,553	1,708	1,859
9,200	925	1,250	1,399	1,560	1,716	1,867
9,250	929	1,255	1,405	1,566	1,723	1,875
9,300	933	1,260	1,411	1,573	1,730	1,883
9,350	937	1,266	1,417	1,579	1,737	1,890
9,400	941	1,271	1,422	1,586	1,744	1,898
9,450	945	1,276	1,428	1,592	1,751	1,905
9,500	948	1,281	1,434	1,598	1,758	1,913
9,550	952	1,286	1,439	1,605	1,765	1,921
9,600	952	1,286	1,439	1,605	1,765	1,921
9,650	956	1,291	1,445	1,611	1,772	1,928
9,700	960	1,296	1,451	1,617	1,779	1,936
9,750	964	1,301	1,456	1,624	1,786	1,943
9,800	968	1,306	1,462	1,630	1,793	1,951
9,850	971	1,311	1,468	1,636	1,800	1,959
9,900	975	1,316	1,473	1,643	1,807	1,966

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
9,950	979	1,321	1,479	1,649	1,814	1,974
10,000	983	1,326	1,485	1,656	1,821	1,981
10,050	987	1,331	1,490	1,662	1,828	1,989
10,100	990	1,336	1,496	1,668	1,835	1,996
10,150	994	1,341	1,502	1,675	1,842	2,004
10,200	994	1,341	1,502	1,675	1,842	2,004
10,250	998	1,346	1,508	1,681	1,849	2,012
10,300	1,002	1,351	1,513	1,687	1,856	2,019
10,350	1,006	1,356	1,519	1,694	1,863	2,027
10,400	1,010	1,361	1,525	1,700	1,870	2,034
10,450	1,013	1,366	1,530	1,706	1,877	2,042
10,500	1,017	1,371	1,536	1,713	1,884	2,050
10,550	1,021	1,376	1,542	1,719	1,891	2,057
10,600	1,025	1,381	1,547	1,725	1,898	2,065
10,650	1,029	1,386	1,553	1,732	1,905	2,072
10,700	1,032	1,391	1,559	1,738	1,912	2,080
10,750	1,036	1,396	1,564	1,744	1,919	2,088
10,800	1,036	1,396	1,564	1,744	1,919	2,088
10,850	1,040	1,401	1,570	1,751	1,926	2,095
10,900	1,044	1,406	1,576	1,757	1,933	2,103
10,950	1,048	1,411	1,581	1,763	1,940	2,110
11,000	1,052	1,416	1,587	1,770	1,947	2,118
11,050	1,055	1,421	1,593	1,776	1,954	2,125
11,100	1,059	1,427	1,598	1,782	1,961	2,133
11,150	1,063	1,432	1,604	1,789	1,967	2,141
11,200	1,067	1,437	1,610	1,795	1,974	2,148
11,250	1,071	1,442	1,616	1,801	1,981	2,156
11,300	1,074	1,447	1,621	1,808	1,988	2,163
11,350	1,078	1,452	1,627	1,814	1,995	2,171
11,400	1,078	1,452	1,627	1,814	1,995	2,171
11,450	1,082	1,457	1,633	1,820	2,002	2,179
11,500	1,086	1,462	1,638	1,827	2,009	2,186
11,550	1,090	1,467	1,644	1,833	2,016	2,194
11,600	1,094	1,472	1,650	1,839	2,023	2,201
11,650	1,097	1,477	1,655	1,846	2,030	2,209
11,700	1,101	1,482	1,661	1,852	2,037	2,217
11,750	1,105	1,487	1,667	1,858	2,044	2,224

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
11,800	1,109	1,492	1,672	1,865	2,051	2,232
11,850	1,113	1,497	1,678	1,871	2,058	2,239
11,900	1,116	1,502	1,684	1,877	2,065	2,247
11,950	1,120	1,507	1,689	1,884	2,072	2,254
12,000	1,120	1,507	1,689	1,884	2,072	2,254
12,050	1,124	1,512	1,695	1,890	2,079	2,262
12,100	1,127	1,515	1,698	1,893	2,083	2,266
12,150	1,129	1,518	1,701	1,897	2,086	2,270
12,200	1,132	1,521	1,704	1,900	2,090	2,274
12,250	1,134	1,524	1,707	1,904	2,094	2,278
12,300	1,137	1,527	1,710	1,907	2,098	2,282
12,350	1,139	1,531	1,714	1,911	2,102	2,287
12,400	1,142	1,534	1,717	1,914	2,105	2,291
12,450	1,144	1,537	1,720	1,918	2,109	2,295
12,500	1,147	1,540	1,723	1,921	2,113	2,299
12,550	1,149	1,543	1,726	1,925	2,117	2,303
12,600	1,149	1,543	1,726	1,925	2,117	2,303
12,650	1,152	1,546	1,729	1,928	2,121	2,307
12,700	1,155	1,549	1,732	1,931	2,125	2,312
12,750	1,157	1,552	1,735	1,935	2,128	2,316
12,800	1,157	1,556	1,738	1,938	2,132	2,320
12,850	1,162	1,559	1,742	1,942	2,136	2,324
12,900	1,165	1,562	1,745	1,945	2,140	2,328
12,950	1,167	1,565	1,748	1,949	2,144	2,332
13,000	1,170	1,568	1,751	1,952	2,148	2,337
13,050	1,172	1,571	1,754	1,956	2,151	2,341
13,100	1,175	1,574	1,757	1,959	2,155	2,345
13,150	1,178	1,577	1,760	1,963	2,159	2,349
13,200	1,178	1,577	1,760	1,963	2,159	2,349
13,250	1,180	1,581	1,763	1,966	2,163	2,353
13,300	1,183	1,584	1,767	1,970	2,167	2,357
13,350	1,185	1,587	1,770	1,973	2,171	2,362
13,400	1,188	1,590	1,773	1,977	2,174	2,366
13,450	1,190	1,593	1,776	1,980	2,178	2,370
13,500	1,193	1,596	1,779	1,984	2,182	2,374
13,550	1,193	1,599	1,782	1,987	2,186	2,378
13,600	1,198	1,602	1,785	1,991	2,190	2,382

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
13,650	1,200	1,606	1,788	1,994	2,193	2,386
13,700	1,203	1,609	1,791	1,998	2,197	2,391
13,750	1,206	1,612	1,795	2,001	2,201	2,395
13,800	1,206	1,612	1,795	2,001	2,201	2,395
13,850	1,208	1,615	1,798	2,004	2,205	2,399
13,900	1,211	1,618	1,801	2,008	2,209	2,403
13,950	1,213	1,621	1,804	2,011	2,213	2,407
14,000	1,216	1,624	1,807	2,015	2,216	2,411
14,050	1,218	1,627	1,810	2,018	2,220	2,416
14,100	1,221	1,631	1,813	2,022	2,224	2,420
14,150	1,223	1,634	1,816	2,025	2,228	2,424
14,200	1,226	1,637	1,820	2,029	2,232	2,428
14,250	1,229	1,640	1,823	2,032	2,236	2,432
14,300	1,231	1,643	1,826	2,036	2,239	2,436
14,350	1,234	1,646	1,829	2,039	2,243	2,441
14,400	1,234	1,646	1,829	2,039	2,243	2,441
14,450	1,236	1,649	1,832	2,043	2,247	2,445
14,500	1,239	1,652	1,835	2,046	2,251	2,449
14,550	1,241	1,655	1,838	2,049	2,254	2,453
14,600	1,243	1,658	1,841	2,053	2,258	2,457
14,650	1,246	1,661	1,844	2,056	2,262	2,461
14,700	1,248	1,664	1,847	2,059	2,265	2,464
14,750	1,251	1,667	1,850	2,062	2,269	2,468
14,800	1,253	1,670	1,853	2,066	2,272	2,472
14,850	1,255	1,673	1,855	2,069	2,276	2,476
14,900	1,258	1,676	1,858	2,072	2,279	2,480
14,950	1,260	1,679	1,861	2,075	2,283	2,484
15,000	1,260	1,679	1,861	2,075	2,283	2,484
15,050	1,262	1,681	1,864	2,079	2,286	2,488
15,100	1,265	1,684	1,867	2,082	2,290	2,491
15,150	1,267	1,687	1,870	2,085	2,293	2,495
15,200	1,270	1,690	1,873	2,088	2,297	2,499
15,250	1,272	1,693	1,876	2,091	2,301	2,503
15,300	1,274	1,696	1,879	2,095	2,304	2,503
15,350	1,277	1,699	1,882	2,098	2,308	2,507
15,400	1,279	1,702	1,884	2,101	2,311	2,511
15,450	1,281	1,705	1,887	2,104	2,315	2,515

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
15,500	1,283	1,707	1,889	2,107	2,317	2,518
15,550	1,284	1,708	1,890	2,108	2,319	2,521
15,600	1,285	1,709	1,892	2,109	2,320	2,523
15,650	1,286	1,710	1,893	2,111	2,322	2,524
15,700	1,286	1,710	1,893	2,111	2,322	2,524
15,750	1,287	1,712	1,894	2,112	2,323	2,526
15,800	1,288	1,713	1,895	2,113	2,325	2,528
15,850	1,289	1,714	1,897	2,115	2,326	2,529
15,900	1,291	1,716	1,898	2,116	2,328	2,531
15,950	1,292	1,717	1,899	2,117	2,329	2,533
16,000	1,293	1,718	1,900	2,119	2,331	2,536
16,050	1,294	1,719	1,902	2,120	2,332	2,537
16,100	1,295	1,721	1,903	2,122	2,334	2,539
16,150	1,296	1,722	1,904	2,123	2,335	2,541
16,200	1,297	1,723	1,905	2,124	2,337	2,542
16,250	1,298	1,724	1,906	2,126	2,338	2,544
16,300	1,299	1,726	1,908	2,127	2,340	2,546
16,350	1,300	1,727	1,909	2,128	2,341	2,547
16,400	1,300	1,727	1,909	2,128	2,341	2,547
16,450	1,301	1,728	1,910	2,130	2,343	2,549
16,500	1,302	1,730	1,911	2,131	2,344	2,551
16,550	1,303	1,731	1,913	2,133	2,346	2,552
16,600	1,305	1,732	1,914	2,134	2,347	2,554
16,650	1,306	1,733	1,915	2,135	2,349	2,555
16,700	1,307	1,735	1,916	2,137	2,350	2,557
16,750	1,308	1,736	1,917	2,138	2,352	2,559
16,800	1,309	1,737	1,919	2,139	2,353	2,560
16,850	1,310	1,739	1,920	2,141	2,355	2,562
16,900	1,311	1,740	1,921	2,142	2,356	2,564
16,950	1,312	1,741	1,922	2,143	2,358	2,565
17,000	1,312	1,741	1,922	2,143	2,358	2,565
17,050	1,313	1,742	1,924	2,145	2,359	2,567
17,100	1,314	1,744	1,925	2,146	2,361	2,569
17,150	1,315	1,745	1,926	2,148	2,362	2,570
17,200	1,316	1,746	1,927	2,149	2,364	2,572
17,250	1,317	1,747	1,929	2,150	2,365	2,573
17,300	1,319	1,749	1,930	2,152	2,367	2,575

Alabama						
2004 Income Shares with 2 nd Household Discount Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
17,350	1,320	1,750	1,931	2,153	2,368	2,577
17,400	1,321	1,751	1,932	2,154	2,370	2,578
17,450	1,322	1,753	1,933	2,156	2,371	2,580
17,500	1,323	1,754	1,935	2,157	2,373	2,582
17,550	1,324	1,755	1,936	2,159	2,374	2,583
17,600	1,325	1,756	1,937	2,160	2,376	2,585
17,650	1,326	1,758	1,938	2,161	2,377	2,587
17,700	1,326	1,758	1,938	2,161	2,377	2,587
17,750	1,327	1,759	1,940	2,163	2,379	2,588
17,800	1,328	1,760	1,941	2,164	2,380	2,590
17,850	1,329	1,762	1,942	2,165	2,382	2,591
17,900	1,330	1,763	1,943	2,167	2,383	2,593
17,950	1,331	1,764	1,944	2,168	2,385	2,595
18,000	1,332	1,765	1,946	2,169	2,386	2,596
18,050	1,334	1,767	1,947	2,171	2,388	2,598
18,100	1,335	1,768	1,948	2,172	2,389	2,600
18,150	1,336	1,769	1,949	2,174	2,391	2,601
18,200	1,337	1,770	1,951	2,175	2,392	2,603
18,250	1,338	1,772	1,952	2,176	2,394	2,605
18,300	1,339	1,773	1,953	2,178	2,395	2,606
18,350	1,340	1,774	1,954	2,179	2,397	2,608
18,400	1,340	1,774	1,954	2,179	2,397	2,608
18,450	1,341	1,776	1,956	2,180	2,398	2,609
18,500	1,342	1,777	1,957	2,182	2,400	2,611
18,550	1,343	1,778	1,958	2,183	2,401	2,613
18,600	1,344	1,779	1,959	2,185	2,403	2,614
18,650	1,345	1,781	1,960	2,186	2,404	2,616
18,700	1,346	1,782	1,962	2,187	2,406	2,618
18,750	1,348	1,783	1,963	2,189	2,407	2,619
18,800	1,349	1,784	1,964	2,190	2,409	2,621
18,850	1,350	1,786	1,965	2,191	2,410	2,623
18,900	1,351	1,787	1,967	2,193	2,412	2,624
18,950	1,352	1,788	1,968	2,194	2,413	2,626
19,000	1,352	1,788	1,968	2,194	2,413	2,626
19,050	1,353	1,790	1,969	2,195	2,415	2,628
19,100	1,354	1,791	1,970	2,197	2,416	2,629
19,150	1,355	1,793	1,972	2,199	2,419	2,632

Alabama						
2004 Income Shares with 2nd Household Discount Basis,						
Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
19,200	1,357	1,795	1,974	2,201	2,421	2,634
19,250	1,359	1,797	1,976	2,204	2,424	2,637
19,300	1,361	1,799	1,979	2,206	2,427	2,640
19,350	1,362	1,801	1,981	2,208	2,429	2,643
19,400	1,364	1,803	1,983	2,211	2,432	2,646
19,450	1,366	1,805	1,985	2,213	2,435	2,649
19,500	1,367	1,807	1,987	2,216	2,437	2,652
19,550	1,369	1,810	1,989	2,218	2,440	2,655
19,600	1,371	1,812	1,992	2,221	2,443	2,658
19,650	1,372	1,814	1,994	2,223	2,445	2,660
19,700	1,372	1,814	1,994	2,223	2,445	2,660
19,750	1,374	1,816	1,996	2,225	2,448	2,663
19,800	1,376	1,818	1,998	2,228	2,451	2,666
19,850	1,377	1,820	2,000	2,230	2,453	2,669
19,900	1,379	1,822	2,002	2,233	2,456	2,672
19,950	1,381	1,824	2,005	2,235	2,459	2,675
20,000	1,382	1,826	2,007	2,238	2,461	2,678

CHAPTER IV

Cost Shares as an Alternative Basic Child Support Obligation Schedule

Introduction to the Cost Shares Methodology

In the mid-1990s, the Children's Rights Council (CRC) developed a prototype child support guideline based on long-established principles in state law in order to correct the perceived problems with existing state child support guidelines.⁷ This model guideline has since been developed into a working version called the Cost Shares child support guideline.⁸ The Cost Shares guideline diverges from percent-of-obligor-income guidelines and the Income Shares guideline in several key ways. Most importantly, the Cost Shares guideline bases its child cost schedule on numbers derived directly from actual surveys of parents, rather than by using income equivalence measures.

The Cost Shares approach using data on direct expenditures on children, although not yet fully adopted by a state for presumptive cost schedules, is used by most states for add-ons such as medical insurance premiums, day care costs, and special expenses. It may be considered rational to extend this same approach—using data on direct expenditures on children instead of indirect equivalence measures—to all cost categories rather than be limited to add-ons. The Cost Shares approach is receiving favorable reviews by some child support agencies and child support guideline review commissions.⁹

The full Cost Shares methodology has three key elements beginning with the cost schedule. The two additional features generally not included in most states' guidelines are the sharing of the tax benefits attributable to the children and incorporating parenting time adjustments to ensure that the children are supported in both parents' households on the same basis. At this point, this report focuses solely on the child cost schedule (Schedule of Basic Child Cost Obligations).

The Cost Shares Schedule of Basic Child Cost Obligations relies primarily on the U.S. Department of Agriculture (USDA) child cost tables as the key inputs but with specific adjustments to reduce the USDA

⁷ Donald J. Bieniewicz, "Child Support Guidelines Developed by Children's Rights Council," in U.S. Department of Health and Human Services, *Child Support Guidelines: the Next Generation*, 1994, pp. 104-125.

⁸ See R. Mark Rogers and Donald J. Bieniewicz, "Child Support Guidelines: Underlying Methodologies, Assumptions, and the Impact on Standards of Living," in *The Law and Economics of Child Support Payments*, William S. Comanor, ed., Edward Elgar Publishing, 2004.

⁹ See *The Guideline Review Project: A Primer for the Participant*, prepared by Montana's Child Support Enforcement Department for its 2002 guideline review panel. See pages 8 and 9 of Part I in the January 2005 update of this document. See also *Final Report* by New Hampshire's Commission to Study Child Support and Related Child Custody Issues, December 1, 2004, page 20 and pages 25-30.

reliance on per capita estimates for some components. The Cost Shares schedule of child costs is based upon components for housing, food, transportation, clothing, education, health care, and “other.” There are some differences in the Cost Shares Schedule of Basic Child Support Obligations developed for the State of Alabama compared to earlier versions of Cost Shares as discussed in various publications.¹⁰ In earlier versions of Cost Shares, education expenses and day care expenses were fully deducted from the cost schedule and were treated as add-ons. For the Alabama version, day care expenses are deducted but typical miscellaneous education expenses are included but not private tuition. In earlier versions of Cost Shares, all of the typical medical expenses were retained, meaning that medical insurance premiums were included and were treated as an offset to full child costs (as a credit) and not as an add-on. In the Alabama version, health care expenses are deducted other than \$250 annually per child for ordinary expenses.

There are important reasons why the Cost Shares methodology uses average income instead of combined income for developing child cost schedules. First, note that the Schedule of Basic Child Support Obligations is published on the traditional basis of combined adjusted gross income as currently used in Alabama. However, the schedule was developed using average income and then was converted to a combined income basis. There are both legal and economic reasons for using average income. First, traditional principles of legal presumptions require that a presumption fit the intended circumstances—the presumption should be based on circumstances similar to which it is applied. See *Leary v. United States*, 395 U.S. 6 at 32-37 (1969) and especially footnote 68. For child support cases, guidelines are applied to non-intact families and the presumption should reflect that as a matter of due process.

The use of intact family data does not reflect typical finances for non-intact families—this is an economic reason for using average income instead of combined income. Specifically, intact family data assume that the parents live in the same house and have only one set of bills for a mortgage or rent payment and for household utilities. Child cost schedules based on intact family data assume the parents have available income assuming only one set of housing costs. In fact the parents have two households to support—even if the children live in only one household all of the time. The available income for child support should take into account that there are two single-parent households with combined income spread over two households, not one. Average income is the most income that can be found in both households—this is the maximum standard of living for both households.

¹⁰ See R. Mark Rogers and Donald J. Bieniewicz, “Child Cost Economics and Litigation Issues: An Introduction to Applying Cost Shares Child Support Guidelines,” Reading #20 in *Assessing Damages in Injuries and Deaths of Minor Children*, ed. by Thomas R. Ireland and John O. Ward, Lawyers & Judges Publishing Co., Tucson, AZ, 2002. of *Child Support Payments*, William S. Comanor, ed., Edward Elgar Publishing, 2004.

It has been argued that the children's standard of living should not be impacted by divorce or by parents not living together. However, maintaining the children's standard of living can place a significant burden on the obligor parent. Additionally, it is unclear from a legal perspective whether or not a child has a right to a higher standard of living than the parents. As an example, during marriage two parents each earn \$4,000 per month in gross income for combined gross income of \$8,000 per month. The married household's standard of living is based upon \$8,000 in gross income per month. After divorce, each parent's household has a standard of living based upon \$4,000 in gross income per month. The use of intact family child costs data says that the children have a right to an \$8,000 per month standard of living while each of the parent's would provide themselves with a standard of living based upon \$4,000 per month. Also, in many cases, the parents never lived together and the child never lived at the \$8,000 standard of living. The Cost Shares methodology puts both the parents and children on the same basis for the appropriate standard of living for sharing child costs.

Underlying Economic Studies for the Cost Shares Basis Schedule of Basic Child Support Obligations

The primary source of data for the Cost Shares child support model is *Expenditures on Children by Families*, published annually by the Family Economics Research Group (FERG), U.S. Department of Agriculture. Data used to estimate expenditures on children are from the 1990-92 Consumer Expenditure Survey—Interview portion. This survey is administered by the Bureau of Labor Statistics, U.S. Department of Labor. This survey is based on a sample of 12,850 husband-wife households and 3,395 single-parent households. The Bureau of Labor Statistics weights the survey data to reflect the composition of the overall U.S. population of interest. Econometric analysis was used to estimate household and child-specific expenditures. That is, statistical techniques were used to evaluate the expenditure data to control for family size, income, and other factors to determine expenditures on children by family size.

The FERG report provides estimates of family expenditures on children for separate cost categories. These are housing, food, transportation, clothing, health, child care & education, and "other." Each category is based on an average of the expenditures by category from survey data.

The FERG estimates are on a marginal cost basis, except for the housing, transportation, and other miscellaneous cost estimates, which are per capita (household costs are allocated equally to all household members, including children). Per capita estimation is known to yield much higher estimates of child costs than marginal cost estimation and should be viewed as an "upper limit" for child costs for these categories.

To obtain marginal housing costs for children, the Cost Shares model incorporates housing cost data from the latest U.S. Department of the Interior's "Regional Quarters Rental Survey Covering Government-Furnished Quarters Located in the Mid-South Survey Region," which includes Alabama. Data also are available for other regions in the U.S. and are the basis for deriving a housing cost component that can be used for other states. These are extensive surveys of private housing to provide a basis for determining market rents to charge government employees for government-furnished housing. The housing data used for Cost Shares guidelines are for owner-occupied types of houses but which are rentals. The current version of the Cost Shares child cost schedules has an expanded definition for the housing component cost. The housing component includes not only the rental cost but also includes utilities, maintenance, and furnishings. These costs are derived from cost ratios (of these costs to shelter costs) from the Bureau of Labor Statistics.

The Cost Shares model has the same components as the FERG estimates. However, for the Cost Shares model, child expenditure levels were interpolated at \$50 income increments using a regression based technique.

Typical Child Costs Included and Items Treated as Add-ons

The schedule of child costs includes all of the categories from the USDA study, *Expenditures on Children by Families*. The cost schedule should be viewed as including typical expenditures on a child or children for families with the combined adjusted income found in the schedules.

Day care and medical expenses are deducted from the standard cost figures with \$250 per child in unreimbursed medical expenses per year added back in. Day care and medical insurance premiums are treated as additional expenditures. Extraordinary medical expenses are not included and can be treated as an add-on (with assumed average costs) or as expenses to be shared on a pro-rata basis as they are incurred and the other parent is notified of the incurred expenses.

Private school tuition has been deducted from the cost schedule and is treated as an additional expenditure which may be appropriate depending upon the parents' financial status. Miscellaneous school expenses are included in the cost schedule.

Extending the Cost Shares Child Cost Estimates for Four, Five, and Six Children

The Cost Shares Schedule of Basic Child Support Obligations is based primarily on the USDA report, *Expenditures on Children by Families*, which relies upon the U.S. Department of Labor's Consumer Expenditure Survey. This survey has statistically valid sets of data only for one, two, or three children.

For four or more children, the survey sample is too small. To extend the Schedule of BCSO, equivalence scales are used as recommended by the National Research Council.¹¹

Extending the Cost Schedule to Higher Incomes

The Consumer Expenditure Survey has valid data for households up to about \$150,000 in annual gross income. This is comparable to about \$12,500 in combined monthly gross income. The submitted Cost Shares cost schedules go to \$20,000 in combined monthly adjusted gross income. Higher income levels are extrapolated using linear regressions. However, due to limited observations from the USDA study, the higher income levels cannot be considered reliable and likely overstate child costs. It likely would be more valid for the cost schedule to stop at \$15,000 in combined monthly adjusted gross income and for the court to use discretion at income levels above this.

Incorporating a Self-Support Reserve

Most of the Basic Child Support Obligation (BCSO) Schedule is based on interpolated figures from the USDA and U.S. Department of the Interior studies. That is, actual data are used or are pro-rated in between known values. For low income situations, a self-support reserve exception helps ensure that an obligor has sufficient income to meet the obligor's basic needs. The self-support reserve is set at \$798 net per month, which is equivalent to the 2005 poverty guidelines for one person.¹²

The self-support reserve section is the shaded section of the BCSO schedule. This section begins at \$950 month in monthly combined adjusted income but for the calculation, it is assumed (just for self-support calculations) that the custodial parent has zero income. Below \$950 per month in adjusted gross income for the obligor, the award is determined at the discretion of the court.

The self-support level is based on three economic calculations:

1. The obligor's available income above the self-support reserve of \$798 per month.
2. The portion of available income, above the reserve, that is to be allocated for child support.
3. The income level at which the self-support award equals the standard child cost figure as based upon the economic data. At this point, the self-support section stops.

Not all of the available income above self-support is allocated to child support so that the obligor has a modest portion retained for the obligor's use. This helps to retain an incentive for the obligor to work and improve earnings. If all of the low-income obligor's additional income were allocated to child

¹¹ Constance F. Citro and Robert T. Michael, editors, *Measuring Poverty: A New Approach*, National Academy Press, Washington, D.C. (1995).

¹² *Federal Register*, Vol. 70, No. 33, February 18, 2005, pp. 8373-8375.

support, the obligor would have less incentive to work and provide additional income for the child or children. As a matter of equity, the obligor should be able to share in the obligor's own increased earnings. The self support obligation is set at an amount that is less than 100 percent of the obligor's additional income in order to provide an incentive to do additional work and to increase earnings. Nevertheless, the self-support award is a high percentage of available income because in low-income situations child cost coverage has a priority. Also, the self-support obligation rises as the number of children increases.

Summary of Key Assumptions or Key Underlying Facts

The Cost Shares Schedule of Basic Child Support Obligations is based on a number of key economic facts and assumptions that are summarized below to provide a basis for how appropriate the presumptive costs would be for particular cases and to provide guidance for economically sound deviation awards.

- 1) **Use of gross income.** The cost schedule is based on gross income but takes into account income taxes paid by the parents. That is, the child cost figures slowly decline as a percentage of gross income and net income. It is assumed that the parents pay typical federal and state income taxes for their income level.
- 2) **Child-related tax benefits.** The Schedule does not take into account that child-related tax benefits are essentially partial cost offsets to gross child costs. The sharing of the child-related tax benefits should be addressed separately from the derivation of the cost schedule. Specifically, no economically sound adjustment can be built into the cost schedule since the dollar value of child-related tax benefits depend on the custodial parent's income—not combined income. For the cost schedule, one cannot know in advance what portion of combined income is that of the custodial parent.
- 3) **Income assumed to be taxable.** The cost schedule is based primarily on income subject to income tax at an average rate for each income level.
- 4) **Schedule does not include expenditures on child care, extraordinary medical, the children's share of health insurance premiums, and private tuition for education.** The schedule of Basic Child Cost Obligations represents total typical expenditures on children up to age 18. The major categories of expenditures include food, housing, home furnishings, utilities, transportation, clothing, education, and recreation. Excluded from these figures are typical expenditures for child care, children's extraordinary medical expenses, the children's share of medical insurance premiums, and private tuition for education. These costs are deducted from standard cost amounts used to establish the Schedule because they are treated as add-ons to the BCSO and should not be double counted.

- 5) **Schedule includes expenditures on ordinary medical care.** Medical insurance premiums for the children's portion and extraordinary medical expenses are deducted from the Schedule of BCSO and are treated as add-ons. Ordinary medical expenses are included in the Schedule and equal \$250 per child per year. These expenses include out-of-pocket expenses not covered by medical insurance such as over-the-counter medicines, medical supplies such as Band-Aids, and co-payments for doctor visits. The ordinary expenditures also cover vision and dental care expenses but only up to the \$250 per child per year inclusive of medical, dental, and vision expense totals.
- 6) **Schedule is based on typical or average expenditures on children, ages 0 through 17 years.** Expenditures are averaged across age groups from birth through age 17 years. There is no adjustment by age. Some studies find child costs to rise with age with the average cost being around age 12. Other studies find little difference across age categories.
- 7) **Non-custodial parenting time costs are not taken into account in the Schedule.** The Schedule is based on single-parent child costs with the parents living in separate households. However, it is assumed that the child lives 100 percent of the time with the custodial parent. Adjustments for the non-custodial parent having more than zero parenting time must be made separately when appropriate.
- 8) **Self-support reserve.** The Schedule of BCSO has a built in self-support reserve for the obligor. This reserve sets aside income for the obligor to pay taxes and meet his or her basic needs at a subsistence level. The self-support reserve is set at \$798 per month—equal to the U.S. Department of Health and Human Services poverty threshold for one adult in 2005.

Tables: Alabama Cost Shares Basis, Schedule of Child Support Obligations

Exhibit 3.

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
	Monthly Basic Child Support Obligations Established at Discretion of the Court					
0-900						
950	50	50	50	50	50	50
1,000	60	60	61	62	62	63
1,050	95	96	97	98	99	100
1,100	130	131	133	134	136	137
1,150	165	167	169	170	172	174
1,200	200	202	204	207	209	211
1,250	219	238	240	243	245	248
1,300	227	273	276	279	282	285
1,350	235	307	311	314	317	321
1,400	243	341	344	348	352	356
1,450	250	374	378	382	386	390
1,500	258	399	412	416	420	425
1,550	265	411	445	450	455	460
1,600	273	423	479	484	489	494
1,650	281	434	504	518	524	529
1,700	288	446	517	552	558	564
1,750	296	458	531	586	592	599
1,800	303	469	545	608	627	633
1,850	311	481	558	623	661	668
1,900	318	493	572	638	695	703
1,950	326	505	585	653	719	737
2,000	334	516	599	669	736	772
2,050	341	528	613	684	752	807
2,100	349	540	626	699	769	836
2,150	356	552	640	714	786	854
2,200	364	563	653	729	802	872
2,250	371	575	667	744	819	891
2,300	379	587	680	760	836	909
2,350	387	598	694	775	852	927
2,400	394	610	708	790	869	945
2,450	402	622	721	805	886	963
2,500	409	634	735	820	902	981
2,550	417	645	748	835	919	1,000
2,600	424	657	762	851	936	1,018

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
2,650	432	669	776	866	952	1,036
2,700	440	680	789	881	969	1,054
2,750	447	692	803	896	986	1,072
2,800	455	704	816	911	1,003	1,090
2,850	462	716	830	926	1,019	1,108
2,900	470	727	844	942	1,036	1,127
2,950	477	739	857	957	1,053	1,145
3,000	485	751	871	972	1,069	1,163
3,050	493	762	884	987	1,086	1,181
3,100	500	774	897	1,002	1,102	1,198
3,150	506	784	909	1,015	1,116	1,214
3,200	513	794	921	1,028	1,131	1,230
3,250	515	797	923	1,031	1,134	1,233
3,300	517	800	927	1,035	1,139	1,238
3,350	517	802	931	1,040	1,144	1,244
3,400	520	807	933	1,042	1,146	1,246
3,450	521	810	938	1,047	1,152	1,253
3,500	524	812	941	1,051	1,156	1,257
3,550	526	815	945	1,055	1,161	1,262
3,600	528	819	948	1,059	1,164	1,266
3,650	530	821	950	1,061	1,167	1,269
3,700	533	825	954	1,065	1,172	1,274
3,750	535	826	957	1,069	1,176	1,278
3,800	536	829	962	1,074	1,182	1,285
3,850	539	834	966	1,079	1,187	1,290
3,900	540	837	969	1,082	1,190	1,294
3,950	543	839	972	1,085	1,194	1,298
4,000	544	842	976	1,090	1,199	1,304
4,050	547	846	979	1,093	1,203	1,308
4,100	548	849	982	1,097	1,206	1,312
4,150	549	852	985	1,100	1,210	1,316
4,200	551	856	989	1,104	1,215	1,321
4,250	553	857	993	1,109	1,220	1,327
4,300	556	860	996	1,112	1,223	1,331
4,350	558	864	1,001	1,118	1,230	1,337
4,400	560	867	1,004	1,121	1,233	1,341
4,450	562	869	1,007	1,125	1,237	1,345
4,500	563	873	1,010	1,128	1,241	1,349

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
4,550	564	875	1,014	1,132	1,246	1,355
4,600	567	878	1,018	1,137	1,250	1,360
4,650	568	883	1,020	1,139	1,253	1,363
4,700	573	886	1,024	1,144	1,258	1,368
4,750	574	888	1,028	1,148	1,263	1,373
4,800	576	892	1,032	1,152	1,268	1,379
4,850	578	895	1,034	1,155	1,270	1,381
4,900	579	896	1,037	1,158	1,274	1,385
4,950	581	900	1,042	1,164	1,280	1,392
5,000	583	904	1,045	1,167	1,284	1,396
5,050	585	906	1,049	1,171	1,289	1,401
5,100	588	909	1,052	1,175	1,292	1,405
5,150	589	912	1,056	1,179	1,297	1,411
5,200	590	916	1,059	1,183	1,301	1,415
5,250	593	918	1,062	1,186	1,305	1,419
5,300	595	922	1,066	1,190	1,309	1,424
5,350	597	925	1,068	1,193	1,312	1,427
5,400	599	927	1,072	1,197	1,317	1,432
5,450	601	931	1,076	1,202	1,322	1,437
5,500	603	934	1,081	1,207	1,328	1,444
5,550	604	937	1,083	1,209	1,330	1,447
5,600	606	939	1,087	1,214	1,335	1,452
5,650	608	942	1,090	1,217	1,339	1,456
5,700	610	945	1,094	1,222	1,344	1,461
5,750	613	949	1,097	1,225	1,348	1,465
5,800	615	952	1,100	1,228	1,351	1,469
5,850	617	955	1,104	1,233	1,356	1,475
5,900	619	957	1,107	1,236	1,360	1,479
5,950	621	960	1,111	1,241	1,365	1,484
6,000	623	964	1,115	1,245	1,370	1,489
6,050	625	967	1,119	1,250	1,375	1,495
6,100	625	971	1,122	1,253	1,378	1,499
6,150	629	973	1,125	1,256	1,382	1,503
6,200	629	976	1,129	1,261	1,387	1,508
6,250	633	980	1,131	1,263	1,389	1,511
6,300	634	982	1,135	1,267	1,394	1,516
6,350	636	985	1,140	1,273	1,400	1,523
6,400	639	988	1,143	1,276	1,404	1,527

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
6,450	639	991	1,146	1,280	1,408	1,531
6,500	642	995	1,148	1,282	1,410	1,534
6,550	643	997	1,152	1,286	1,415	1,539
6,600	645	1,000	1,156	1,291	1,420	1,544
6,650	648	1,004	1,160	1,295	1,425	1,550
6,700	649	1,007	1,164	1,300	1,430	1,555
6,750	651	1,009	1,167	1,303	1,434	1,559
6,800	654	1,012	1,170	1,307	1,437	1,563
6,850	656	1,016	1,175	1,312	1,443	1,570
6,900	658	1,019	1,177	1,314	1,446	1,572
6,950	660	1,022	1,180	1,318	1,449	1,576
7,000	661	1,024	1,183	1,321	1,453	1,580
7,050	664	1,027	1,187	1,326	1,458	1,586
7,100	666	1,031	1,191	1,330	1,463	1,591
7,150	667	1,035	1,194	1,333	1,467	1,595
7,200	670	1,036	1,198	1,338	1,472	1,600
7,250	671	1,039	1,202	1,342	1,477	1,606
7,300	673	1,043	1,205	1,346	1,480	1,610
7,350	675	1,045	1,208	1,349	1,484	1,614
7,400	676	1,050	1,211	1,352	1,488	1,618
7,450	680	1,053	1,215	1,357	1,492	1,623
7,500	681	1,055	1,218	1,360	1,496	1,627
7,550	684	1,058	1,222	1,365	1,501	1,632
7,600	685	1,061	1,226	1,369	1,506	1,638
7,650	685	1,065	1,229	1,372	1,510	1,642
7,700	689	1,067	1,231	1,375	1,512	1,644
7,750	689	1,070	1,236	1,380	1,518	1,651
7,800	693	1,074	1,241	1,386	1,524	1,658
7,850	695	1,076	1,244	1,389	1,528	1,662
7,900	698	1,079	1,246	1,391	1,531	1,664
7,950	700	1,083	1,250	1,396	1,535	1,670
8,000	700	1,085	1,254	1,400	1,540	1,675
8,050	703	1,089	1,258	1,405	1,545	1,681
8,100	704	1,093	1,259	1,406	1,547	1,682
8,150	707	1,093	1,263	1,410	1,551	1,687
8,200	709	1,098	1,267	1,415	1,556	1,693
8,250	712	1,102	1,270	1,418	1,560	1,697
8,300	712	1,103	1,276	1,425	1,567	1,705

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
8,350	714	1,107	1,278	1,427	1,570	1,707
8,400	716	1,109	1,281	1,430	1,574	1,711
8,450	717	1,113	1,285	1,435	1,578	1,717
8,500	721	1,116	1,288	1,438	1,582	1,721
8,550	721	1,119	1,293	1,444	1,588	1,727
8,600	725	1,121	1,294	1,445	1,590	1,729
8,650	726	1,125	1,298	1,449	1,594	1,734
8,700	727	1,128	1,302	1,454	1,599	1,739
8,750	730	1,132	1,305	1,457	1,603	1,743
8,800	731	1,134	1,309	1,462	1,608	1,749
8,850	734	1,137	1,312	1,465	1,612	1,753
8,900	736	1,141	1,316	1,470	1,617	1,758
8,950	738	1,142	1,319	1,473	1,620	1,762
9,000	741	1,147	1,323	1,477	1,625	1,767
9,050	742	1,150	1,327	1,482	1,630	1,773
9,100	745	1,152	1,330	1,485	1,634	1,777
9,150	746	1,155	1,333	1,489	1,637	1,781
9,200	747	1,158	1,337	1,493	1,642	1,786
9,250	750	1,161	1,341	1,497	1,647	1,791
9,300	750	1,165	1,343	1,500	1,650	1,794
9,350	755	1,168	1,347	1,504	1,655	1,799
9,400	756	1,171	1,351	1,509	1,660	1,805
9,450	757	1,175	1,354	1,512	1,663	1,809
9,500	760	1,177	1,360	1,519	1,671	1,817
9,550	761	1,181	1,363	1,522	1,674	1,821
9,600	764	1,184	1,366	1,525	1,678	1,825
9,650	765	1,187	1,369	1,529	1,682	1,829
9,700	768	1,189	1,372	1,532	1,685	1,833
9,750	770	1,192	1,377	1,538	1,691	1,839
9,800	772	1,196	1,380	1,541	1,695	1,843
9,850	774	1,199	1,383	1,544	1,699	1,847
9,900	775	1,202	1,386	1,548	1,703	1,851
9,950	777	1,206	1,390	1,552	1,707	1,857
10,000	779	1,207	1,394	1,557	1,712	1,862
10,050	782	1,211	1,398	1,561	1,717	1,868
10,100	783	1,215	1,400	1,563	1,720	1,870
10,150	787	1,219	1,403	1,567	1,723	1,874
10,200	789	1,221	1,408	1,572	1,730	1,881

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
10,250	790	1,224	1,412	1,577	1,734	1,886
10,300	793	1,227	1,416	1,581	1,739	1,892
10,350	794	1,231	1,419	1,585	1,743	1,896
10,400	796	1,234	1,423	1,589	1,748	1,901
10,450	798	1,237	1,427	1,594	1,753	1,906
10,500	800	1,239	1,430	1,597	1,757	1,910
10,550	803	1,243	1,434	1,601	1,761	1,916
10,600	804	1,246	1,436	1,604	1,764	1,918
10,650	807	1,250	1,440	1,608	1,769	1,924
10,700	808	1,252	1,443	1,611	1,773	1,928
10,750	810	1,254	1,448	1,617	1,779	1,934
10,800	812	1,258	1,452	1,621	1,784	1,940
10,850	814	1,260	1,456	1,626	1,789	1,945
10,900	816	1,264	1,459	1,629	1,792	1,949
10,950	818	1,267	1,461	1,631	1,795	1,952
11,000	821	1,270	1,466	1,637	1,801	1,958
11,050	821	1,273	1,470	1,642	1,806	1,964
11,100	825	1,278	1,473	1,645	1,809	1,968
11,150	826	1,280	1,476	1,648	1,813	1,972
11,200	828	1,284	1,480	1,653	1,818	1,977
11,250	829	1,286	1,484	1,657	1,823	1,982
11,300	832	1,290	1,487	1,661	1,827	1,986
11,350	835	1,292	1,490	1,664	1,830	1,990
11,400	836	1,295	1,493	1,667	1,834	1,994
11,450	840	1,299	1,498	1,673	1,840	2,001
11,500	840	1,302	1,502	1,677	1,845	2,006
11,550	843	1,305	1,506	1,682	1,850	2,012
11,600	844	1,308	1,510	1,686	1,855	2,017
11,650	846	1,311	1,512	1,688	1,857	2,020
11,700	849	1,315	1,517	1,694	1,863	2,026
11,750	851	1,318	1,520	1,697	1,867	2,030
11,800	854	1,321	1,523	1,701	1,871	2,035
11,850	854	1,322	1,527	1,705	1,876	2,040
11,900	857	1,326	1,529	1,707	1,878	2,043
11,950	858	1,330	1,534	1,713	1,884	2,049
12,000	861	1,334	1,537	1,716	1,888	2,053
12,050	861	1,336	1,541	1,721	1,893	2,059
12,100	865	1,340	1,545	1,725	1,898	2,064

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
12,150	868	1,343	1,546	1,726	1,899	2,065
12,200	868	1,346	1,551	1,732	1,905	2,072
12,250	872	1,350	1,555	1,736	1,910	2,077
12,300	872	1,353	1,559	1,741	1,915	2,083
12,350	875	1,354	1,562	1,744	1,919	2,087
12,400	876	1,358	1,566	1,749	1,924	2,092
12,450	879	1,361	1,570	1,753	1,929	2,097
12,500	880	1,364	1,574	1,758	1,933	2,103
12,550	882	1,367	1,577	1,761	1,937	2,107
12,600	885	1,371	1,580	1,764	1,941	2,111
12,650	887	1,374	1,584	1,769	1,946	2,116
12,700	890	1,377	1,587	1,772	1,949	2,120
12,750	891	1,379	1,591	1,777	1,954	2,125
12,800	893	1,384	1,595	1,781	1,959	2,131
12,850	895	1,386	1,598	1,784	1,963	2,135
12,900	898	1,390	1,604	1,791	1,970	2,143
12,950	900	1,393	1,605	1,792	1,972	2,144
13,000	901	1,395	1,609	1,797	1,976	2,149
13,050	904	1,398	1,613	1,801	1,981	2,155
13,100	905	1,403	1,616	1,805	1,985	2,159
13,150	906	1,406	1,621	1,810	1,991	2,165
13,200	908	1,408	1,623	1,812	1,994	2,168
13,250	912	1,411	1,627	1,817	1,999	2,173
13,300	913	1,415	1,630	1,820	2,002	2,177
13,350	915	1,418	1,633	1,824	2,006	2,181
13,400	918	1,421	1,638	1,829	2,012	2,188
13,450	919	1,423	1,640	1,831	2,015	2,191
13,500	921	1,426	1,644	1,836	2,019	2,196
13,550	923	1,429	1,647	1,839	2,023	2,200
13,600	924	1,434	1,653	1,846	2,030	2,208
13,650	927	1,437	1,657	1,850	2,035	2,214
13,700	929	1,439	1,661	1,855	2,040	2,219
13,750	931	1,443	1,663	1,857	2,043	2,222
13,800	933	1,447	1,666	1,860	2,046	2,226
13,850	935	1,449	1,670	1,865	2,051	2,231
13,900	937	1,452	1,674	1,869	2,056	2,236
13,950	939	1,455	1,678	1,874	2,061	2,242
14,000	941	1,458	1,680	1,876	2,064	2,244

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
14,050	944	1,461	1,684	1,881	2,069	2,250
14,100	946	1,465	1,688	1,885	2,073	2,255
14,150	947	1,468	1,691	1,888	2,077	2,259
14,200	951	1,471	1,695	1,893	2,082	2,264
14,250	951	1,474	1,697	1,895	2,085	2,267
14,300	953	1,478	1,702	1,901	2,091	2,274
14,350	956	1,480	1,705	1,904	2,094	2,278
14,400	958	1,483	1,710	1,910	2,101	2,284
14,450	960	1,486	1,714	1,914	2,105	2,290
14,500	962	1,489	1,716	1,916	2,108	2,292
14,550	964	1,492	1,719	1,920	2,112	2,296
14,600	965	1,495	1,723	1,924	2,116	2,302
14,650	967	1,499	1,728	1,930	2,123	2,308
14,700	969	1,503	1,731	1,933	2,126	2,312
14,750	971	1,506	1,734	1,936	2,130	2,316
14,800	974	1,510	1,738	1,941	2,135	2,322
14,850	976	1,511	1,742	1,945	2,140	2,327
14,900	978	1,515	1,746	1,950	2,145	2,332
14,950	979	1,518	1,749	1,953	2,148	2,336
15,000	983	1,521	1,753	1,958	2,153	2,342
15,050	983	1,523	1,755	1,960	2,156	2,344
15,100	985	1,527	1,760	1,965	2,162	2,351
15,150	987	1,529	1,764	1,970	2,167	2,356
15,200	991	1,533	1,767	1,973	2,171	2,360
15,250	992	1,537	1,771	1,978	2,175	2,366
15,300	994	1,540	1,773	1,980	2,178	2,368
15,350	997	1,542	1,778	1,985	2,184	2,375
15,400	998	1,546	1,781	1,989	2,188	2,379
15,450	1,000	1,549	1,784	1,992	2,191	2,383
15,500	1,002	1,552	1,788	1,997	2,196	2,389
15,550	1,004	1,555	1,790	1,999	2,199	2,391
15,600	1,006	1,559	1,795	2,004	2,205	2,398
15,650	1,009	1,561	1,799	2,009	2,210	2,403
15,700	1,010	1,565	1,803	2,013	2,215	2,409
15,750	1,012	1,567	1,808	2,019	2,221	2,415
15,800	1,014	1,572	1,809	2,020	2,222	2,417
15,850	1,016	1,574	1,814	2,026	2,228	2,423
15,900	1,018	1,578	1,817	2,029	2,232	2,427

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
15,950	1,020	1,581	1,821	2,034	2,237	2,433
16,000	1,023	1,583	1,824	2,037	2,241	2,437
16,050	1,024	1,586	1,827	2,040	2,244	2,441
16,100	1,026	1,590	1,832	2,046	2,250	2,447
16,150	1,027	1,592	1,835	2,049	2,254	2,451
16,200	1,030	1,595	1,838	2,052	2,258	2,455
16,250	1,031	1,598	1,841	2,056	2,261	2,459
16,300	1,034	1,602	1,846	2,061	2,268	2,466
16,350	1,036	1,605	1,849	2,065	2,271	2,470
16,400	1,038	1,610	1,853	2,069	2,276	2,475
16,450	1,041	1,612	1,857	2,074	2,281	2,481
16,500	1,043	1,615	1,860	2,077	2,285	2,485
16,550	1,045	1,617	1,865	2,083	2,291	2,491
16,600	1,046	1,622	1,866	2,084	2,292	2,493
16,650	1,049	1,624	1,870	2,088	2,297	2,498
16,700	1,050	1,627	1,873	2,092	2,301	2,502
16,750	1,053	1,630	1,877	2,096	2,306	2,507
16,800	1,055	1,634	1,883	2,103	2,313	2,515
16,850	1,057	1,636	1,885	2,105	2,315	2,518
16,900	1,059	1,640	1,889	2,109	2,320	2,523
16,950	1,060	1,643	1,892	2,113	2,324	2,527
17,000	1,063	1,646	1,896	2,117	2,329	2,533
17,050	1,064	1,649	1,900	2,122	2,334	2,538
17,100	1,067	1,652	1,903	2,125	2,338	2,542
17,150	1,069	1,654	1,907	2,130	2,343	2,547
17,200	1,071	1,658	1,910	2,133	2,346	2,551
17,250	1,072	1,661	1,914	2,137	2,351	2,557
17,300	1,074	1,666	1,918	2,142	2,356	2,562
17,350	1,076	1,668	1,921	2,145	2,360	2,566
17,400	1,078	1,671	1,923	2,147	2,362	2,569
17,450	1,081	1,675	1,927	2,152	2,367	2,574
17,500	1,082	1,678	1,931	2,156	2,372	2,580
17,550	1,085	1,681	1,935	2,161	2,377	2,585
17,600	1,087	1,684	1,939	2,165	2,382	2,590
17,650	1,088	1,685	1,941	2,168	2,384	2,593
17,700	1,090	1,690	1,946	2,173	2,390	2,600
17,750	1,093	1,693	1,950	2,178	2,395	2,605
17,800	1,095	1,697	1,953	2,181	2,399	2,609

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
17,850	1,097	1,698	1,957	2,185	2,404	2,614
17,900	1,099	1,702	1,960	2,189	2,408	2,618
17,950	1,102	1,706	1,964	2,193	2,413	2,624
18,000	1,104	1,709	1,968	2,198	2,417	2,629
18,050	1,105	1,711	1,972	2,202	2,422	2,634
18,100	1,107	1,715	1,976	2,207	2,427	2,640
18,150	1,109	1,716	1,978	2,209	2,430	2,642
18,200	1,111	1,721	1,981	2,212	2,433	2,646
18,250	1,113	1,725	1,985	2,217	2,438	2,652
18,300	1,116	1,728	1,989	2,221	2,443	2,657
18,350	1,117	1,730	1,992	2,224	2,447	2,661
18,400	1,120	1,734	1,996	2,229	2,452	2,666
18,450	1,120	1,737	2,000	2,233	2,457	2,672
18,500	1,123	1,741	2,004	2,238	2,462	2,677
18,550	1,124	1,743	2,008	2,242	2,467	2,682
18,600	1,127	1,747	2,010	2,245	2,469	2,685
18,650	1,129	1,749	2,013	2,248	2,473	2,689
18,700	1,131	1,752	2,016	2,251	2,476	2,693
18,750	1,134	1,754	2,021	2,257	2,483	2,700
18,800	1,134	1,759	2,025	2,261	2,487	2,705
18,850	1,137	1,761	2,028	2,265	2,491	2,709
18,900	1,138	1,764	2,032	2,269	2,496	2,714
18,950	1,141	1,768	2,034	2,271	2,499	2,717
19,000	1,142	1,769	2,039	2,277	2,505	2,724
19,050	1,146	1,775	2,043	2,281	2,510	2,729
19,100	1,149	1,778	2,047	2,286	2,514	2,734
19,150	1,149	1,781	2,051	2,290	2,519	2,740
19,200	1,152	1,782	2,053	2,293	2,522	2,743
19,250	1,153	1,786	2,058	2,298	2,528	2,749
19,300	1,156	1,789	2,061	2,302	2,532	2,753
19,350	1,156	1,793	2,065	2,306	2,537	2,759
19,400	1,160	1,796	2,067	2,308	2,539	2,761
19,450	1,162	1,799	2,070	2,312	2,543	2,765
19,500	1,164	1,801	2,075	2,317	2,549	2,772
19,550	1,167	1,805	2,078	2,321	2,553	2,776
19,600	1,167	1,809	2,082	2,325	2,557	2,781
19,650	1,170	1,812	2,085	2,328	2,561	2,785
19,700	1,171	1,814	2,089	2,333	2,566	2,791

Alabama						
Cost Shares Basis, Schedule of Basic Child Support Obligations						
Combined Adjusted Gross Income	One (1) Child	Two (2) Children	Three (3) Children	Four (4) Children	Five (5) Children	Six (6) Children
19,750	1,174	1,817	2,093	2,337	2,571	2,796
19,800	1,174	1,820	2,097	2,342	2,576	2,801
19,850	1,178	1,824	2,100	2,345	2,580	2,805
19,900	1,180	1,826	2,103	2,348	2,583	2,809
19,950	1,181	1,831	2,107	2,353	2,588	2,815
20,000	1,183	1,833	2,110	2,356	2,592	2,819

CHAPTER V

Summary of Key Characteristics of Alternative Basic Child Support Obligation Schedules

Exhibit 4.

Comparison of Key Characteristics and Bases of Alternative Basic Child Support Obligation Schedules

	Rule 32, Current	PSI 2004 Proposal	PSI 2004 Adjusted for Second Household	Cost Shares
Underlying study	Espenshade, 1984	Betson, 2001	Betson, 2001 and Rogers 2006	USDA 2004 and Rogers 2006
Key data sources	1972-73 CEX ¹³	1996-99 CEX	1996-99 CEX, 2005 IRS Collection Financial Standards	1990-92 CEX updated with 2004 CPI, 2005 Dept. of the Interior Quarters Survey
Estimation technique¹⁴	Engel income equivalence based on food shares of household	Rothbarth income equivalence based on spending on adult clothing	Rothbarth income equivalence based on spending on adult clothing	Modified USDA for reported marginal child costs
Intact family or single-parent data	Intact	Intact	Intact adjusted for second household expenses	Two single-parent households
Parenting time adjustments	Not built into schedule	Not built into schedule	Not built into schedule	Not built into schedule
Child-related tax benefits	Vast majority not built into schedule	Vast majority not built into schedule	Vast majority not built into schedule	Not built into schedule
Child costs defined on marginal or average cost basis	Marginal	Marginal	Marginal	Marginal
Day care	Excluded—treated as an add-on	Excluded—treated as an add-on	Excluded—treated as an add-on	Excluded—treated as an add-on

Table continues.

¹³ CEX is the Consumer Expenditure Survey produced by the U.S. Bureau of Labor Statistics.

¹⁴ See Appendix V for more discussion of the Engel and Rothbarth estimation techniques.

**Comparison of Key Characteristics and Bases of Alternative
Basic Child Support Obligation Schedules**

	Rule 32, Current	PSI 2004 Proposal	PSI 2004 Adjusted for Second Household	Cost Shares
Medical expenses	"\$200 per family of four per year"	Includes \$250 per year per child	Includes \$250 per year per child	Includes \$250 per year per child
Self-support	Built into schedule but no alternative calculation in Rule 32 worksheet; out-of-date 1987 poverty threshold basis	Built into schedule but no alternative calculation in Rule 32 worksheet; based on 2003 poverty threshold	Built into schedule but no alternative calculation in Rule 32 worksheet; based on 2005 poverty threshold	Built into schedule but no alternative calculation in Rule 32 worksheet; based on 2005 poverty threshold
Lower limit of schedule before suggesting use of discretion	\$500 in monthly combined gross income	\$900 in monthly combined gross income	\$950 in monthly combined gross income	\$950 in monthly combined gross income
Upper limit of schedule before suggesting use of discretion	\$10,000 in monthly combined gross income	\$20,000 in monthly combined gross income	\$20,000 in monthly combined gross income	\$20,000 in monthly combined gross income
Realigned for Alabama's relative distribution of income to the U.S.	Realigned	Realigned	Realigned	Not realigned

CHAPTER VI

Charts: Alternative Basic Child Support Obligation Schedules

Exhibit 5.

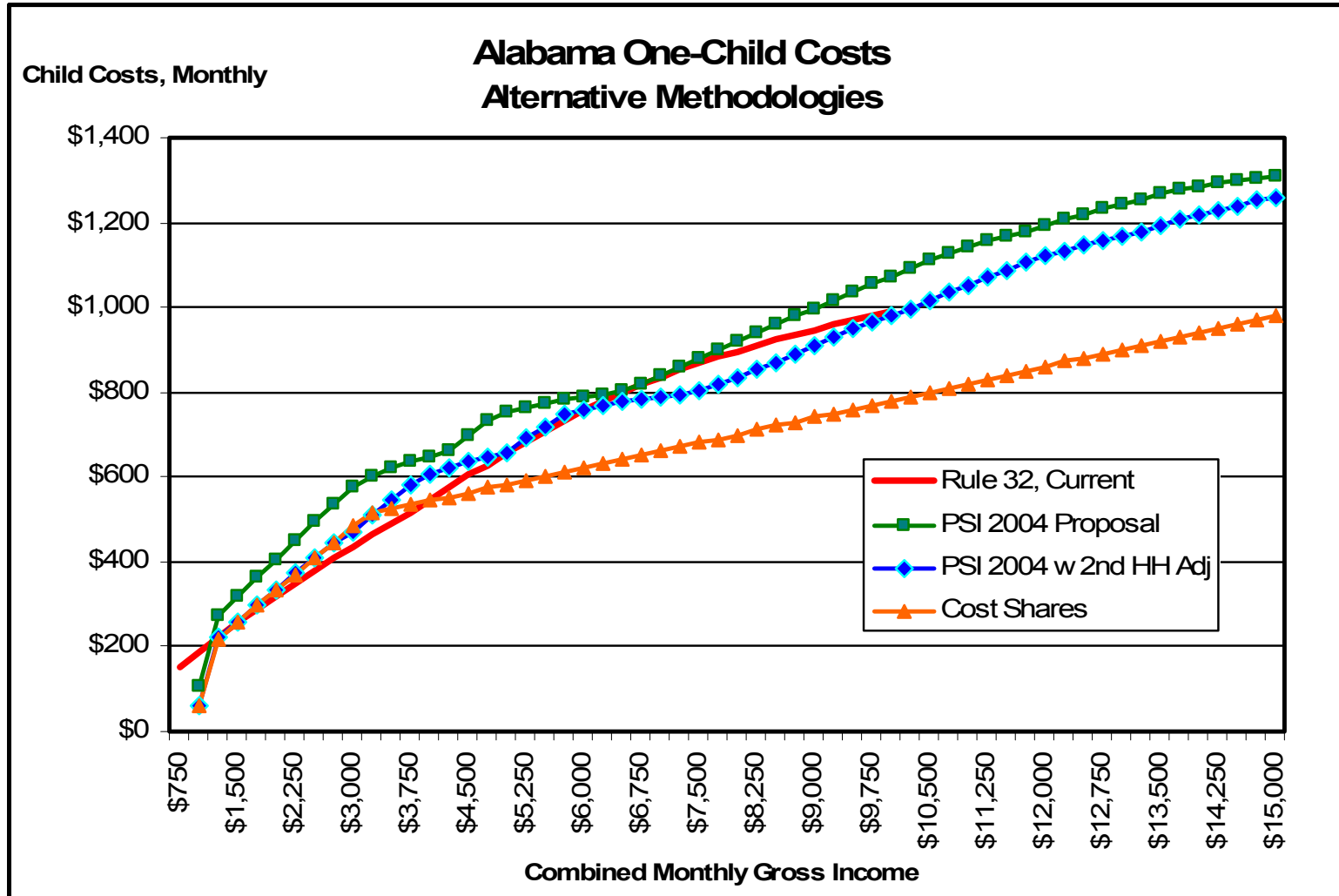


Exhibit 6.

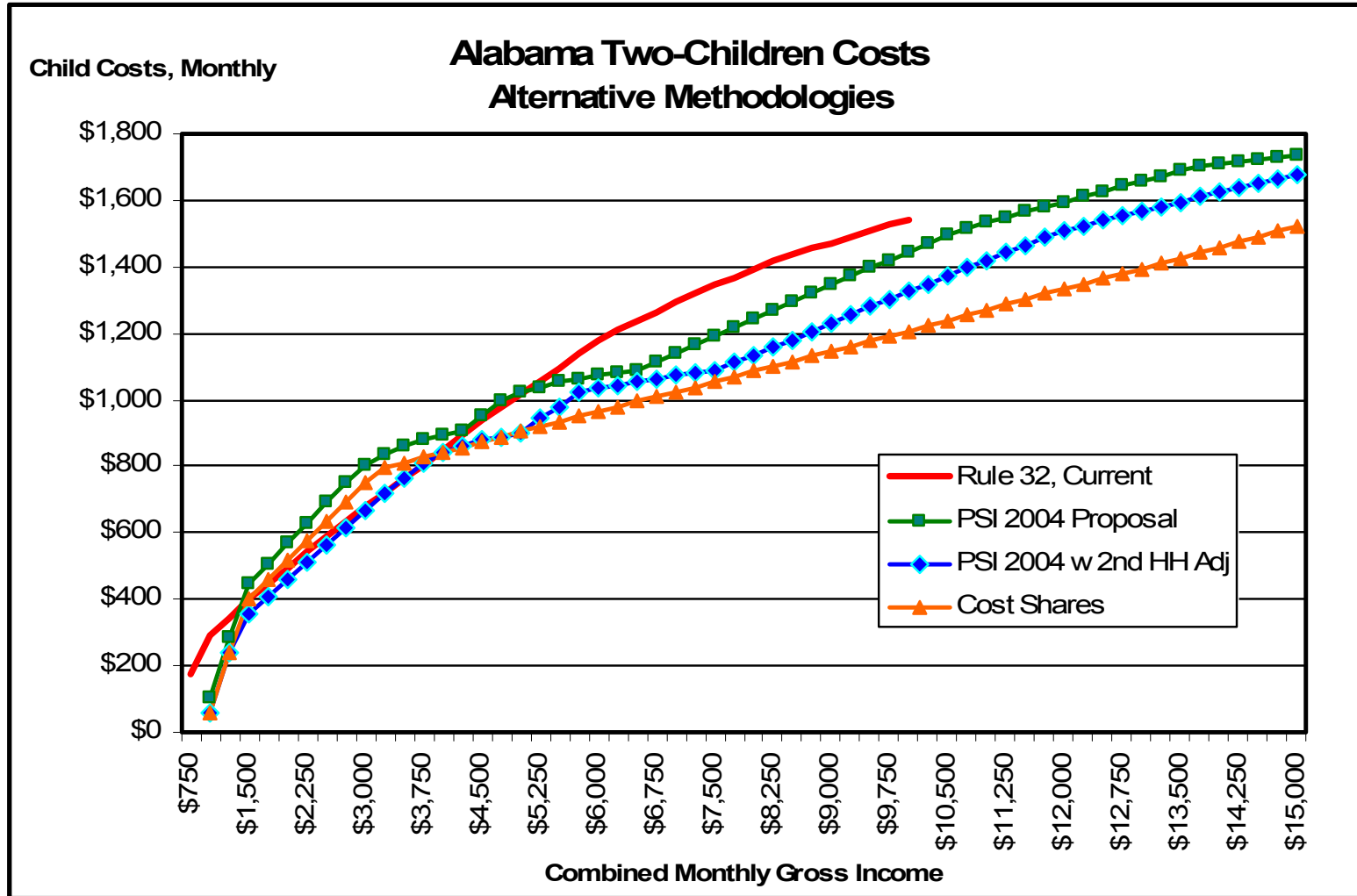


Exhibit 7.

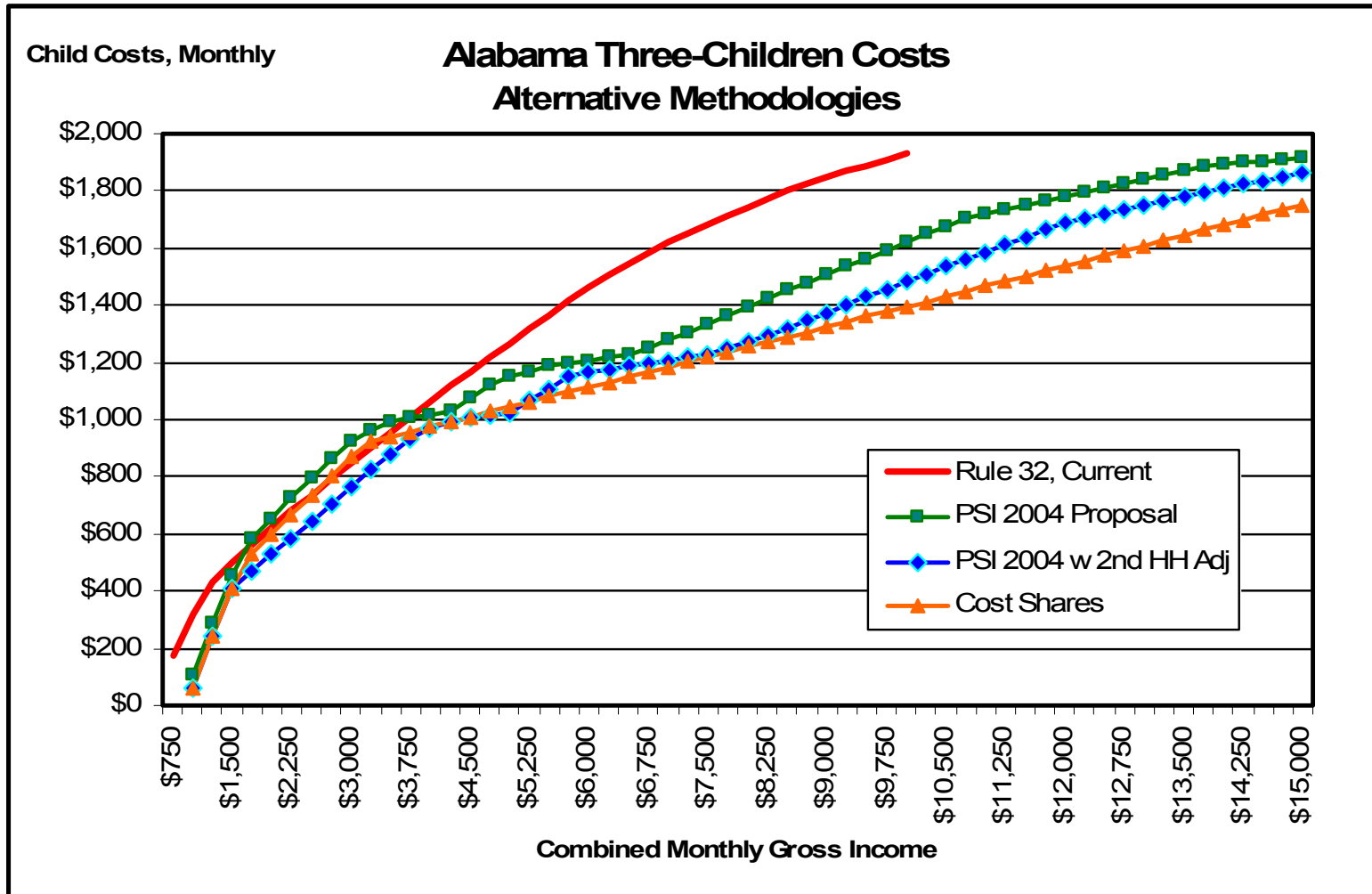


Exhibit 8.

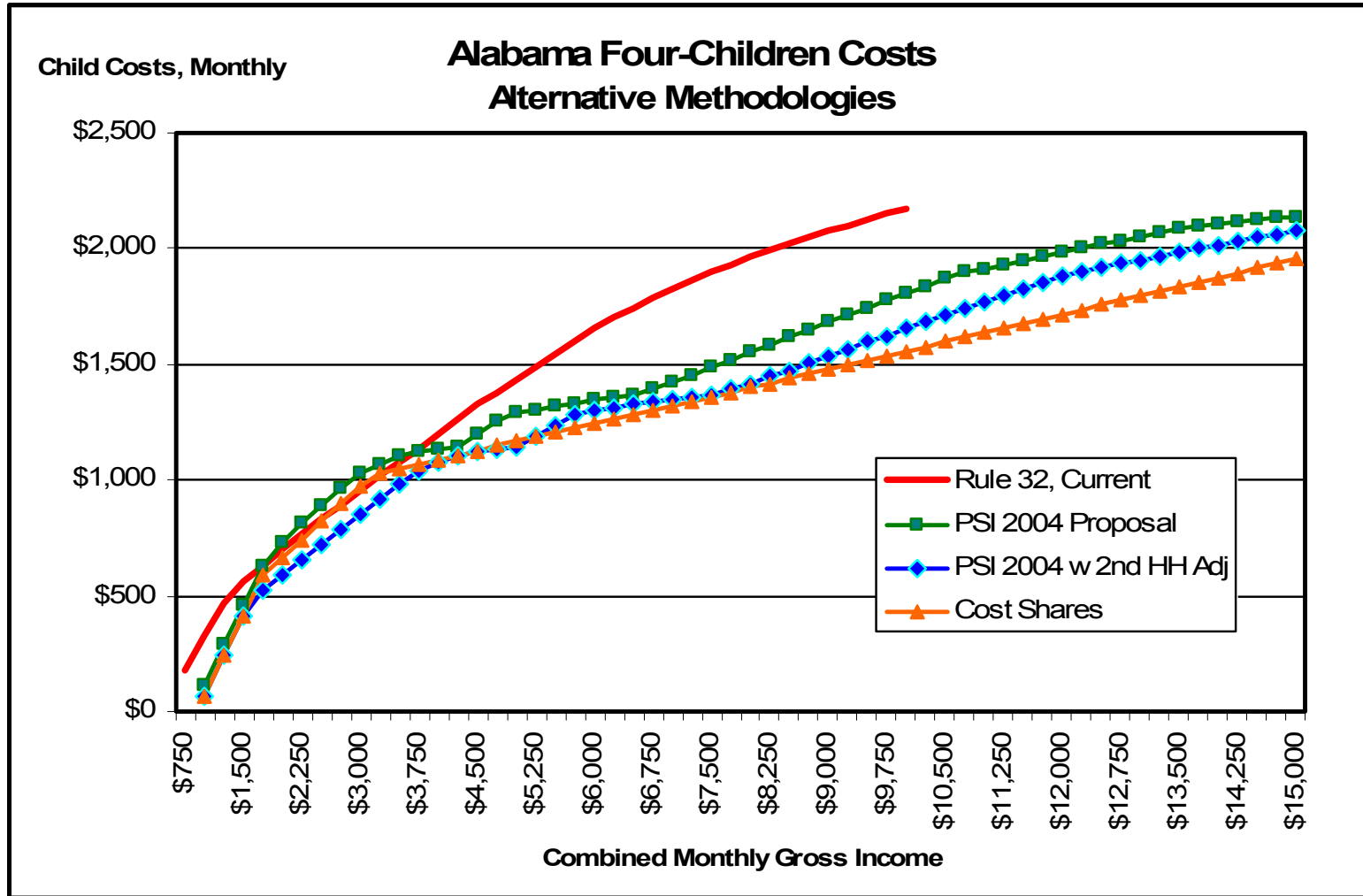


Exhibit 9.

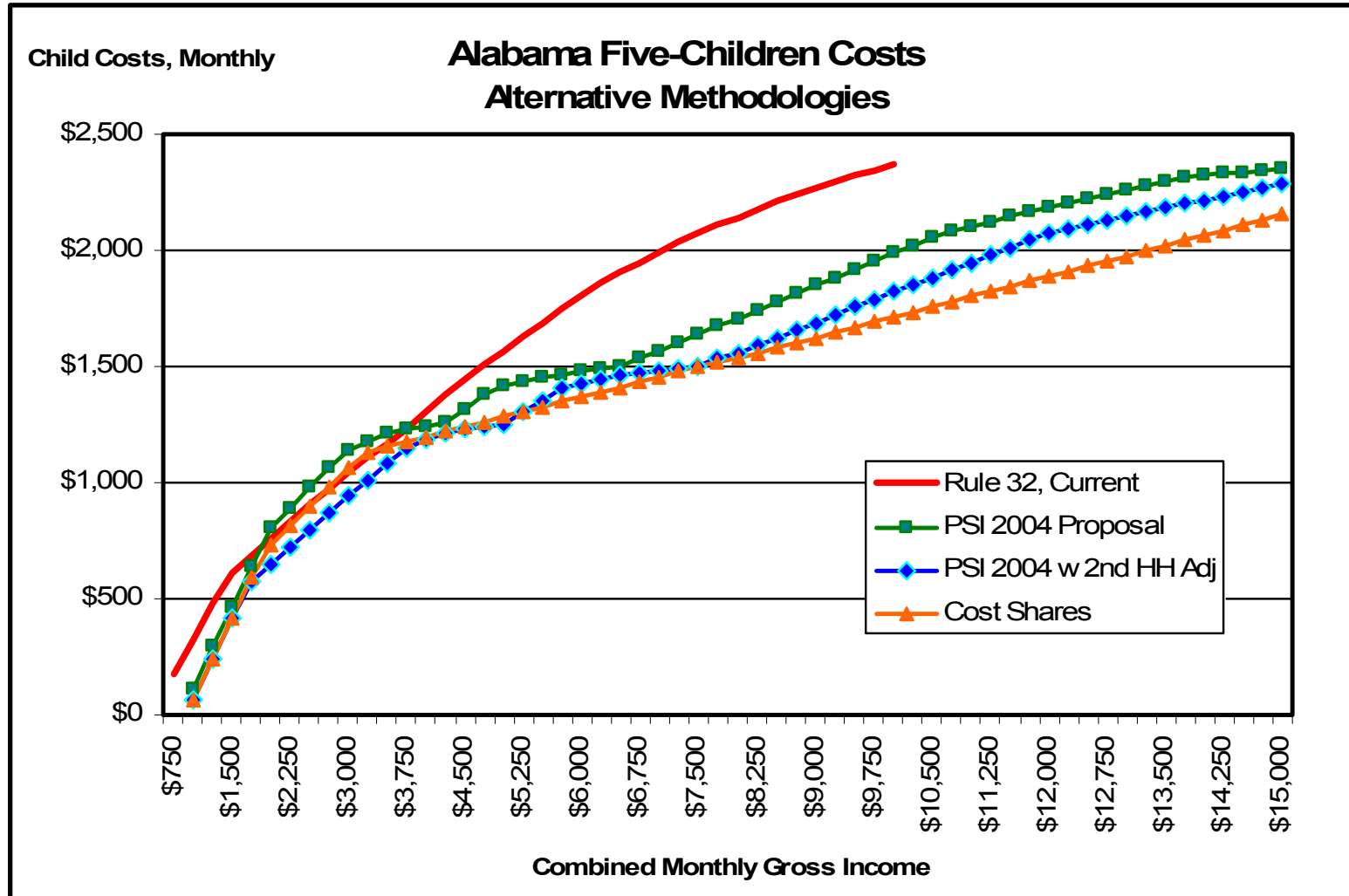
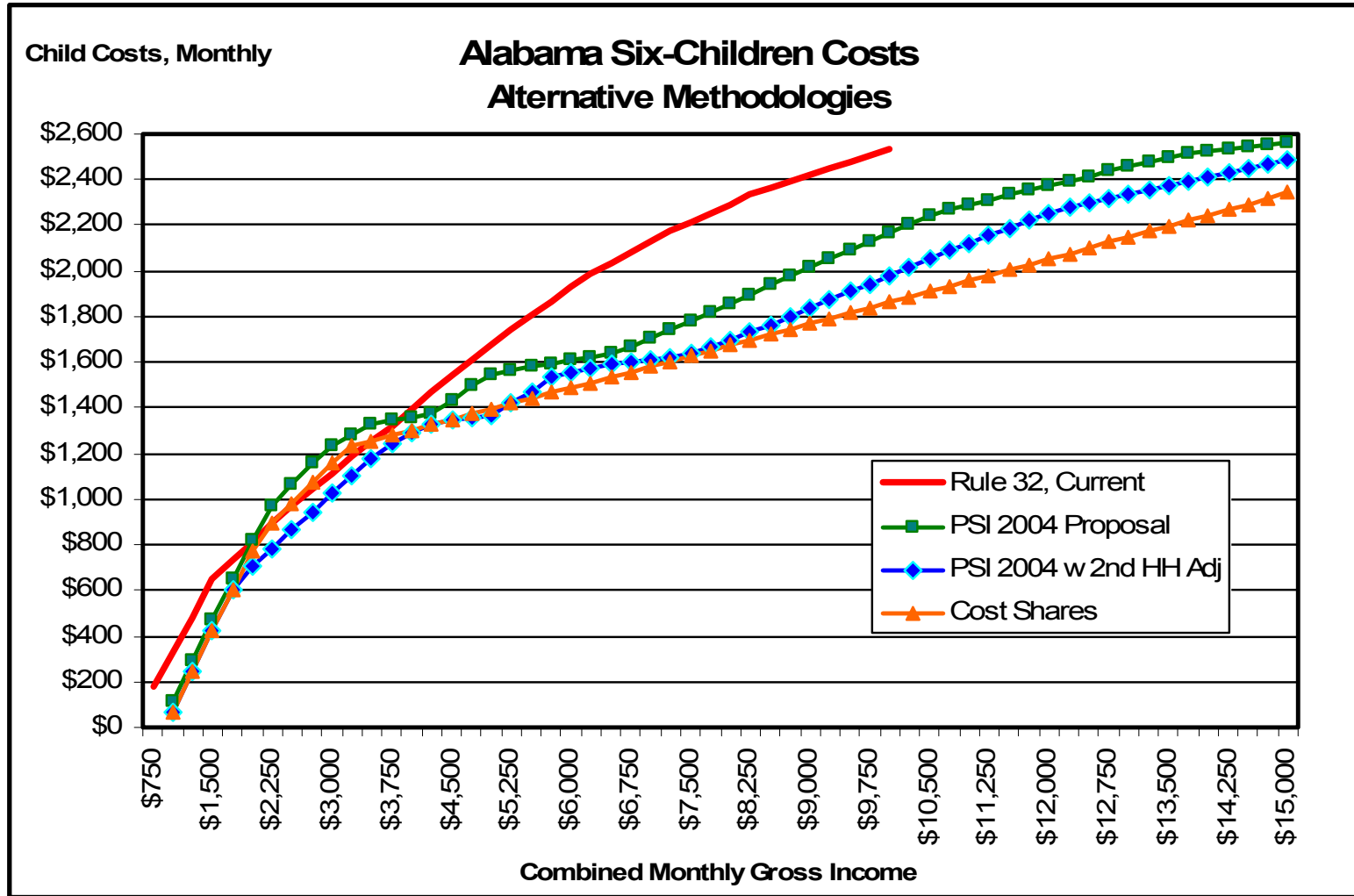


Exhibit 10.



CHAPTER VII

Comparisons of Awards Under Alternative Basic Child Support Obligation Schedules

What is the impact of the four BCSO schedules on the dollar value of the child support awards under some common income scenarios? Exhibits 17 through 19 give dollar values for presumptive awards using cost schedules from the current Income Shares, the PSI 2004 proposal, the PSI 2004 proposal with adjustments for a second household, and Cost Shares. Scenarios are examined at gross income levels for the non-custodial parent ranging from \$1,500 per month to \$6,000 per month. The custodial parent's income varies as a percentage of the non-custodial parent's gross income. These percentages are: 50 percent below (non-custodial parent's income is 100 percent higher), 30 percent below, equal, 30 percent above, and 100 percent above. These comparisons are made for one, two, and three children scenarios.

Standard of Living Comparisons

How do the alternative BCSO schedules impact the standard of living of both households? A traditional standard-of-living comparison uses the federal poverty threshold as a benchmark. Poverty thresholds vary according to household size. Starting with the one-child case, the issue here is one of how the payment of presumptive child support awards affect the standard of living for a one-adult household of the non-custodial parent and for the one-adult and one-child household of the custodial parent. Comparisons are also made for two-children and three-children situations. The poverty thresholds established by the Bureau of the Census vary by the number of children, so that using these varying thresholds takes into account the custodial parent's higher costs from supporting the children. The relevant poverty thresholds are:

Exhibit 11.

Poverty Thresholds, 2004, U.S. Bureau of the Census Annual, Current Dollars

One adult, under age 65	\$9,827
One adult, one child	\$13,020
One adult, two children	\$15,219
One adult, three children	\$19,223

However, non-custodial parents often have significant amounts of parenting time. This increases the non-custodial parent's poverty threshold costs while reducing those of the custodial parent. We assume that the non-custodial parent has 25 percent of total parenting time and that the children's portion of the poverty threshold shifts between the parents by that proportion. For one child, the difference between a one-adult household and a one-adult, one-child household is \$3,193 annually. Allocating 25 percent of this amount to the non-custodial parent results in a one-child poverty threshold of \$10,625 for the non-

custodial parent and \$12,222 for the custodial parent. This adjustment takes into account the non-custodial parent's need to provide for the children while in his or her care.

It can be argued that because of fixed costs such as housing, a straight-line allocation of the child portion of the poverty threshold is inappropriate. However, while studies indicate that custodial parent child costs go down less than proportional to parenting time, they also indicate that a non-custodial parent's child costs go up more than proportional to parenting time.¹⁵ Therefore, straight-line allocation appears to be an accurate measure of the non-custodial parent's share of poverty threshold levels as compared to that of the custodial parent. These are provided in Exhibit 12.

Exhibit 12.

Parenting Time Adjusted Poverty Thresholds, 2004, Annual
25 Percent Parenting Time Assumption for the NCP

	<u>Custodial Parent (CP)</u>	<u>Non-custodial Parent (NCP)</u>
One child case	\$12,222	\$10,625
Two children case	\$13,871	\$11,175
Three children case	\$16,874	\$12,176

In the analysis below, we express living standards as multiples of the appropriate poverty threshold provided in Exhibit 12. Scenarios start with custodial parent gross incomes that are 50 percent of that of the non-custodial parent. Additional comparisons assume the ratio of 70 percent, 100 percent, 130 percent, and 200 percent.

What are reasonable expectations for the outcomes of these standard of living comparisons? After-tax and after-child support transfer, one might believe that equitable outcomes would be such that where both parents have equal gross incomes, they both have equal standards of living after taking into account differences in household size and the cost of the children. However, in cases where the non-custodial parent begins with a higher gross income, one would expect that the non-custodial parent would still have the higher standard of living after paying support. One might consider it equitable that the standard of living gap be narrowed somewhat, but not eliminated, by the child support transfer when one parent has a significantly higher gross income. However, one would not expect child support transfers to increase the initial standard of living gap for the higher earning parent.

¹⁵ See Paul Henman and Kyle Mitchell, "Estimating the Costs of Contact for Non-resident Parents: A Budget Standards Approach," *Journal of Social Policy*, 30:3, pp 495-520, Cambridge University Press, 2003.

Exhibit 13 shows an example of the basic calculations for both parents' living standards relative to the poverty threshold. The child support award calculation is based on the current Rule 32 formula.

Exhibit 13.

**The Standard of Living Impact of Alabama's
Income Shares Guideline, Current Rule 32: An Example
For Two Children, 25%/75% Parenting Division**

Annual Data	<u>NCP</u>	<u>CP</u>
Gross income	\$48,000	\$48,000
After-tax income	\$35,854	\$40,209
Presumptive child support	-\$8,364	+\$8,364
After-tax, after-presumptive child support income (2005 tax code)	\$27,490	\$48,573
Adjusted poverty threshold	\$11,175	\$13,871
Income as multiple of threshold	2.460	3.502
Custodial parent's higher (+) or lower (-) standard of living compared to non-custodial parent		+42%

The example provided in Exhibit 13 starts with equal gross incomes. An equitable result would be to end with equal living standards after accounting for income taxes, the child support award, and household size. However, one finds a very different result. This can be seen by walking through the steps to see the custodial parent's higher standard of living. First, one notes that the custodial parent has over \$4,000 in higher after-tax income than the non-custodial parent. This is due to head of household status, two child dependency exemptions and related child tax credits. A presumptive monthly award of \$697 results in an annual transfer of \$8,364 from the non-custodial parent to the custodial parent. The custodial parent now has just over \$21,000 more available income than does the non-custodial parent. One then calculates the ratio of the after-tax, after-child support award income to the adjusted poverty threshold. These ratios are 2.460 for the non-custodial parent and 3.502 for the custodial parent. This is how many multiples of the adjusted poverty threshold each parent has in available income. The custodial parent has a 42 percent higher standard of living than the non-custodial parent even though they have the same gross income.

The standard of living analysis in Exhibit 13 is expanded in Exhibits 14 through 16. There are scenarios for one, two, and three children, and for non-custodial parent monthly gross incomes ranging from \$1,500 through \$6,000 and for all four BCSO schedules. Custodial parent income is then set at different percentages of non-custodial parent income: 50 percent, 70 percent, 100 percent, 130 percent, and 200

percent. These tables show the standard of living outcomes which are comparable to the final figure given in Exhibit 13. It is important to note that presumptive awards for all four schedules otherwise use the current Rule 32 formula. None of the awards take into account child-related tax benefits or parenting time adjustments in the award calculations.

What are some generalizations regarding the standard of living impact of the presumptive awards? As can be seen in Exhibit 14, the presumptive award creates a substantial shift in the living standards from the non-custodial to the custodial parent for all four cost schedules. The simplest and more obvious comparisons are for situations in which the gross incomes of the parents are equal—as seen in the gray-highlighted rows. For one-child cases with the current Rule 32 cost schedule, with NCP and CP income at \$4,000 per month, the CP household's standard of living is 27 percent higher than that of the NCP. Typically, the CP households' standard of living is 15 to 30 percent higher than the NCP's—even though an equal standard of living outcome would be equitable given that the parents have the same gross income.

Turning to other cost schedules shown in Exhibit 14 for one-child with parents' gross income being equal, the standard of living outcome using the PSI 2004 proposed cost schedule gives similar but slightly higher results. The PSI 2004 proposal with adjustments for a second household is similar to current Rule 32 results. Even the Cost Shares BCSO boosts the custodial parent's standard of living significantly above that of the non-custodial parent but to a lesser degree than the other cost schedules. One should remember that none of the calculations include sharing the child-related tax benefits or adjustments for parenting time. Finally, for all four BCSO schedules, at low incomes, the CP's standard of living advantage is even higher due to earned income tax credits boosting custodial parent income substantially.

When one reviews the other income scenarios, at moderate incomes for the non-custodial parent, the custodial parent frequently ends up with a higher standard of living than a higher income non-custodial parent. In higher income cases, the award dramatically almost eliminates any income differential. For situations in which the custodial parent has the higher income, the child support award frequently adds to the custodial parent's income advantage rather than narrowing it.

What are benchmarks for equitable outcomes of the standard of living impact of the guidelines on both households? For typical cases these are:

- Custodial and non-custodial parents have equal gross incomes, the child-support award results in essentially equal standards of living on an after-tax, after-child support basis.

- Higher income parent (whether custodial or non-custodial) retains a higher standard of living than the other, but the child support award narrows the gap in standard of living.

Using the standard Rule 32 worksheet, all four cost schedules do not conform to these outcomes in varying degrees.

There are three key possible reasons for what some might consider standard of living outcomes that are inequitable. These are: the custodial parent's child-related tax benefits not being shared, the lack of a parenting time adjustment in the presumptive calculation, and the presumptive child cost schedule being too high due to flaws in the estimation methodology.

This leads to a key point that child support guidelines consist of two major parts—the cost schedule and the method of allocating the costs between the parents. It is not just the cost table that affects the standard of living impact of the guidelines but it is the combination of the cost table and the method of allocating the costs between parents. What has not been addressed are child-related tax benefits as cost offsets and parenting time considerations. In all of the above standard of living analysis, the cost allocation method is that of the current Rule 32 which does not allocate child-related tax benefits and does not make any adjustments for when the child or children are not with the custodial parent 100 percent of the time. Equitable outcomes in child support determination depend both on an economically sound cost schedule and on an allocation of those child costs based on both parents' child costs on an after-tax basis.

On a technical note, the standard of living outcome analysis relies on benchmarks for income equivalence that likely have their own flaws. The poverty thresholds used by the U.S. Bureau of the Census are based on a methodology similar to the Engel methodology used in developing the original Income Shares child cost schedule.¹⁶ The children's portions of the poverty thresholds are based on comparing food shares in household budgets. Most likely, child costs are overestimated in these measures based on the same flaws as discussed in Chapter X and in more detail in Appendix V. Additionally, these poverty thresholds assume that child costs are a fixed percentage of the household budget. If the poverty levels are only used for analysis at low incomes, this is not an issue. However, as family incomes rise, child costs do not remain constant as a share of the family budget but decline as a share. This means that the fixed measure of standards of living in this analysis understates a custodial parent's standard of living more so than that of the non-custodial parent. This is because child costs are a bigger share of the custodial parent's expenses than for the non-custodial parent. Clearly, the standard of living comparisons provide useful information regarding the magnitude of differences in standards of living in the various scenarios, but the measures do have limitations.

Alimony Issues

From the results in the standard of living analysis, it is clear that child support guidelines that do not have parenting time adjustments and do not have required sharing of the child-related tax benefits provide a significant boost in the custodial parent's household standard of living. Some might argue that such is appropriate when the custodial parent has a much lower income than the non-custodial parent. However, if standard of living factors are built into child support tables, then they are awarded to the custodial parent regardless of whether there is a significant income differential. It likely is more legally sound to have child cost schedules that reflect actual child costs and ability to pay and to have parenting time adjustments and shared child-related tax benefits in the child support guidelines and also have alimony awards more readily considered when appropriate.

¹⁶ See Constance F. Citro and Robert T. Michael, editors, *Measuring Poverty: A New Approach*, National Academy Press, Washington, D.C. (1995), pp. 24-25. See also *Report on the Michigan Child Support Formula*, submitted to Michigan Supreme Court, Lansing, Michigan, April 12, 2002 by Policy Studies, Inc., p. 9.

Tables: Alabama Alternative Presumptive Awards: Custodial Parent % Higher/Lower Standard of Living Compared to NCP

Exhibit 14.

**Alabama Alternative Presumptive Awards:
Custodial Parent's % Higher/Lower Standard of Living Compared to NCP, One Child**

(Does not include parenting time adjustments or child-related tax benefit offsets)

Rule 32, Current

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	-2	-6	-8	-12	-15	-17	-20	-22	-24	-25
CP Gross = 30 % < NCP Gross	21	17	9	3	0	-1	-2	-4	-5	-6
CP Gross = NCP Gross	51	39	31	28	27	26	25	23	19	16
CP Gross = 30 % > NCP Gross	72	60	57	54	53	50	47	44	40	38
CP Gross = 100 % > NCP Gross	125	123	117	109	103	99	98	97	96	96

PSI 2004

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	11	8	2	-6	-11	-15	-19	-22	-23	-23
CP Gross = 30 % < NCP Gross	36	30	16	9	2	-1	-2	-2	-3	-3
CP Gross = NCP Gross	69	48	38	30	27	27	27	25	24	22
CP Gross = 30 % > NCP Gross	87	68	61	55	54	52	51	49	47	45
CP Gross = 100 % > NCP Gross	135	126	117	111	108	107	107	107	106	106

PSI 2004 with 2nd HH Adjust.

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	0	-2	-3	-10	-15	-17	-21	-24	-25	-26
CP Gross = 30 % < NCP Gross	24	21	13	4	0	-3	-5	-5	-6	-6
CP Gross = NCP Gross	56	45	31	28	25	23	23	22	21	20
CP Gross = 30 % > NCP Gross	78	62	58	52	50	49	48	47	45	43
CP Gross = 100 % > NCP Gross	129	123	113	107	104	104	105	105	105	104

Cost Shares

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	1	-1	-6	-14	-19	-23	-26	-28	-30	-31
CP Gross = 30 % < NCP Gross	25	21	8	-1	-6	-8	-10	-11	-11	-12
CP Gross = NCP Gross	57	39	26	21	19	18	17	16	14	13
CP Gross = 30 % > NCP Gross	76	57	50	46	44	42	41	39	37	36
CP Gross = 100 % > NCP Gross	122	114	106	99	96	95	96	97	98	99

Exhibit 15.

**Alabama Alternative Presumptive Awards:
Custodial Parent's % Higher/Lower Standard of Living Compared to NCP, Two Children**

(Does not include parenting time adjustments or child-related tax benefit offsets)

Rule 32, Current

NCP Monthly Gross Income:	<u>1,500</u>	<u>2,000</u>	<u>2,500</u>	<u>3,000</u>	<u>3,500</u>	<u>4,000</u>	<u>4,500</u>	<u>5,000</u>	<u>5,500</u>	<u>6,000</u>
CP Gross = 50 % < NCP Gross	24	21	16	11	8	5	1	-4	-8	-11
CP Gross = 30 % < NCP Gross	53	44	37	28	22	17	14	11	9	6
CP Gross = NCP Gross	85	71	58	48	45	42	40	36	31	26
CP Gross = 30 % > NCP Gross	109	89	79	73	70	65	60	54	48	44
CP Gross = 100 % > NCP Gross	154	147	137	125	116	109	104	100	98	96

PSI 2004

NCP Monthly Gross Income:	<u>1,500</u>	<u>2,000</u>	<u>2,500</u>	<u>3,000</u>	<u>3,500</u>	<u>4,000</u>	<u>4,500</u>	<u>5,000</u>	<u>5,500</u>	<u>6,000</u>
CP Gross = 50 % < NCP Gross	38	37	23	12	7	-1	-7	-10	-13	-16
CP Gross = 30 % < NCP Gross	70	57	38	28	17	9	7	6	5	4
CP Gross = NCP Gross	105	75	58	41	36	35	34	33	30	28
CP Gross = 30 % > NCP Gross	124	91	73	64	62	60	58	55	51	49
CP Gross = 100 % > NCP Gross	155	138	127	119	114	111	109	106	104	103

PSI 2004 with 2nd HH Adjust.

NCP Monthly Gross Income:	<u>1,500</u>	<u>2,000</u>	<u>2,500</u>	<u>3,000</u>	<u>3,500</u>	<u>4,000</u>	<u>4,500</u>	<u>5,000</u>	<u>5,500</u>	<u>6,000</u>
CP Gross = 50 % < NCP Gross	19	20	17	7	1	-3	-9	-14	-17	-19
CP Gross = 30 % < NCP Gross	49	44	34	20	15	7	3	1	1	0
CP Gross = NCP Gross	83	70	48	39	33	30	30	28	27	25
CP Gross = 30 % > NCP Gross	108	83	70	61	57	55	53	51	49	46
CP Gross = 100 % > NCP Gross	147	135	121	113	109	107	106	104	103	101

Cost Shares

NCP Monthly Gross Income:	<u>1,500</u>	<u>2,000</u>	<u>2,500</u>	<u>3,000</u>	<u>3,500</u>	<u>4,000</u>	<u>4,500</u>	<u>5,000</u>	<u>5,500</u>	<u>6,000</u>
CP Gross = 50 % < NCP Gross	29	30	18	6	0	-6	-11	-16	-19	-22
CP Gross = 30 % < NCP Gross	60	51	34	19	11	4	1	-1	-3	-4
CP Gross = NCP Gross	96	70	48	35	31	28	27	24	22	20
CP Gross = 30 % > NCP Gross	116	82	65	58	54	51	49	46	44	42
CP Gross = 100 % > NCP Gross	146	129	119	109	103	101	100	100	100	100

Exhibit 16.

**Alabama Alternative Presumptive Awards:
Custodial Parent's % Higher/Lower Standard of Living Compared to NCP, Three Children**

(Does not include parenting time adjustments or child-related tax benefit offsets)

Rule 32, Current

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	32	28	22	17	14	12	9	4	-1	-5
CP Gross = 30 % < NCP Gross	60	50	43	36	31	25	21	17	14	10
CP Gross = NCP Gross	90	79	67	56	52	48	44	40	33	27
CP Gross = 30 % > NCP Gross	116	100	87	79	74	69	63	54	47	42
CP Gross = 100 % > NCP Gross	164	154	142	127	116	106	99	93	89	86

PSI 2004

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	41	39	22	9	4	-3	-7	-11	-14	-17
CP Gross = 30 % < NCP Gross	71	56	34	27	16	8	5	3	2	1
CP Gross = NCP Gross	103	74	58	39	33	31	30	29	26	23
CP Gross = 30 % > NCP Gross	123	90	70	59	56	54	52	48	44	41
CP Gross = 100 % > NCP Gross	152	131	119	109	104	100	97	93	89	88

PSI 2004 with 2nd HH Adjust.

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	17	19	15	4	-2	-5	-10	-15	-18	-21
CP Gross = 30 % < NCP Gross	46	41	31	18	14	6	0	-1	-3	-4
CP Gross = NCP Gross	78	68	47	37	30	26	25	24	22	20
CP Gross = 30 % > NCP Gross	105	82	67	55	50	49	47	44	41	39
CP Gross = 100 % > NCP Gross	144	128	112	103	98	96	94	91	88	86

Cost Shares

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	30	32	17	5	-3	-7	-11	-16	-19	-22
CP Gross = 30 % < NCP Gross	60	50	31	19	11	4	0	-3	-5	-6
CP Gross = NCP Gross	94	69	49	34	28	25	23	21	18	16
CP Gross = 30 % > NCP Gross	115	83	63	54	50	47	43	40	37	35
CP Gross = 100 % > NCP Gross	145	124	112	100	94	91	89	88	87	87

Tables: Alabama Alternative Presumptive Awards: Dollar Values

Exhibit 17.

Alabama Alternative Presumptive Awards: Dollar Values, One Child

(Does not include parenting time adjustments or child-related tax benefit offsets)

Rule 32, Current

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	235	293	346	405	456	507	547	582	610	634
CP Gross = 30 % < NCP Gross	228	283	339	392	444	484	517	545	568	585
CP Gross = NCP Gross	219	273	328	379	418	448	474	496	496	496
CP Gross = 30 % > NCP Gross	209	264	315	356	387	411	427	427	427	427
CP Gross = 100 % > NCP Gross	199	250	286	313	327	327	327	327	327	327

PSI 2004

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	302	387	427	467	511	528	550	589	630	669
CP Gross = 30 % < NCP Gross	297	362	391	447	464	487	526	566	605	643
CP Gross = NCP Gross	289	324	377	394	420	461	499	537	571	597
CP Gross = 30 % > NCP Gross	266	305	336	358	398	436	473	502	527	551
CP Gross = 100 % > NCP Gross	230	260	290	329	367	394	418	432	442	456

PSI 2004 with 2nd HH Adjust.

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	244	319	390	427	462	509	524	538	573	608
CP Gross = 30 % < NCP Gross	241	312	368	395	447	463	480	514	553	586
CP Gross = NCP Gross	238	303	329	380	395	418	454	492	526	560
CP Gross = 30 % > NCP Gross	231	276	322	338	361	398	433	467	495	519
CP Gross = 100 % > NCP Gross	210	250	265	300	336	370	394	416	430	440

Cost Shares

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	249	325	358	377	397	417	436	456	477	496
CP Gross = 30 % < NCP Gross	246	307	326	347	366	386	404	425	445	466
CP Gross = NCP Gross	243	272	292	312	331	350	371	390	411	431
CP Gross = 30 % > NCP Gross	224	244	264	283	302	321	341	361	381	401
CP Gross = 100 % > NCP Gross	186	206	225	245	264	284	304	324	344	364

Exhibit 18.**Alabama Alternative Presumptive Awards: Dollar Values, Two Children**

(Does not include parenting time adjustments or child-related tax benefit offsets)

Rule 32, Current

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	364	454	538	630	709	788	848	901	949	987
CP Gross = 30 % < NCP Gross	353	440	528	611	689	750	802	848	883	910
CP Gross = NCP Gross	339	425	510	588	647	697	737	771	771	771
CP Gross = 30 % > NCP Gross	324	411	489	551	601	639	663	663	663	663
CP Gross = 100 % > NCP Gross	310	388	444	486	509	509	509	509	509	509

PSI 2004

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	423	539	590	638	696	718	746	797	852	902
CP Gross = 30 % < NCP Gross	415	503	535	608	632	660	712	765	815	866
CP Gross = NCP Gross	402	446	513	536	570	622	673	724	767	798
CP Gross = 30 % > NCP Gross	369	417	457	485	538	587	637	673	704	733
CP Gross = 100 % > NCP Gross	314	354	393	444	494	527	557	573	585	603

PSI 2004 with 2nd HH Adjust.

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	342	446	543	590	632	693	714	731	777	823
CP Gross = 30 % < NCP Gross	337	437	510	540	608	630	651	696	747	791
CP Gross = NCP Gross	333	421	450	517	537	567	614	663	708	754
CP Gross = 30 % > NCP Gross	323	381	439	461	490	538	583	629	665	693
CP Gross = 100 % > NCP Gross	290	341	360	405	452	497	527	554	571	582

Cost Shares

NCP Monthly Gross Income:	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000
CP Gross = 50 % < NCP Gross	385	503	553	585	615	646	676	707	738	768
CP Gross = 30 % < NCP Gross	381	476	506	536	566	597	628	658	689	720
CP Gross = NCP Gross	376	421	452	482	512	543	574	604	635	667
CP Gross = 30 % > NCP Gross	348	378	408	438	468	498	529	560	591	622
CP Gross = 100 % > NCP Gross	288	318	348	379	409	440	471	502	533	564

Exhibit 19.**Alabama Alternative Presumptive Awards: Dollar Values, Three Children**

(Does not include parenting time adjustments or child-related tax benefit offsets)

Rule 32, Current

NCP Monthly Gross Income:	<u>1,500</u>	<u>2,000</u>	<u>2,500</u>	<u>3,000</u>	<u>3,500</u>	<u>4,000</u>	<u>4,500</u>	<u>5,000</u>	<u>5,500</u>	<u>6,000</u>
CP Gross = 50 % < NCP Gross	456	568	673	784	882	981	1,060	1,128	1,189	1,237
CP Gross = 30 % < NCP Gross	442	550	661	760	858	938	1,004	1,063	1,107	1,141
CP Gross = NCP Gross	424	532	634	732	809	872	923	967	967	967
CP Gross = 30 % > NCP Gross	405	512	608	690	753	801	832	832	832	832
CP Gross = 100 % > NCP Gross	386	483	556	609	638	638	638	638	638	638

PSI 2004

NCP Monthly Gross Income:	<u>1,500</u>	<u>2,000</u>	<u>2,500</u>	<u>3,000</u>	<u>3,500</u>	<u>4,000</u>	<u>4,500</u>	<u>5,000</u>	<u>5,500</u>	<u>6,000</u>
CP Gross = 50 % < NCP Gross	487	620	674	721	784	808	838	893	953	1,010
CP Gross = 30 % < NCP Gross	478	578	607	685	710	741	797	856	913	970
CP Gross = NCP Gross	463	508	578	603	639	697	754	811	859	890
CP Gross = 30 % > NCP Gross	424	471	514	544	602	658	714	752	783	811
CP Gross = 100 % > NCP Gross	355	398	440	498	554	587	617	633	645	662

PSI 2004 with 2nd HH Adjust.

NCP Monthly Gross Income:	<u>1,500</u>	<u>2,000</u>	<u>2,500</u>	<u>3,000</u>	<u>3,500</u>	<u>4,000</u>	<u>4,500</u>	<u>5,000</u>	<u>5,500</u>	<u>6,000</u>
CP Gross = 50 % < NCP Gross	393	514	625	674	714	780	803	821	870	921
CP Gross = 30 % < NCP Gross	389	503	585	612	685	708	731	779	836	886
CP Gross = NCP Gross	384	483	511	582	604	636	688	743	794	845
CP Gross = 30 % > NCP Gross	372	434	494	518	549	602	653	704	743	772
CP Gross = 100 % > NCP Gross	332	384	404	454	507	557	587	614	631	642

Cost Shares

NCP Monthly Gross Income:	<u>1,500</u>	<u>2,000</u>	<u>2,500</u>	<u>3,000</u>	<u>3,500</u>	<u>4,000</u>	<u>4,500</u>	<u>5,000</u>	<u>5,500</u>	<u>6,000</u>
CP Gross = 50 % < NCP Gross	447	584	641	677	712	747	782	816	851	886
CP Gross = 30 % < NCP Gross	441	550	586	621	655	690	725	760	795	831
CP Gross = NCP Gross	436	488	523	558	592	627	662	697	733	769
CP Gross = 30 % > NCP Gross	403	438	472	506	541	575	610	646	681	716
CP Gross = 100 % > NCP Gross	333	368	402	437	472	507	543	578	614	649

Charts: Awards Under Alternative BCSO Schedules

Exhibit 20.

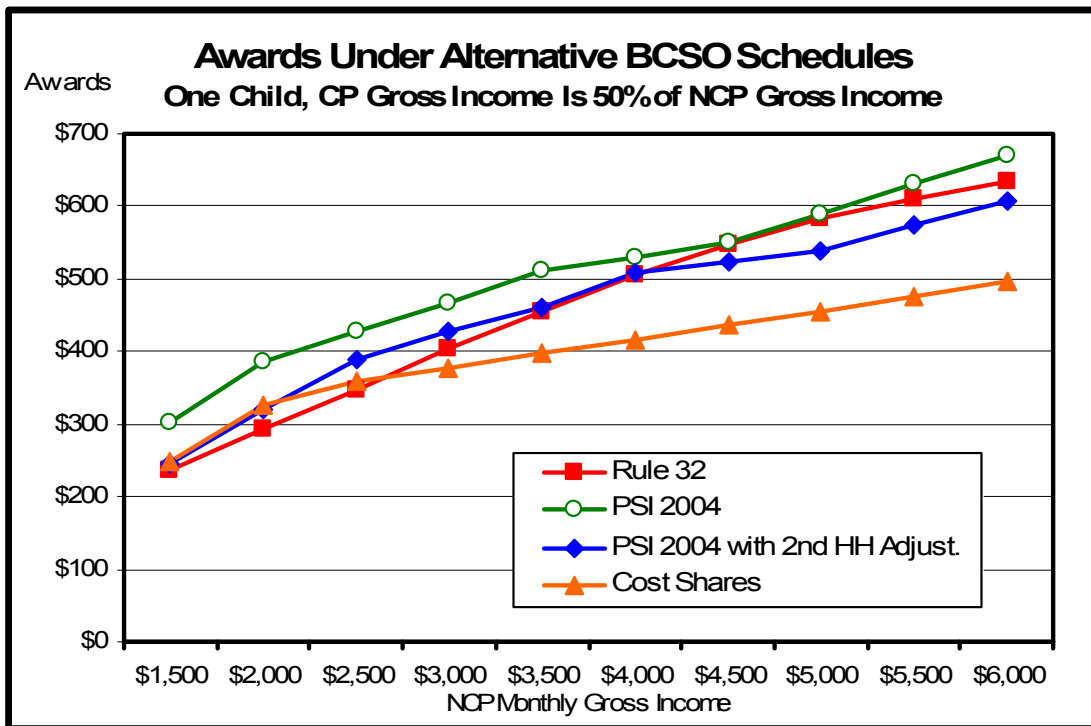
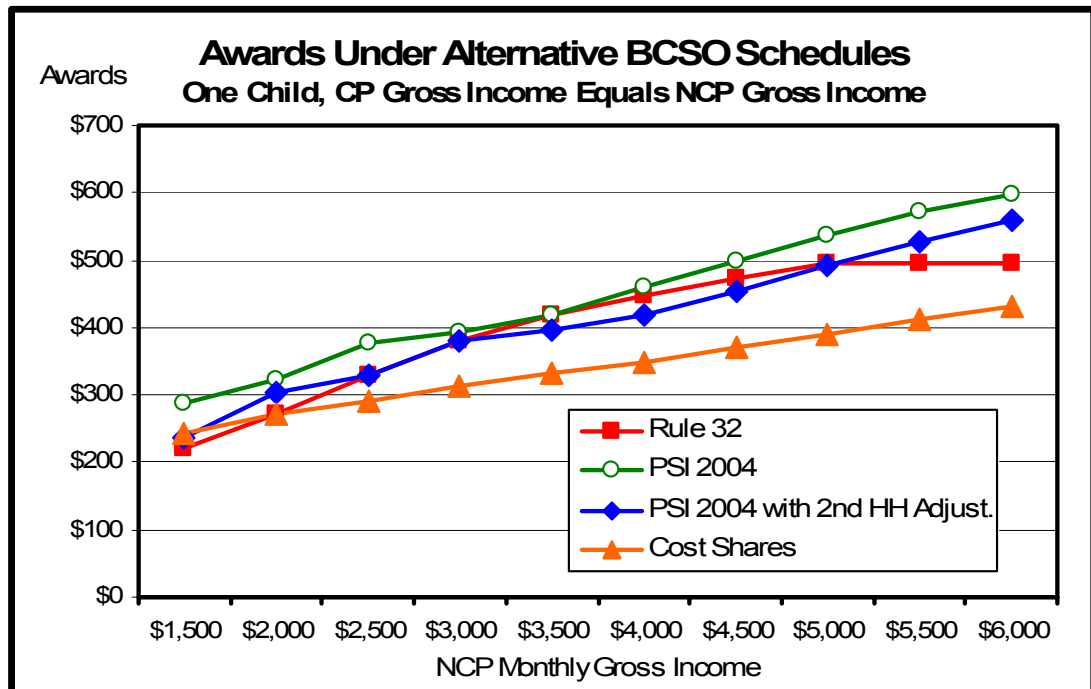


Exhibit 21.



Note: standard worksheet, no parenting time or child-related tax benefits adjustments.

Exhibit 22.

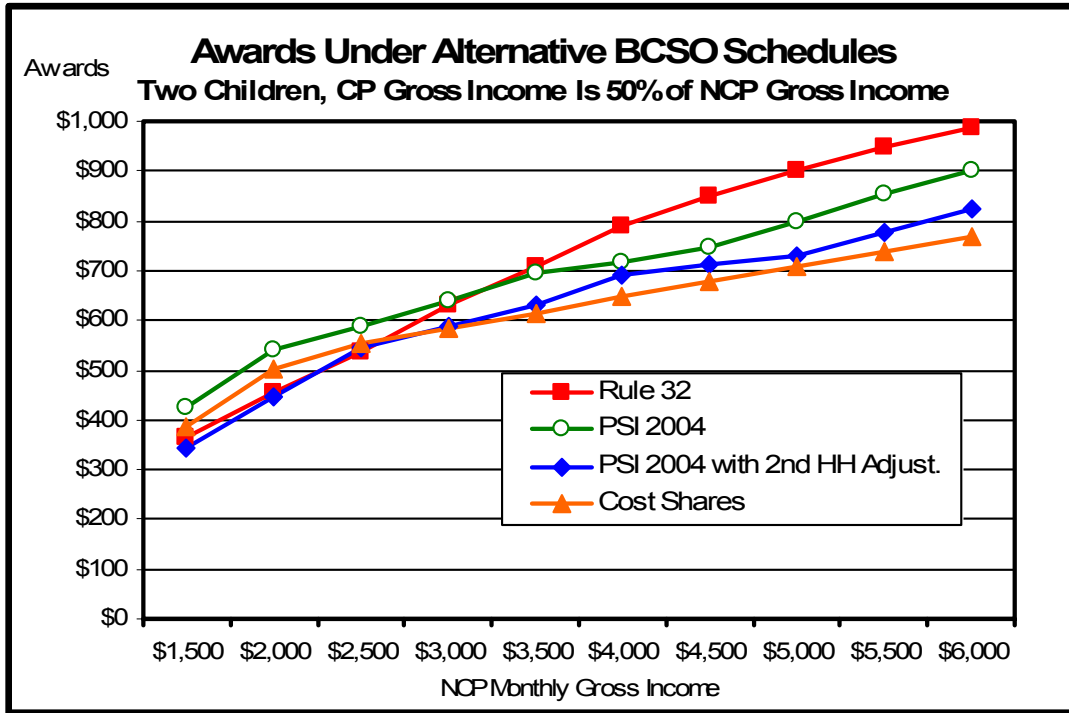
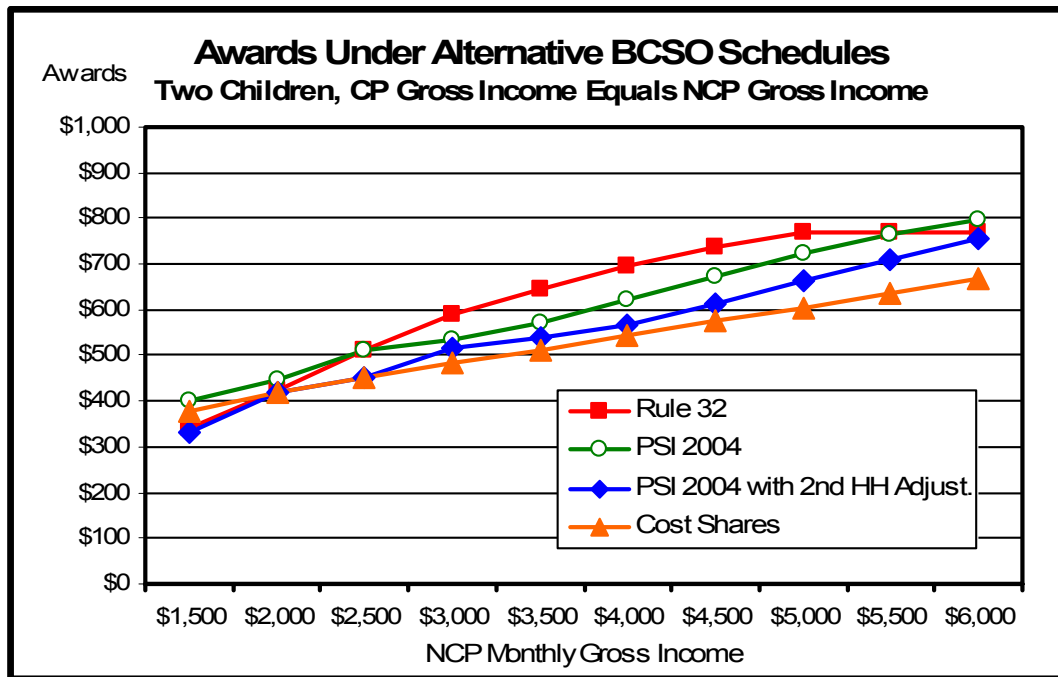


Exhibit 23.



Note: standard worksheet, no parenting time or child-related tax benefits adjustments.

Exhibit 24.

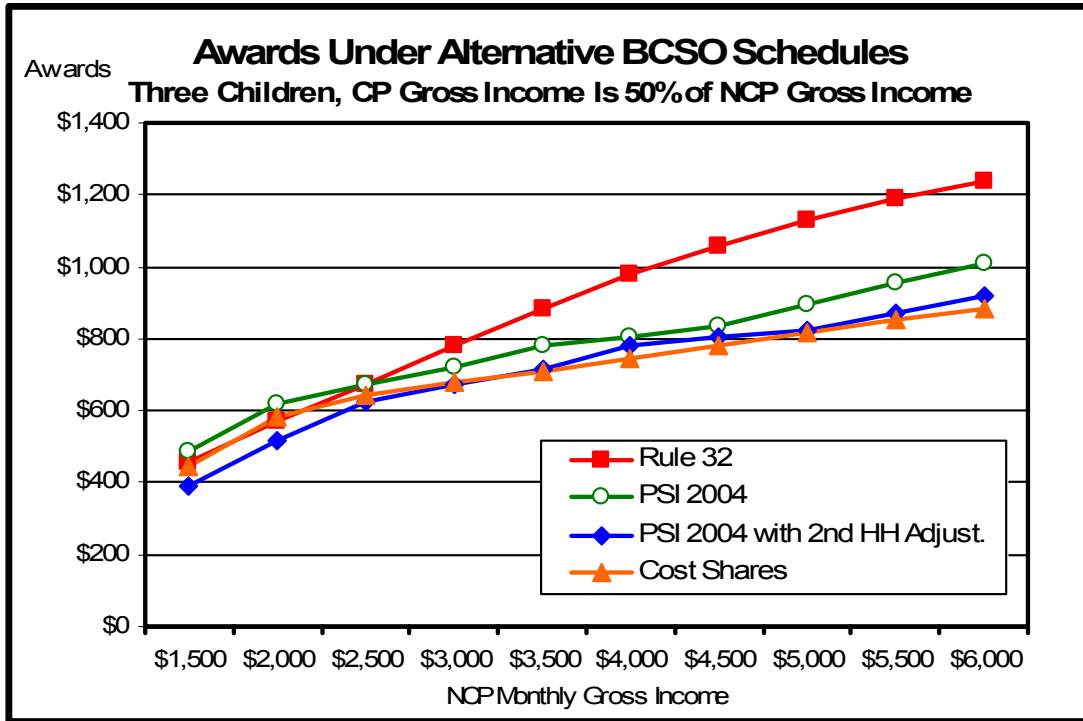
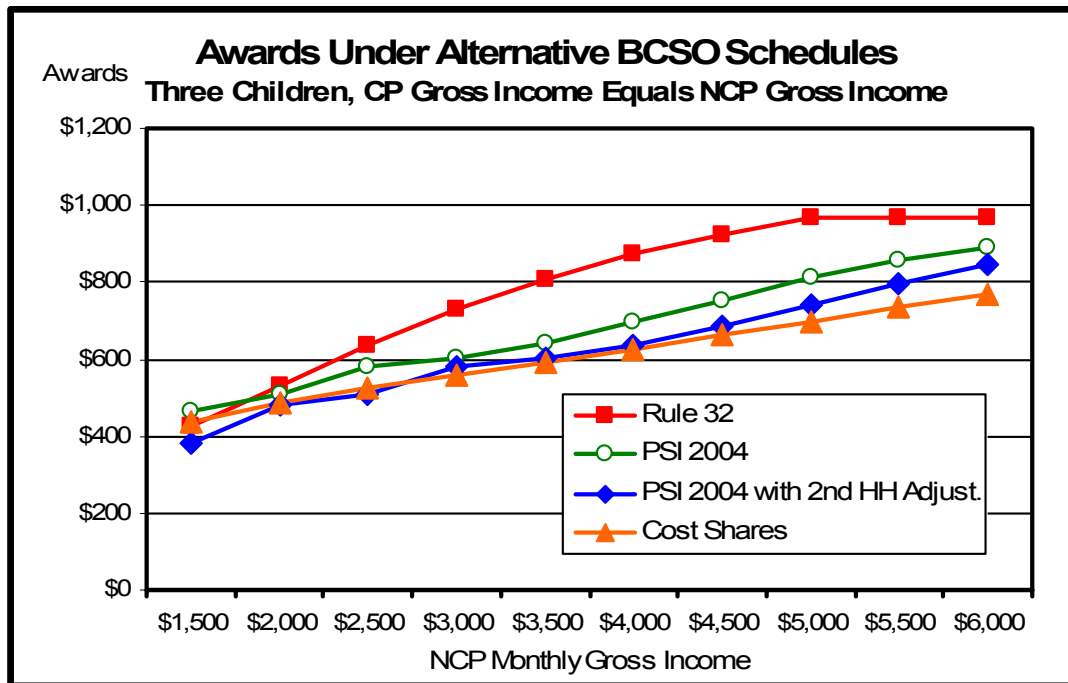


Exhibit 25.



Note: standard worksheet, no parenting time or child-related tax benefits adjustments.

CHAPTER VIII

Income Shares Child Support Guidelines and the Issue of Child-Related Tax Benefits as a Cost Offset

Introduction to the Issue of Whether Child-Related Tax Benefits Are Taken Into Account in the Presumptive Child Cost Schedule

Both the current Rule 32 and the 2004 report by Policy Studies, Inc., include language that is suggestive that child-related tax benefits (such as head of household status and child dependency exemptions) have already been taken into account in the presumptive child cost schedule and that these benefits do not need additional consideration in the presumptive work sheet calculations.

From Rule 32:

Other assumptions incorporated in the Schedule of Basic Child Support Obligations include:

- (1) Tax exemptions. The Schedule of Basic Child Support Obligations assumes that the custodial parent will take the federal and state income tax exemptions for the children in his or her custody;¹⁷

From the 2004 Policy Studies, Inc. report in Chapter IV which is entitled, Summary of Key Assumptions:

These guidelines are designed to provide child support as a specified proportion of an obligor's net income. As discussed in Chapter III, a table of child support proportions based on obligor net income is developed before converting the tables to gross income.

.....

In converting the schedule to a gross income base, we have assumed that the obligor claims one exemption (for filing, two for withholding) and the standard deduction.

.....

The Schedule presumes that the noncustodial [sp.] parent does not claim the tax exemptions for the child(ren) due support. In computing federal tax obligations, the custodial parent is entitled to claim the tax exemption(s) for any divorce occurring after 1984, unless the custodial parent signs over the exemption(s) to the noncustodial parent each year. Given this provision, the most realistic presumption for development of the Schedule is that the custodial parent claims the exemption(s) for the child(ren) due child support.¹⁸

The language in these two citations is frequently interpreted to mean that no further consideration of child-related tax benefits is needed in order to have both the custodial and non-custodial parent share child costs on the same basis net of child-related tax benefits. However, what do the actual economic methodologies of developing the cost schedule by Policy Studies, Inc., and of calculating the value of

¹⁷ See *Rule 32, Alabama Rules of Judicial Administration, Comment*.

¹⁸ *Alabama Updated Child Support Schedule*, February 25, 2004 by Jane C. Venohr and Tracy E. Griffith of Policy Studies, Inc., Denver, Colorado, submitted to State of Alabama, Administrative Office of the Courts, Montgomery, Alabama, p. IV-1.

child-related tax benefits indicate as to whether child-related tax benefits are fully taken into account in the cost schedule for sharing the tax-benefits as cost offsets between both parents?

One will see that the child-related tax benefit issues are condensed to:

- **The “grossing up” technique (of grossing child costs up in terms of gross income instead of net income) is confused with the issue of treating child-related tax benefits as a cost offset.** Grossing up with just the non-custodial parent’s tax status is not the same as calculating the value of the child-related tax benefits and then subtracting from gross child costs before pro-rating net costs between both parents.
- **How much of the child-related tax benefits is not taken into account in the cost schedule** needs to be addressed separately in the work sheet or in some other manner?

A review of Policy Studies, Inc.’s methodology in deriving the cost schedule shows no incorporation of child-related tax benefits as cost offsets. Policy Studies, Inc.’s 2004 submission to the Administrative Office of the Courts, shows in that submission’s Appendix I and Appendix II the tables of data for each of the key steps in the process of developing a schedule of child costs. In Appendix I, Table I-2 shows net income and household consumption at selected net income levels. Table I-4 shows expenditures on children as a percent of total consumption expenditures for one to three children. Table I-3 shows factors for expanding child costs to 4 through 6 children since the key data were for one to three children only. Table I-4 shows how adjustments for child care expenditures and medical expenses are factored into the computation of a proportion that relates expenditures on children to net income.

Table I-5 shows child costs as shares of net income by income brackets. Immediately following Table I-5, Appendix II is a conversion table of gross income to net income from which Table I-5 child costs as a percentage of net income are converted to child costs in gross dollars related to gross income levels. Appendix II simply assumes that the gross income is for a non-custodial parent with two withholding exemptions (a simulated equivalent of single tax payer standard deduction with one exemption). At no point in this calculation process is there an adjustment to the gross child costs for child-related tax benefits as a cost offset. This is the same type of process used for the current Rule 32 child cost schedule as well as the one proposed by PSI in 2004.

- Any statement that any of the Income Shares child support guidelines—including those of Alabama—already take into account child-related tax benefits as a cost offset is factually incorrect.

Some states correctly state the fact that child-related tax benefits as cost offsets have not been taken into account in the cost table. One such state is Indiana. According to commentary in this state’s guidelines, “Development of these Guidelines did not take into consideration the awarding of the income

tax exemption.¹⁹ Also, Arizona in its guidelines acknowledges that the tax benefits are not treated as cost offsets in the cost schedule. That state's guidelines specifically state that the child exemptions should be pro-rated between the parents as close as possible to each parent's share of combined income. Pro-rating is both by exemptions (if multiple exemptions) and by alternating years for when a parent is entitled to the exemption.²⁰

Kansas requires consideration of how to share the child-related tax benefits. First, the custodial parent may choose to share the tax benefits and sign appropriate forms from the Internal Revenue Service for the non-custodial parent. Kansas also requires that if the custodial parent does not agree to share the economic benefits of child-related tax benefits with the non-custodial parent, that the court shall consider the tax effects in the award calculation.²¹ Kansas also states how the value of the child-related tax benefits should be calculated according to formula.²²

Idaho takes an approach similar to Kansas. But instead of prescribing a formula for calculating the value of the tax benefits in each case, Idaho develops a table of values for the child-related tax benefits at various income levels for one through six children and for single with greater than 50 percent parenting time (IRS code only allows the parent with more than 50 percent of parenting time to have head of household status), for single but not with more than 50 percent of parenting time, and for a parent that has remarried. This table is incorporated into the guidelines. The court assigns the benefits to the parent with the higher value of benefits and then gives the other parent a pro-rated share in the child support award (add-on amount for the custodial parent and a credit if for the non-custodial parent).²³

The clincher regarding the fact that the Income Shares cost tables do not already take into account child-related tax benefits as cost offsets is that Colorado child support guidelines mandate that the child exemptions shall be shared between the parents in the same proportion that parents share gross costs.

¹⁹ See *Indiana Child Support Rules and Guidelines*, Guideline 6. Additional Commentary, adopted effective October 1, 1989, Supreme Court of Indiana.

²⁰ See *Arizona Child Support Guidelines Adopted by the Arizona Supreme Court for Actions Filed After April 30, 2001*, Section 26, "Federal Tax Exemption for Dependent Children.

²¹ See Kansas Judicial Branch, Rules Adopted by the Supreme Court, Rules Relating to District Court, Administrative Order 180, Re: 2003 Kansas Child Support Guidelines, Kansas Child Support Guidelines, IV(E)(3).

²² See Kansas Judicial Branch, Rules Adopted by the Supreme Court, Rules Relating to District Court, Administrative Order 180, Re: 2003 Kansas Child Support Guidelines, Kansas Child Support Guidelines, Appendix V.

²³ See Idaho Rules of Civil Procedure, Rule 6(c)6 as adopted by the Idaho Supreme Court.

This is found in the Colorado Statutes Annotation for the guidelines code section.²⁴ Colorado adopted the guidelines from those developed by Policy Studies, Inc., of Denver, Colorado.

- However, further detailed analysis below will indicate that child-related tax benefits are taken into account in part and only in part in the presumptive child cost schedule. A somewhat detailed explanation of child-related tax benefits helps clarify this issue.

What Are Child-Related Tax Benefits?

The child-related tax benefits received by custodial parents can include:

- head of household tax payer status,
- child dependency exemptions,
- child tax credits,
- additional child tax credits,
- child care tax credits, and
- higher earned income credits for low-income working custodial parents.

Defining the Value of Child-Related Tax Benefits

The value of child-related tax benefits is defined as the difference in after-tax income for a parent with the child-related tax benefits versus without the child-related tax benefits. These benefits generally are limited to head of household status, the child exemption, and the child tax credits. There may also be earned income credits and child care credits.

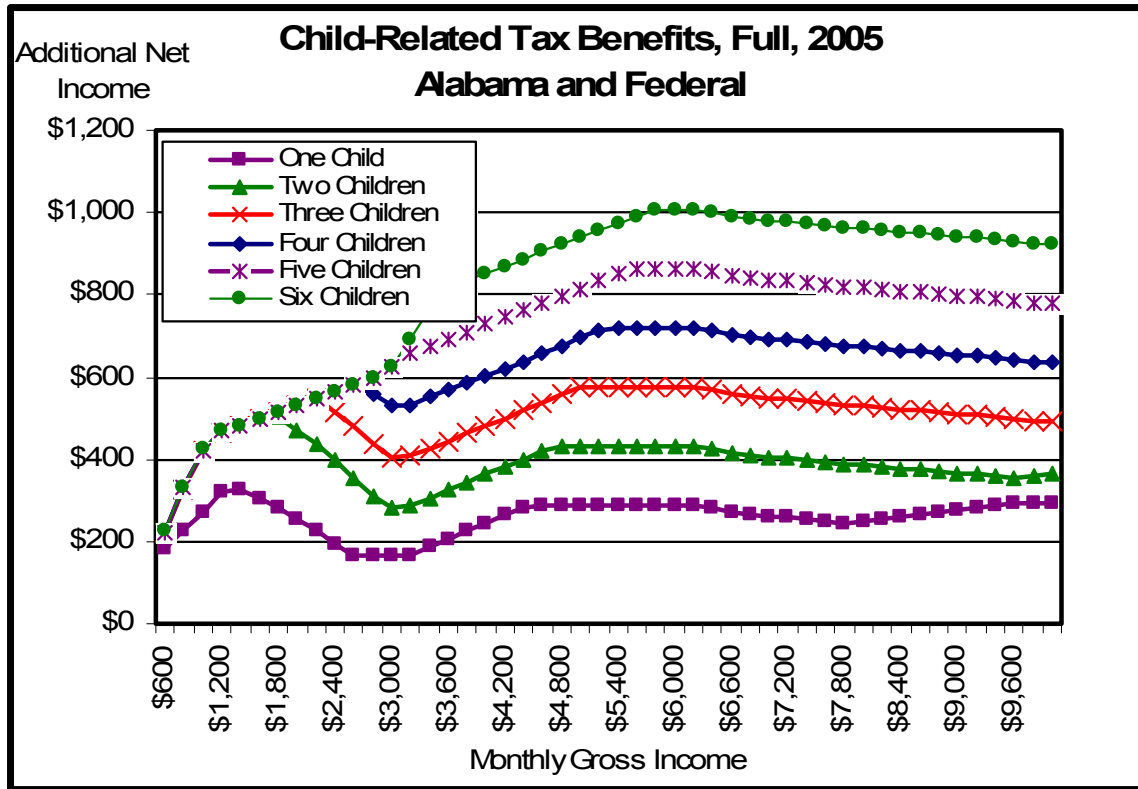
The Impact of Tax Benefits on Each Parent's Ability to Pay Shares of Child Costs

Exhibit 26 summarizes the difference in Federal and Alabama tax code treatment of custodial parents (CPs) to that of non-custodial parents (NCPs). The horizontal axis is gross income for each parent (with each having the same gross income). The vertical axis is the net income advantage that the custodial parent has at each level of gross income. It shows the after-tax income of the CP minus the after-tax income of the NCP. Taxes are Federal personal income taxes, Medicare, Social Security taxes (2005 tax), and Alabama income taxes. Earned income credits are added. Standard deductions are used. Exhibit 26 shows a dramatic after-tax advantage for the custodial parent.

²⁴ See Colorado Statutes, 14-10-115, Annotation, General Consideration, Tax exemptions: Tax exemptions. Court has authority to divide tax exemptions between the parents. In re Berjer, 789 P.2d 468 (Colo. App. 1989); In re Nielson, 794 P.2d 1097 (Colo. App. 1990); In re Larsen, 805 P.2d 1195 (Colo. App. 1991). Court must allocate dependency exemption between the parties based on their respective gross incomes. Federal tax law contemplates such an allocation, and does not preempt it. S.F.E. in Interest of T.I.E., 981 P.2d 642 (Colo. App. 1998). When allocating tax exemptions between the parents, the phrase "contributions to the costs of raising the children" refers to the percentage of child support attributed to each parent in the course of making the child support computation. In re Staggs, 940 P.2d 1109 (Colo. App. 1997).

**Child-Related Tax Benefits: Additional Net Income Per Month,
Federal and Alabama Income Tax Code, 2005**

Exhibit 26.



How Much of the Child-Related Tax Benefits Are Taken Into Account in the Child Cost Schedule and How Much Are Not?

Policy Studies, Inc., currently maintains that child-related tax benefits are taken into account in the child cost schedule. Their logic is that net income would be higher for a given level of gross income if the net income basis child costs were grossed up based on custodial parent net income. Additionally, the custodial parent's share of net income would be higher and the two effects are essentially offsetting. The flaw in this logic is that when a custodial parent receives additional net income, not all of the extra net income is spent on the child. PSI's logic requires that all of the custodial parent's additional net income from child-related tax benefits be spent on the child. In reality, only a portion of additional income is spent on the child and the remainder is spent on other things or is put into savings.

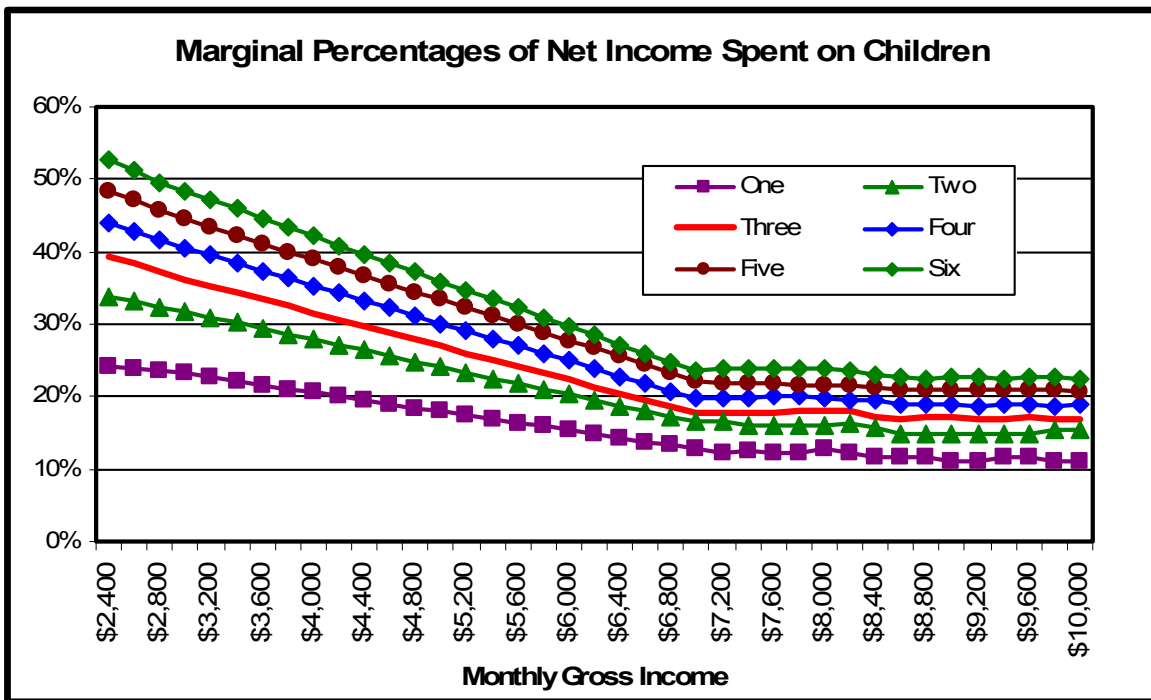
It does appear that the child cost schedule assumes that both parents pay income taxes as if they both have single tax payer status and have no child-related tax benefits. Therefore, the amount of net income

that is not taken into account in the cost schedule is only the additional net income that the custodial parent receives due to the child-related tax benefits as seen in Exhibit 26.

Of this additional net income, how much is spent on the child and how much is not? The portion that is not spent on the child is the portion that is not taken into account in the BCSO from a grossing up of net income based on child costs using single tax payer status.

How much is spent on children out of additional income? This concept can be called the marginal propensity to spend on children. Exhibit 27 shows the marginal propensity to spend on children for one to six children based on the 2004 PSI proposed cost schedule. These percentages are heavily smoothed to take into account that the cost schedule brackets are not smooth due to rounding and due to tax grossing effects. This chart shows the percentages of child-related tax benefits that are taken into account with the presumptive child cost schedule.

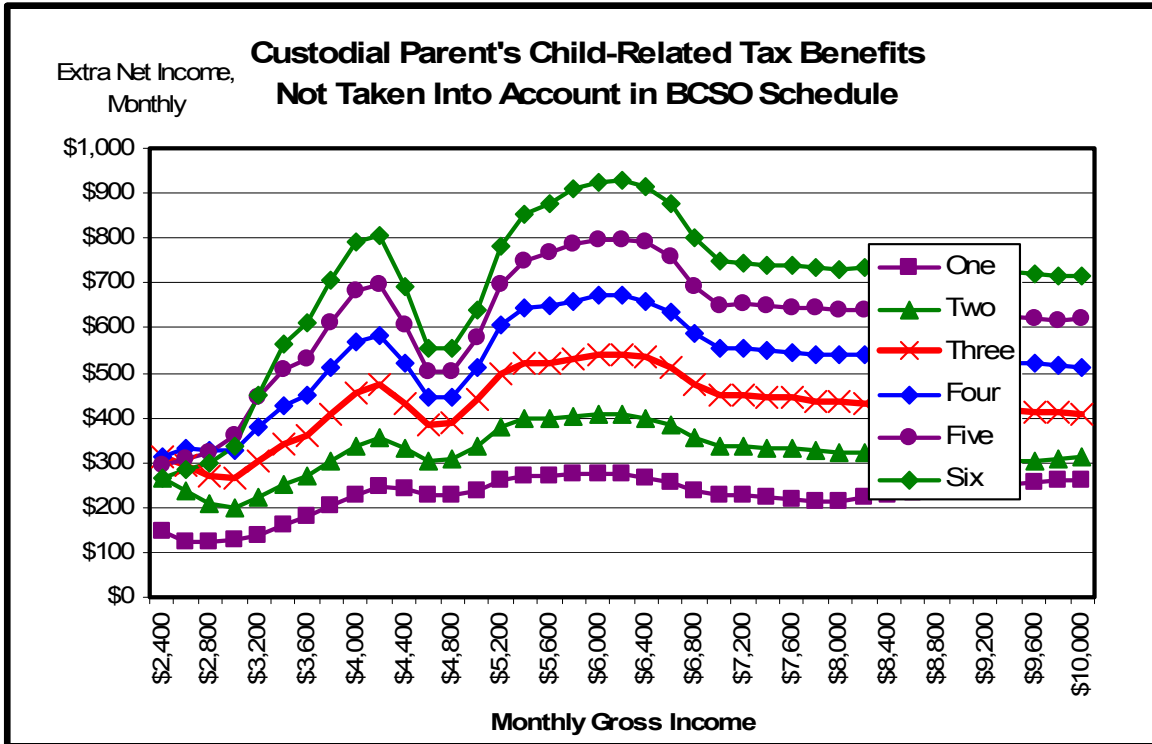
Exhibit 27.



Next, Exhibit 28 shows how much of full child-related tax benefits are not taken into account in the cost schedule. This chart is based on multiplying "1 minus the marginal propensity to spend on children percentage" times the full child-related tax benefits.

Clearly, only a fraction of child-related tax benefits are taken into account with the presumptive child cost schedule. More detail on child-related tax benefits issues can be found in Appendix III.

Exhibit 28.



CHAPTER IX

Alabama's Income Shares Child Support Guidelines and the Issue of Parenting Time Adjustments

Introduction to the Parenting Time Adjustment Issue

Rule 32 commentary gives the impression that "standard parenting time" costs for the non-custodial parent are taken into account in the presumptive child cost schedule.

From Rule 32:

Other assumptions incorporated in the Schedule of Basic Child Support Obligations include:

• • • •

(3) Visitation. The Schedule of Basic Child Support Obligations is premised on the assumption that the noncustodial parent will exercise customary visitation rights, including summer visitation. Any abatement of child support because of extraordinary visitation should be based on visitation in excess of customary visitation.

Studies Underlying the Income Shares Methodology Consistently State that No Child Costs of the Non-custodial Parent Are Taken Into Account in the Income Shares Presumptive Child Cost Schedule

Does Alabama's presumptive child cost schedule include built in adjustments for a non-custodial parent's standard parenting time?

The developer of Income Shares, Robert G. Williams, specifically states in the original manual issued by the federal government for developing child support guidelines that the Income Shares costs tables are based on intact family data and are allocated between the parents according to intact family costs. That is, all of the child costs in the cost tables are assumed to be in one household—there are no built-in parenting time adjustments.

The Income Shares model calculates child support as the share of each parent's income estimated to have been allocated to the child if the parents and child were living in an intact household. A basic child support obligation is computed based on the combined income of the parents (replicating total income in an intact household).²⁵

Policy Studies, Inc. (PSI), continues to document that visitation costs of a non-custodial parent are not taken into account in Income Shares cost schedules. Examples are found in recent reports by PSI. From *Economic Basis for Updated Child Support Schedule, State of Oregon*, Salem, Oregon, December 31,

²⁵ Robert G. Williams, *Development of Guidelines for Child Support Orders*, U.S. Department of Health and Human Services, Office of Child Support Enforcement, September 1987, p. II-68.

2001, submitted to Oregon Department of Justice, Division of Child Support; submitted by Policy Studies Inc., Denver, Colorado, p. 40:

Visitation costs are not factored into the schedule. Since the Schedule is based on expenditures for children in intact households, there is no consideration given for visitation costs. Taking such costs into account would be further complicated by the variability in actual visitation patterns and the duplicative nature of many costs incurred for visitation (e.g. housing, home furnishings).

Finally, Policy Studies, Inc., states in its 2004 report to Alabama Administrative Office of the Courts that the cost schedule is based on intact family data—the children live in only one household and the expenses reflect those of one household.

The child-rearing expenditures discussed in this report are estimates from samples of two-parent households. This is appropriate since the Income Shares model (upon which the Alabama guidelines are based) seeks to apportion to the child the amount that the parents would have spent if the household were intact.²⁶

There is no adjustment to the cost schedule for any parenting time expenses incurred by a non-custodial parent.

Alabama’s Presumptive Child Cost Schedules Do Not Include Any Built in Adjustments for “Standard” Parenting Time

In summary, the Basic Child Support Obligation schedule—for the current Rule 32 schedule or any other Income Shares BCSO schedule—has no built in adjustment for a non-custodial parent’s standard parenting time. All Income Shares studies are found to be based on intact family data, the child lives in only one household, and there is no provision for the child’s expenses in any other household.

More detail on parenting time issues can be found in Appendix IV.

²⁶ See *Alabama Updated Child Support Schedule*, February 25, 2004 by Jane C. Venohr and Tracy E. Griffith of Policy Studies, Inc., Denver, Colorado, submitted to State of Alabama, Administrative Office of the Courts, Montgomery, Alabama, p. I-8.

CHAPTER X

Do the Rothbarth and Engel Child Cost Estimation Methodologies “Bracket” True Child Costs?

Introduction to the Bracketing Issue

One issue that frequently is raised during child support guideline reviews and during legislative consideration of changes in child support guidelines is that of determining economically correct presumptive child costs. Typically, the presumptive cost issue is addressed in terms of designing or choosing a cost schedule that indicates “appropriate” child costs at varying income levels and according to the number of children. That is, in a typical presumptive child cost schedule, child costs rise as income rises and child costs rise with the number of children.

What is not often recognized is that the Income Shares methodology has undergone several significant changes since its emergence on the national scene in the mid-1980s. The original Income Shares cost schedule espoused by PSI was based on the research of Thomas Espenshade.²⁷ That research was an adaptation of earlier research by Ernst Engel. While a number of Income Shares states implemented variations of the original Engel-based cost schedule, a consensus developed that the Engel-based cost tables were too high. At the same time, David Betson of the University of Notre Dame had developed a slightly different methodology for cost schedules based on the research of Erwin Rothbarth. Additionally, Betson and PSI have changed the Rothbarth methodology from its original design in the early 1990s to a somewhat different technique starting with a 2001 study.²⁸

During the academic debate over which methodology, Engel or Rothbarth, is best or most economically “correct” for determining presumptive child costs, a view developed by some policy makers that the Engel methodology established a ceiling on what child costs “really are” and the Rothbarth one established a theoretical floor.

Income Shares Uses an Indirect Methodology for Estimating Child Costs

Contrary to the belief of some, Income Shares Cost schedules are not based on measures of actual prices for goods and services for children such as the price of a pair of jeans, or the cost of baby formula, or the price of a child’s hair cut. There are no specific prices by category built into an Income Shares cost table.

²⁷ Robert G. Williams, *Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report*, pages II-19 through II-20.

²⁸ See *Judicial Council of California: Review of Statewide Uniform Child Support Guideline, 2001*, by David Betson.

Child costs are measured indirectly. The rationale for indirect measurement is that a number of goods and services expended on children are also shared by adults in the same household. For example, parents and children share the same living room, television, and kitchen. Even food is bought for the household and then allocated “at the table” between the parents and the children—how does one measure that?

The Engel and Rothbarth child cost methodologies look at economic measures of the well-being of the adults (parents) to estimate child costs. That is, how does some measure of adult well being change before and after having children? Then, how much income does it take to restore that measure of adult well being after having the children? These are the questions that these methodologies use in a statistical approach to measure child costs. It is alleged statistical flaws in these methodologies that underlie the claims that they either overestimate or underestimate child costs. Whether these alleged flaws actually exist as claimed determines the credibility of these claims.

The Engel Methodology

The Engel methodology of estimating child costs was the first incorporated into the Income Shares child support guidelines and cost schedule developed by Policy Studies, Inc. Engel believed that one could look at a household’s spending patterns on food items to determine how economically well off various households were to each other. Because food is a necessity, the higher the percentage of a family’s spending is on food, the less economically well off that family is compared to a family that spends a smaller percentage of their total spending on food. The equivalent statement is that the higher the non-food shares of family spending, the higher the family’s standard of living.

In 1895, Ernst Engel developed a methodology to measure the cost of children that was based upon the supposition that the standard of living of the household could be proxied by the share of total expenditures devoted to the consumption of food. Examining budget data, he found that as total household expenditures rose, the share of total expenditures devoted to food fell, i.e., the standard of living rose. He also found that as the family size increased, holding total expenditures constant the food share rose, i.e., the standard of living fell. Combining these two empirical facts, Engel felt that he had sufficient justification to declare that food shares were inversely related to standards of living.²⁹

Now that the theoretical model of the Engel approach to estimating child cost has been established, what is the basis for believing that the Engel approach overestimates child costs? Basically, the problem lies

²⁹ David M. Betson, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Department of Economics, University of Notre Dame, Notre Dame, Indiana 46556, September 1990, pp. 11-12.

with an assumption that adults (parents) and children consume the same shares of food relative to shares of non-food items out of the total household budget.

This is elaborated upon in a report on child cost methodologies conducted for the U.S. Department of Health and Human Services (the Lewin report):

The validity of the Engel estimator [of child costs] is critically dependent on the assumption that the percentage of the family's expenditures on non-food items that should be attributed to the family's children is the same as the percentage of the family's food expenditures that is attributable to the family's children. There is reason to believe that this assumption is invalid; children are probably relatively "food-intensive." That is to say, the percentage of the family's food that is consumed by children is probably greater than the percentage of non-food items consumed by children. If this is the case, then the Engel estimator overestimates [emphasis original] the true expenditures on children.³⁰

Essentially, children have spending that is more basic goods than that of adults. Adults buy non-essential goods for the household that would be bought with or without children. Adults' food shares are typically smaller than children's food shares. Conversely, children are food intensive—food is a bigger share of what is spent on children. The outcome of this is that if children have a natural tendency to consume food as a greater proportion of total spending (as is generally believed), then the Engel methodology will require even greater levels of income to boost the family's overall spending on non-food items back to pre-child shares. This leads to overestimating child costs.

The Rothbarth Methodology

After it became apparent that the Engel-based guidelines imposed too great a burden on the child support obligor and also had serious flaws in its theoretical underpinnings, a methodology begun by Erwin Rothbarth gained favor and was adopted by Policy Studies, Inc., in its child cost studies. The version adopted by Policy Studies, Inc., was researched by David Betson of the University of Notre Dame. The Rothbarth methodology is similar to that of Engel and is an indirect estimation technique. The Rothbarth methodology is based on measuring a household's economic well-being based on the level of spending on selected goods consumed only by the adults in the household. The higher a household's spending level is on these adult goods, then the higher the household's economic well-being. The differences in Rothbarth and Engel methodologies are primarily: 1) that Rothbarth focuses on household changes in purely adult goods while Engel focuses on changes in the jointly consumed good of food, and

³⁰ Burt S. Barnow et al., *Estimates of Expenditures on Children and Child Support Guidelines*, Submitted to Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, Submitted by Lewin/ICF, Washington, D.C., October 1990, page 2-28.

2) Rothbarth looks at changes in the level (dollar amounts) of spending on target goods while Engel evaluates changes in percentage shares of the selected good.

With Rothbarth, for a given level of income, as children are added to the family, the amount of household spending on adult goods falls. So, the questions become how much income is needed to restore that level of spending on those adult goods and what is the difference in total household spending? For households of two different sizes (with children being the difference in size), child costs are the difference in total spending when both households spend the same amount on those adult goods.

The alleged reason that the Rothbarth methodology understates child costs is that children affect adult use of shared household goods. Since adults have less use of shared goods, they change preferences to adult goods. This undocumented theoretical belief is stated by Barnow in the Lewin study for U.S. HHS in 1990:

The Rothbarth estimator, on the other hand, is likely to underestimate [emphasis original] expenditures on children. The Rothbarth estimator does not account for the possibility that the presence of children in a household may lead to substitution from goods that must be shared with children toward goods consumed only (or mostly) by adults. If such substitution does occur, the Rothbarth estimator will indicate that relatively low levels of additional income are needed to restore the level of adult expenditures to that which would have prevailed in the absence of children.³¹

The required assumption in this claim is that adults behave in a “selfish” manner—preferring to maintain pre-child levels of consumption of adult goods. It requires that adults not like sharing shared goods with children. It is this expected “selfish” conduct that allegedly biases the statistical outcome of the Rothbarth methodology.

Importantly, Barnow, et al raise the issue that the Rothbarth methodology may actually overestimate child costs if adults do not behave selfishly related to sharing shared goods with children. From footnote 37:

There is, of course, the possibility that adults behave “selflessly,” and that the substitution mechanism works in the opposite manner of that which is outlined here. In this case, the validity of all the estimation procedures discussed here is called into question.³²

³¹ Burt S. Barnow et al., *Estimates of Expenditures on Children and Child Support Guidelines*, Submitted to Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, Submitted by Lewin/ICF, Washington, D.C., October 1990, page 2-29.

³² Burt S. Barnow et al., *Estimates of Expenditures on Children and Child Support Guidelines*, Submitted to Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, Submitted by Lewin/ICF, Washington, D.C., October 1990, page 2-26.

What does this mean using real life examples? Shared goods are such as bath rooms, living rooms, and the television. Based on the current version of the Rothbarth methodology, the claim that Rothbarth understates child costs means that parents realize they have to share the living room with their children and therefore decide to buy more adult clothes instead. The shift in preferences then biases the estimate of how much income is needed to restore pre-children spending on adult clothes—it takes less income to restore pre-children spending on adult clothes. However, there is no empirical study that validates the alleged theory behind Rothbarth estimates of child costs being “low” due to a shift in preferences to adult clothes after having children.

In fact, if one believes that after having children, the parents have a preference to spend more time with shared goods, then the Rothbarth methodology overestimates child costs. That is, if parents decide they want to spend Friday or Saturday nights with the children watching videos, then that likely leads to the Rothbarth methodology overstating child costs because there is now a parental bias toward the shared goods and away from adult clothing. It therefore takes more income to restore the pre-children level of spending on adult clothes.

One can claim that the Rothbarth methodology understates child costs only if one also claims that parents do not want to share household shared goods with children. If parents want to share household shared goods with children, then the Rothbarth methodology overstates child costs.

Summary of Engel and Rothbarth “Bracketing” Issues

Indeed, child costs schedules based on the Engel methodology are generally recognized as being excessive and above actual child costs. The economic rationale for this belief is realistic and credible—that children are more food intensive than adults.

The claim that Rothbarth is a floor for child costs is based upon two very questionable assumptions.

To make the claim that the Rothbarth methodology understates child costs, two highly unlikely assumptions must be made:

- 1) Parents do not like sharing shared household goods with their children, and**
- 2) Parents get no sense of well-being from their children.**

If these assumptions do not hold true, the Rothbarth methodology likely overstates child costs. This author believes that it is more likely that parents do like to share shared household goods with their children and also that parents do get a sense of well-being from their children. These are more realistic assumptions.³³ Based on these more credible assumptions, the Rothbarth methodology likely overstates child costs. Importantly, embracing more realistic assumptions opens wide the door for true child costs to lie below the estimates produced by the Rothbarth methodology.

While it is reasonable to state that true child costs lie below Engel estimates, there is no sound economic basis for making the claim that true child costs must lie above Rothbarth estimates.

More detail on the Rothbarth and Engel bracketing issue—and more on their methodologies—can be found in Appendix V.

³³ One might object to these assumptions by this author since child support guidelines are applied to families that are not intact. However, the estimation of child costs in the Incomes Shares methodology (Engel and Rothbarth) is based on data from intact families. Even in non-intact families (which do not affect the Income Shares estimates), it is more likely that this author's assumptions still hold true for the most part.

CHAPTER XI

Commentary on Miscellaneous Issues: Out-of-date BCSO Schedule, Intact Family Data, Self-Support, Parenting Time Adjustments, and Child Care Tax Credits

Should the Current Rule 32 Basic Child Support Obligation Schedule be replaced because it is alleged to be outdated?

PSI: The current Rule 32 cost schedule is out of date and needs to be replaced.

Reply: Indeed, the current Basic Child Support Obligation schedule is based on 1972-73 Consumer Expenditure Survey data and is out of date.

Additionally, the schedule is based on the Engel estimator of child costs in which child costs are based on an income equivalence technique which compare shares of household spending on food with and without children. This methodology is known to overestimate child costs because children are “food intensive” compared to adults. For the Engel estimator to not be biased, both adults and children would have to have the same tendency to consume food in the same proportions of total consumption.

The BCSO schedule should be updated in order to conform to federal requirements. As noted in 45 CFR 302.56, quadrennial guideline reviews should be based on incorporating up-to-date child costs into the guideline formula.

Furthermore, the updated schedule should reflect case facts. The replacement schedule should not only be up-to-date but also should reflect the parents’ actual available income. The replacement schedule should either be Cost Shares (based on separate, single-parent households) or on the updated Income Shares schedule with adjustments for the added expenses of a second household.

Should BCSO schedules only be based upon intact family data?

PSI: It is appropriate to rely on child-rearing data from two-parent households rather than one-parent households for determination of child support obligations.

Reply: Without adjustments for reduced available income, it is inappropriate to use intact family data for non-intact family circumstances.

First, using intact family data without any adjustments for reduced available income violates a requirement of legal presumptions that key underlying facts should exist in application. Along this same argument, use of intact family data assumes that divorced and never married parents have more available income than is actually the case. This conflicts with basing child support awards on the traditional concept of needs and ability to pay.

In the 2004 PSI report, there is some misleading discussion regarding use of intact family data versus single-parent data, as found in pages II-8 and II-9.

PSI argues that single-parent data should not be used for the BCSO because single-parent households spend less than intact family households. This is very misleading. On average, single-parent households spend less on children than intact families because single-parent households on average have less income than intact families. However, what is more notable is that single-parent households spend a higher percentage of income on children than do intact family households. When single-parent households have the same income as intact families, the single-parent household typically spends more on children than the intact family. This is because the same income is not being split between two adults as well as the children. A single-parent BCSO schedule that covers a range of incomes eliminates the alleged problem of single-parents spending less on children than intact families.

The PSI example on page II-9 is misleading in suggesting that single-parent cost schedules only take into account one parent's income. The hypothetical example involves two custodial households with \$1,000 each in monthly gross income with \$600 being spent each month on two children if there is no non-custodial parent income available for assistance. PSI correctly states that more should be spent on the two children if the non-custodial parent has \$5,000 in gross income than if the non-custodial parent has \$1,000 per month in gross income. PSI then jumps to the conclusion that this proves that one can use only intact family data to incorporate both parents' incomes.

However, a single-parent household BCSO schedule would reflect the incomes of both parents also as does the Cost Shares BCSO schedules. Cost Shares takes the income of both parents and bases child costs upon the average of both parents' incomes—which is the highest sustainable standard of living that can exist in both households. The income level is lower than for intact families but the percentage going to child costs is higher. Using the same example as PSI uses, with Cost Shares, if the custodial parent has \$1,000 in monthly gross and the non-custodial parent has \$1,000 in gross income, the average is \$1,000 in income per month and is the basis for the combined obligation. If the custodial parent has \$1,000 in gross income and the non-custodial parent has \$5,000 in gross income, then the average is \$3,000 per month and the children enjoy a higher standard of living reflecting the higher income. Both parents' incomes are part of the calculation of single-parent child costs.

A review of the comparative charts of the BCSO schedules clearly indicates that the single-parent data basis does not cut child costs in half. Because of the higher percentages spent on children in single-parent households, the Cost Shares BCSO is only moderately below the 2004 PSI proposed schedules.

As noted earlier, an intact family standard for child support gives the child a right to a higher standard of living than either parent—a curious legal position to take. The Income Shares BCSO with adjustments for second households is a compromise position. These schedules reflect actual available income but are based on an intact family standard of living instead of single-parent household standards of living.

Low Income Self-Support—Additional Steps Are Needed

PSI: Although the PSI proposed 2004 BCSO schedule has a low income adjustment built in (the shaded area), additional steps are necessary to ensure that when the obligee has income that the self support adjustment is not rendered ineffective.

Reply: This analysis is correct. Without additional steps in the award calculation, an obligor can be pushed below self-support levels of income if the obligee has significant income.

This anomaly is discussed on pages III-10 and III-11 of the PSI 2004 report. The two methodologies for ensuring self-support have similar outcomes.

An example of not having the obligor-only calculation pushing the non-custodial parent below the poverty level is a two-children case with the obligor earning \$1,200 gross income monthly. For \$1,200 gross income, net income is \$1,020 per month. Using the PSI 2004 proposed BCSO, if the custodial parent has zero income, the award is \$248 per month, leaving the obligor with \$772 per month after taxes and after child support—which is above the poverty threshold of \$748 per month (for 2003 as available to PSI). This is the same as an obligor-only calculation since the custodial parent has no income. However, the obligor can be pushed below the poverty level when the custodial parent has income. If the custodial parent has \$500 in monthly gross income, the award is \$350 per month, leaving the obligor with \$670 per month which is below the poverty level. This outcome occurs in the self-support section of the BCSO because that part of the BCSO schedule is so steep—meaning that child costs rise essentially as fast as combined income. Alabama has no obligor-only calculation for self-support purposes.

Some argue that there should not be a self-support calculation for the obligor since there are times that the non-custodial parent can end up with a higher standard of living than the low-income custodial parent household with the children. This does not appear to be PSI's position but this should be addressed. It is possible that a non-custodial parent and custodial parent can be low income. However, the only time the self-support reserve calculation comes into play and the non-custodial household has a higher standard of living is when the custodial parent has nearly zero income. Essentially, the custodial parent is not even providing adequate support for his or herself.

Should the self-support calculation still be applied in these cases? Arguments in favor of doing so include the fact that custodial parents generally have means tested income that is not part of that parent's gross income. These types of income include WIC (Women, Infants, and Children program), TANF (Temporary Assistance to Needy Families), Food Stamps, and in some cases subsidized housing. These sources of income generally are not available for non-custodial parents—or at least only fractionally available.

Finally, it is unlikely that pushing an obligor below the poverty level actually increases the amount of cash child support actually paid. Creating such an obligation more likely results in the obligor not paying and accruing arrearages instead of generating more child support.

Parenting Time Adjustments

PSI: The PSI 2004 report has extensive discussion of adjustments for shared-parenting time. PSI makes no recommendation for incorporating such an adjustment. PSI notes that the Arizona approach (percent credit based on parent time of the non-custodial parent) is favored by many states because of its simplicity and gradual effect on child support awards.

Reply: This shared-parenting adjustment section in the PSI report is very informative. The issue of equal duty of support and the simplicity of the Arizona formula are good arguments for adopting the Arizona formula for use in Alabama.

Key reasons for adopting the Arizona parenting time adjustment include:

- Alabama's BCSO does not take into account any parenting time costs of the non-custodial parent.
- Application of equal duty of support takes into account both parents' child costs—not just the custodial parent's costs.
- 35 states have guideline formulas for parenting time adjustments.
- Of the 34 Income Shares states, only five states do not have a parenting time adjustment formula.
- The Arizona approach has been in use for ten years and has not seen problems related to non-custodial parents "gaming" for additional parenting time.

Day Care Expenses and Child Care Tax Credits

Day care or child care expenses do not receive any notable discussion by PSI other than that they are not included in the BCSO schedule. However, one notable issue should be addressed as related to day care expense—child care tax credits as a cost offset.

Since the federal government pays a portion of child care costs, it is appropriate that only the net day care costs be treated as an add-on to be shared between both parents. What is the impact of child care tax credits and how might one take this into account in guideline calculations?

Child care expenses frequently qualify as tax credits for children ages 13 and under. However, only a custodial parent can claim work-related child care expenses for child care tax credits. Credit is a percentage of actual child care costs or a percentage of earned income. Qualifying expenses in calendar year 2005 were up to \$3,000 annually for one child and up to \$6,000 for two or more children. However, credit percentages apply to the lesser of actual day care expenses and earned income. The below exhibit shows how the custodial parent's credit percentages vary according to adjusted gross income. Child care tax credit percentages range from a high of 35 percent down to 20 percent.

From IRS Form 2441, calendar 2005, Line 8:

Enter on line 8 the decimal amount shown below that applies to the amount on line 7 [adjusted gross income].

[Exhibit 29.]

If line 7 is:			If line 7 is:		
Over	But not over	Decimal amount is	Over	But not over	Decimal amount is
\$0—15,000		.35	\$29,000—31,000		.27
15,000—17,000		.34	31,000—33,000		.26
17,000—19,000		.33	33,000—35,000		.25
19,000—21,000		.32	35,000—37,000		.24
21,000—23,000		.31	37,000—39,000		.23
23,000—25,000		.30	39,000—41,000		.22
25,000—27,000		.29	41,000—43,000		.21
27,000—29,000		.28	43,000—No limit		.20

Some states take these child care credits into account presumptively but in a simplified form. One such example is found in North Carolina's child support guidelines. North Carolina sets a threshold for applying a percentage to total child care costs. This threshold increases for the number of children and takes into account the fact that at below certain levels of income, the custodial parent does not have taxable income due to the standard deduction and child tax exemptions. In the below excerpt from North Carolina's child support guidelines, one sees that after the threshold income level is met, the custodial parent can claim only 75 percent of the qualifying child care costs.

From North Carolina's child support guidelines:

Child Care Costs
Reasonable child care costs that are, or will be, paid by a parent due to employment or job search are added to the basic child support obligation and prorated between the parents based on their respective incomes.

When the gross monthly income of the parent paying child care costs falls below the amounts indicated below, 100% of child care costs are added.

1 child = \$1,100
2 children = \$1,500
3 children = \$1,700
4 children = \$1,900
5 children = \$2,100
6 children = \$2,300

At these income levels, the parent who pays child care costs does not benefit from the tax credit for child care. When the income of the parent who pays child care costs exceeds the amounts indicated above, only 75% of actual child care costs are added (because the parent is entitled to the income tax credit for child care expenses).³⁴

³⁴ See North Carolina Child Support Guidelines, published jointly by the North Carolina Administrative Office of the Courts and the Department of Human Resources in accordance with North Carolina G.S. 50-13.4(c).

CHAPTER XII

Recommendations

Alabama is in the process of reviewing the Alabama Child Support guidelines. Based on federal regulations, some of the objectives should include updating the guidelines to incorporate up-to-date costs of raising children and to adjust the guidelines to incorporate regularly occurring deviation factors.

This report has provided information that can be used in providing the basis for selection of an up-to-date Basic Child Support Obligation schedule as well as providing the foundation for incorporating specific rules for taking into account parenting time adjustments as well as child-related tax benefits.

This report has reviewed the Policy Studies, Inc., analysis of a number of issues including self-support, medical expenses, parenting time, and treatment of additional dependent children.

Revisions to the Alabama Child Support guidelines should:

- Be viewed strictly as a legal presumption and not a policy choice and should include no arbitrary components;
- Apply a standard of equal duty of support;
- Reflect up-to-date child costs; and
- Reflect actual case circumstances that households are no longer intact and that the parents do not have the ability to pay as if they were living in one household.

Based on these criteria, the following modifications are recommended:

- Update the Basic Child Support Obligation schedule with either the Income Shares BCSO schedule adjusted for second household costs or the Cost Shares BCSO schedule;
- Adopt a self-support calculation that includes the standard Income Shares calculation and the obligor-only calculation;
- Presumptively share the child-related tax benefits either by pro-rating the child-dependency exemptions according to shares of combined adjusted gross income or by developing a schedule of the value of child-related tax benefits and treating them as a cost offset in the award calculation;
- Adopt the Arizona parenting time adjustment;
- Change the assumption for included medical expenses to \$250 per year per child (from the current \$200 per year per family) to reflect higher out-of-pocket medical expenses as incorporated in all three of the newer alternative BCSO schedules;
- Add a formula to take into account child care (day care) tax credits when day care is an add-on.

Key factors behind these recommendations are:

- The current BCSO schedule is based on significantly old data from the 1972-73 Consumer Expenditure Surveys and is based on a methodology (the Espenshade-Engel 1984 study) that has been generally recognized as excessive.
- The current Rule 32 self-support portion of the BCSO has been eroded by almost two decades of inflation. The self-support reserve should be brought up-to-date to reflect current costs of basic needs.
- The BCSO schedule (not just in the current Rule 32 but in all proposed alternatives) does not take into account the vast majority of child-related tax benefits. Not doing so results in awards that do not reflect equal duty of support.
- The BCSO schedule does not include any built in adjustments for standard parenting time of the non-custodial parent—in newly proposed schedules as well as the current Rule 32 version. Most states have a formula to take into account both parents' parenting time costs. Not doing so results in awards that do not reflect equal duty of support.
- The newly proposed BCSO schedules all incorporate \$250 per child per year for unreimbursed medical expenses.
- Child care tax credits are significant cost offsets.

Additionally, after updating the child support guidelines, Alabama should develop ways of strengthening the consideration of alimony in divorce cases in which there are significant differences in incomes and in which the marriage has been of notable duration. In some cases (and more so in some states than others), child support has been awarded at high levels in lieu of awarding alimony. Such a practice is not consistent with sound legal principles for child support (such as child support guidelines should not be arbitrary) but also such practice can create inappropriate incentives. Child support awards that exceed actual costs provide incentives for both parents fighting to exclude the other parent from custody and parenting time. Awards in excess of actual costs provide incentives for out-of-wedlock births. In contrast, proper alimony awards should reward loyalty to a marriage. Child support guidelines should focus on actual child costs and in which households those costs occur. Alimony correctly should be the forum for addressing standard of living differences when there has been a marriage of appropriate duration.³⁵

³⁵ Alimony typically is considered under broad principles. However, a few states or other jurisdictions do have numeric alimony guidelines as a starting point for determining alimony. See for example, Superior Court of Arizona, Maricopa County, Family Court Department, Spousal Maintenance Guidelines.

APPENDIX I

Child Support Guidelines—A Legal Presumption or Mere Public Policy?

One issue in particular creates substantial disagreement over what should be the appropriate features of child support guidelines. And that issue is whether such guidelines are legal presumptions designed to assure the correct of amount of child support, or public policy choices designed to achieve a certain distribution of wealth. The author takes the position that child support guidelines are legal presumptions, and not public policy choices. When it is asked, for example, how long an unemployed worker should be eligible for unemployment benefits, a question of public policy arises. And when that determination is made from economic data, budget figures, and fiscal considerations, a public policy choice is made. But once this choice is made, the level of unemployment benefits is not presented in court as presumptive evidence against a litigant. Child support guidelines, however, are used as presumptive evidence in court against a child support obligor. There are stricter standards for legal presumptions than public policy choices.

In order to be legally sound, child support guidelines:

- Must be based on correct use of authentic economic data;
- Must reasonably indicate in most cases an amount of child support due, assuming an equal duty of both father and mother to supply the reasonable needs of their children according to the resources available to each;
- Must be fully and fairly rebuttable as against the equal duty of both parents to supply the reasonable needs of their children according to their respective resources;
- Must not include arbitrary or unfounded assumptions; and
- Must be developed by responsible public authority.

The reports by Policy Studies Inc. and R. Mark Rogers Economic Consulting should be reviewed, keeping these legal principles in mind.

At the request of the author, the following legal commentary has been prepared by John Remington Graham of the Minnesota Bar (#3664X), who has served as a founding professor in the Hamline University School of Law, and also as a public prosecutor and a public defender in the State of Minnesota. Since his admission to practice in 1967, Mr. Graham has actively litigated both in the collection of child support and in the defense of child support obligors.

Underlying Legal Principles for Sound Child Support Awards

A. Introduction. Our purpose here will be to lay out general principles in a systematic manner to assist the court in better understanding the motion now pending for determination and modification of child support.

For many years there has been a conventional standard of child support in family law, which turns on right reason, and has never been difficult to apply once the necessary facts of a particular case were gathered. There would no insurmountable problem today if this conventional standard were routinely applied and we had no child support guidelines at all.

This conventional standard is that *both father and mother have an equal duty to provide for the reasonable needs of their children on an ability-to-pay basis*. By reasonable needs we mean basic needs plus or minus whatever special circumstances dictate, -- i. e., the actual costs of raising a child, not a theoretical sum which is not related to economic reality. And those costs must be shared by both parents

according to their resources. The leading case on this interpretation of child support statutes is *Smith v. Smith*, 626 Pac. 2d 342 (Ore. 1981).

The problem now causing no end of trouble arose from the seemingly plausible idea that we needed child support guidelines to assist family courts in determining how much it costs to raise a child and in treating like cases in like manner. The theory was fair enough, but justice was frequently a casualty in the implementation, for guidelines were actually devised in some parts of the country to increase child support far beyond the actual needs of the children, to promote exploitation of child support obligors, to create economic incentives for divorce, and to create a child support industry. And even where these guidelines have been designed in good faith, they have not infrequently been put together in economic ignorance. The difficulties vary from one State to another. Some States have better guidelines than others. And some guidelines not only have relatively fewer flaws, but are easier to repair.

B. The Constitutional Standard of Child Support: In order to provide a cogent analysis, we must restate constitutional principles against which the soundness of a particular set of guidelines must be measured. For the conventional standard of child support is also reinforced by principles of fundamental law, which produce a constitutional standard of child support.

Procreation is a joint act and a joint responsibility. Men and women are equal before the law under the guarantee of equal protection in the United States Constitution, particularly as impacted by the 19th Amendment. See, e. g., *Adkins v. Children's Hospital*, 261 U. S. 525 at 552-553 (1923), and *Frontiero v. Richardson*, 411 U. S. 677 at 685 (1973). Particularization of this principle has been necessary especially in the field of family law. In the wake of *Frontiero*, it was held fairly early that there may be no legal preference or presumption in favor of father or mother on the question of child custody, as held in *State ex rel. Watts v. Watts*, 350 N. Y. S. 2d 285 (N. Y. City Fam. Ct. 1975), and *Commonwealth ex rel. Spriggs v. Carlson*, 368 Atl. 2d 635 (Pa. 1977). The leading case on equal protection in the field of family law is *Orr v. Orr*, 440 U. S. 268 (1979), in which it was held that a statute allowing alimony to women, but not to men, is per se unconstitutional, and there are clear suggestions in the opinion of the court (440 U. S. at 273) that the same principle applies to child support. In *Conway v. Dana*, 318 Atl. 2d 324 (Pa. 1974), it has in any event been held that both father and mother have an equal duty to pay child support in proportion to their respective means.

The constitutional standard of child support places further emphasis on the proper amount to be awarded. The State's interest is limited to assuring that the reasonable needs of the child are met, in light of his or her social, cultural, economic, or other circumstances. Child support may not be used as a pretext for tax-free alimony or transfer of wealth or social engineering by public authority. The amount ordered may be increased somewhat if the parents of the child enjoy greater wealth, but may not be measured by an arbitrary percentage of the income of either or both parents when such percentage exceeds the reasonable needs of the child. Married parents may not be ordered to use a certain percentage of their income in supporting their children, so long as reasonable needs are met, and the same is true of parents divorced. See, e. g., *Moylan v. Moylan*, 384 N. W. 2d 859 at 866 (Minn. 1984), and *Melzer v. Witzberger*, 480 Atl. 2d 991 at 995 (Pa. 1984). This inherent limit on child support follows from an acknowledged domain of family privacy which is protected by the 14th Amendment, and shield reasonable discretion of parents in raising their children, free of governmental intrusion or regulation, whether the parents are married, single, or divorced. The leading cases on point are *Pierce v. Society of Sisters*, 268 U. S. 510 (1925); *Wisconsin v. Yoder*, 406 U. S. 205 (1972); and *Troxel v. Granville*, 530 U. S. 57 (2000).

C. Statutory guidelines adopted by the several States: In order to capture conditional grants of Congress to promote child support collections under the Federal Family Support Act of 1988 (42 United States Code, Sections 654, 666, and 667, implemented by 45 Code of Federal Regulations, Sections 302.33, 302.55, and 302.56), all States of the Union adopted guidelines for the determination of child support for all obligators.

For a moment let us consider the nature of such guidelines. The most striking feature is that they amount to *statutory presumptions* which ordain that, given certain basic facts about the resources of the parents and the number of children, a certain amount of child support suggested by the guidelines is presumed by law to be the correct amount that should be paid by one parent to the other. The amount suggested can be rebutted by the evidence introduced in a particular case. But in the absence of such evidence, the amount presumed is the amount ordered.

In any event, these guidelines must conform to a significant body of jurisprudence on the characteristics of statutory presumptions, expounded in the twin cases of *Manley v. Georgia*, 279 U. S. 1 at 6 (1920), and *Western & Atlantic R. R. v. Henderson*, 279 U. S. 629 at 642-644 (1929). The underlying principle in both cases was thus stated in identical language: "A statute creating a presumption that is arbitrary or that operates to deny a fair opportunity to repel it violates the due process clause of the 14th Amendment."

In any event, two rules have been shaped to govern statutory presumptions both in criminal prosecutions and in civil litigation. The first rule is that there must be a reasonable relationship between the basic facts and the presumed facts. See *Leary v. United States*, 395 U. S. 6 at 32-37 (1969). The second rule is that a statutory presumption must always be fully and fairly rebuttable. See *Vlandis v. Kline*, 412 U. S. 441 at 446-447 (1973). If a presumption is ill-founded, it is to that extent unconstitutional even if rebuttable. If a presumption is irrebuttable to correct injustice in particular cases, it remains to that extent unconstitutional even if otherwise reasonable as a generality.

And child support guidelines, as statutory presumptions, must always be read in conformity with guarantees of equal protection, family privacy, and due process in the 14th Amendment, and more generally in keeping with the principle that, if legislation can be fairly read in different ways, one constitutionally sound and the other constitutionally invalid or dubious, the constitutionally sound interpretation should be adopted, notwithstanding legislative history and all other considerations. See, e. g., *Jones & Laughlin Steel Corporation v. National Labor Relations Board*, 301 U. S. 1 at 30 (1937). It will, therefore, be necessary to review the key provisions of the Federal Family Support Act of 1988.

Two provisions are of key importance:

The first is 42 United States Code, Section 667, which reads,

"(a) Each State, as a condition for having its State plan approved under this part, must establish guidelines for child support award amounts within the State. The guidelines may be established by law or by judicial or administrative action, and shall be reviewed at least once every four years to ensure that their application results in the determination of appropriate award amounts.

"(b)(1) The guidelines established pursuant to subsection (a) of this section shall be available to all judges or other officials who have the power to determine child support awards within the State.

"(b)(2) There shall be a rebuttable presumption, in any judicial proceeding for the award of child support, that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded. A written finding or a specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case, as determined under the criteria established by the State, shall be sufficient to rebut the presumption in that case."

The other is 45 Code of Federal Regulations, Section 302.56(h), which reads as follows:

"A State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from the guidelines. The analysis must be used in the State's review of the guidelines to ensure that deviations are limited." Read in light of the guarantees of equal protection and family privacy the United States Constitution, an award is "appropriate" within the meaning of 42 United States Code, Section 667(a), not by meeting a

purely subjective standard, but by meeting an objective legal standard which is shaped by conventional definition and constitutional principle, -- the equal duty of both father and mother to supply the reasonable needs of their children in proportion to their respective means.

Again read in light of the guarantee of due process in the 14th Amendment, the Family Support Act of 1988 requires that child support guidelines be well founded in fact, that they be fully rebuttable when individual situations require deviation, and that they be based on correct use of authentic economic data. The importance of correct use of authentic economic data is brought out by the *Federal Register*, Vol. 56, No. 94, May 15, 1991, p. 22348, where it says that "any legitimate view of guidelines would include analysis of case data on the application of the guidelines, as well as analysis of current economic data on costs of raising children."

Contrary to what is commonly assumed, therefore, the Federal Family Support Act of 1988 read in light of conventional standards and constitutional principles does not authorize or countenance the creation of child support guidelines to accomplish the objectives of "public policy" developed by legislators or bureaucrats. All social and political agendas must be set aside, and the entire focus must be upon correct use of authentic economic data to achieve a best generalized estimate of what an obligor's monthly payment should be, based on his or her equal duty to provide for the reasonable needs of the children in proportion to his or her share of the total resources of both parents.

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APPENDIX II

U.S. Department of the Treasury, Internal Revenue Service, Collection Financial Standards, Alabama - Housing and Utilities Allowable Living Expenses, Effective 1/1/2005

Exhibit 20.

County	Family of 2 or less	Family of 3	Family of 4 or more	Family of 2 less difference 3 and 2	Median family income, 2004, monthly
Autauga	912	1,073	1,234	751	3,748.69
Baldwin	966	1,137	1,307	795	3,571.67
Barbour	778	916	1,053	640	2,211.97
Bibb	765	899	1,034	631	2,746.44
Blount	840	988	1,136	692	3,183.86
Bullock	750	882	1,014	618	1,762.03
Butler	709	834	959	584	2,259.83
Calhoun	777	914	1,051	640	2,801.21
Chambers	686	807	927	565	2,624.46
Cherokee	772	908	1,044	636	2,713.53
Chilton	801	942	1,083	660	2,898.86
Choctaw	701	825	949	577	2,268.76
Clarke	745	876	1,008	614	2,448.93
Clay	659	775	891	543	2,517.00
Cleburne	768	904	1,039	632	2,743.99
Coffee	772	908	1,044	636	3,029.42
Colbert	777	914	1,051	640	2,818.10
Conecuh	692	814	936	570	2,044.58
Coosa	718	845	971	591	2,535.73
Covington	661	778	895	544	2,419.79
Crenshaw	632	743	855	521	2,399.75
Cullman	809	952	1,095	666	2,871.91
Dale	737	867	997	607	2,809.09
Dallas	717	844	970	590	2,076.60
DeKalb	726	855	983	597	2,654.03
Elmore	916	1,078	1,239	754	3,591.62
Escambia	722	849	977	595	2,424.78
Etowah	767	903	1,038	631	2,668.30
Fayette	700	824	948	576	2,564.61
Franklin	689	811	933	567	2,394.94
Geneva	630	741	852	519	2,378.31
Greene	643	756	870	530	1,816.81
Hale	706	831	955	581	2,198.15
Henry	722	849	977	595	2,671.80
Houston	763	897	1,032	629	3,028.02
Jackson	738	868	998	608	2,824.40
Jefferson	910	1,071	1,232	749	3,270.40
Lamar	702	826	950	578	2,471.33
Lauderdale	822	967	1,112	677	2,907.79

Lawrence	804	946	1,088		662	2,844.26
Lee	932	1,096	1,261		768	2,840.33
Limestone	816	960	1,103		672	3,400.25
Lowndes	645	758	872		532	2,038.80
Macon	690	812	934		568	1,891.89
Madison	936	1,102	1,267		770	4,107.10
Marengo	747	879	1,010		615	2,457.07
Marion	698	821	944		575	2,342.79
Marshall	794	934	1,075		654	2,885.04
Mobile	828	974	1,120		682	2,834.46
Monroe	729	858	987		600	2,490.58
Montgomery	870	1,024	1,178		716	3,098.11
Morgan	858	1,010	1,161		706	3,410.75
Perry	658	774	890		542	1,739.20
Pickens	706	831	955		581	2,292.56
Pike	744	875	1,007		613	2,242.68
Randolph	673	792	911		554	2,497.84
Russell	747	879	1,010		615	2,448.40
St. Clair	1,173	1,380	1,587		966	3,270.92
Shelby	913	1,074	1,235		752	5,372.03
Sumter	661	778	895		544	1,734.30
Talladega	804	946	1,088		662	2,744.69
Tallapoosa	806	949	1,091		663	2,624.54
Tuscaloosa	935	1,099	1,264		771	2,939.90
Walker	765	901	1,036		629	2,620.26
Washington	698	821	944		575	2,672.41
Wilcox	625	735	846		515	1,614.86
Winston	695	817	940		573	2,355.39

APPENDIX III

Detailed Analysis: Income Shares Child Support Guidelines and the Issue of Child-Related Tax Benefits as a Cost Offset

Introduction to the Issue of Whether Child-Related Tax Benefits Are Taken Into Account in the Presumptive Child Cost Schedule

Both the current Rule 32 and the 2004 report by Policy Studies, Inc., include language that is suggestive that child-related tax benefits (such as head of household status and child dependency exemptions) have already been taken into account in the presumptive child cost schedule and that these benefits do not need additional consideration in the presumptive work sheet calculations.

From Rule 32:

Other assumptions incorporated in the Schedule of Basic Child Support Obligations include:

- (2) Tax exemptions. The Schedule of Basic Child Support Obligations assumes that the custodial parent will take the federal and state income tax exemptions for the children in his or her custody;³⁶

From the 2004 Policy Studies, Inc., report in Chapter IV which is entitled, Summary of Key Assumptions:

These guidelines are designed to provide child support as a specified proportion of an obligor's net income. As discussed in Chapter III, a table of child support proportions based on obligor net income is developed before converting the tables to gross income.

.....

In converting the schedule to a gross income base, we have assumed that the obligor claims one exemption (for filing, two for withholding) and the standard deduction.

.....

The Schedule presumes that the noncustodial [sp.] parent does not claim the tax exemptions for the child(ren) due support. In computing federal tax obligations, the custodial parent is entitled to claim the tax exemption(s) for any divorce occurring after 1984, unless the custodial parent signs over the exemption(s) to the noncustodial parent each year. Given this provision, the most realistic presumption for development of the Schedule is that the custodial parent claims the exemption(s) for the child(ren) due child support.³⁷

The language in these two citations is frequently interpreted to mean that no further consideration of child-related tax benefits is needed in order to have both the custodial and non-custodial parent share child costs on the same basis net of child-related tax benefits. However, what do the actual economic methodologies of developing the cost schedule by Policy Studies, Inc., and of calculating the value of child-related tax benefits indicate as to whether child-related tax benefits are fully taken into account in the cost schedule for sharing the tax-benefits as cost offsets between both parents?

One will see that the child-related tax benefit issues are condensed to:

³⁶ See *Rule 32, Alabama Rules of Judicial Administration, Comment*.

³⁷ *Alabama Updated Child Support Schedule*, February 25, 2004 by Jane C. Venohr and Tracy E. Griffith of Policy Studies, Inc., Denver, Colorado, submitted to State of Alabama, Administrative Office of the Courts, Montgomery, Alabama, p. IV-1.

- **The “grossing up” technique (of grossing child costs up in terms of gross income instead of net income) is confused with the issue of treating child-related tax benefits as a cost offset.** Grossing up with just the non-custodial parent’s tax status is not the same as calculating the value of the child-related tax benefits and then subtracting from gross child costs before pro-rating net costs between both parents.
- **How much of the child-related tax benefits is not taken into account in the cost schedule** and needs to be addressed separately in the work sheet or in some other manner?

Underlying Assumptions of Income Shares Child Support Guidelines Regarding Child-Related Tax Benefits

The primary model for child support guidelines in the United States is the Income Shares model developed by Policy Studies, Inc., of Denver, Colorado. The Income Shares guideline is used by 34 states.³⁸

The version of Income Shares child support guidelines implemented by Alabama and currently in use was developed by Dr. Robert Williams for the National Center for State Courts and was based on research by Thomas Espenshade of the Urban Institute.³⁹ The Income Shares child cost schedules are derived from estimates of expenditures on children as a share of family consumption spending (excluding saving). These expenditure numbers are then converted to a share of net income and then a share of household gross income.⁴⁰

That is, child costs are expressed as a matrix of child costs (for one and then additional children) relative to various levels of net income. See Exhibit 31. Child costs are based on intact family data and include child-related tax benefits as part of net income. However, child costs in the presumptive cost schedules are gross spending—not net of child-related tax benefits. Thus the net income portion of the matrix must then be converted to gross income. However, in this conversion process, no adjustments are made for child-related tax benefits as cost offsets. Specifically, all income is assumed to be earned by a non-custodial parent with no dependents. Assumptions for income tax withholdings reflect a standard deduction for a single tax payer and one personal exemption. Essentially, the child support guidelines used by 34 states include child-related tax benefits as net income when deriving the child cost tables but then ignore child-related tax benefits as partial cost offsets to child costs. Income Shares guidelines

³⁸ See Jane Venohr and Robert G. Williams, "The Implementation and Periodic Review of State Child Support Guidelines," *Family Law Quarterly*, Volume 33, Number 1, Spring 1999, Table 1, page 11. Tennessee switched from obligor-only guidelines to Income Shares in January of 2005.

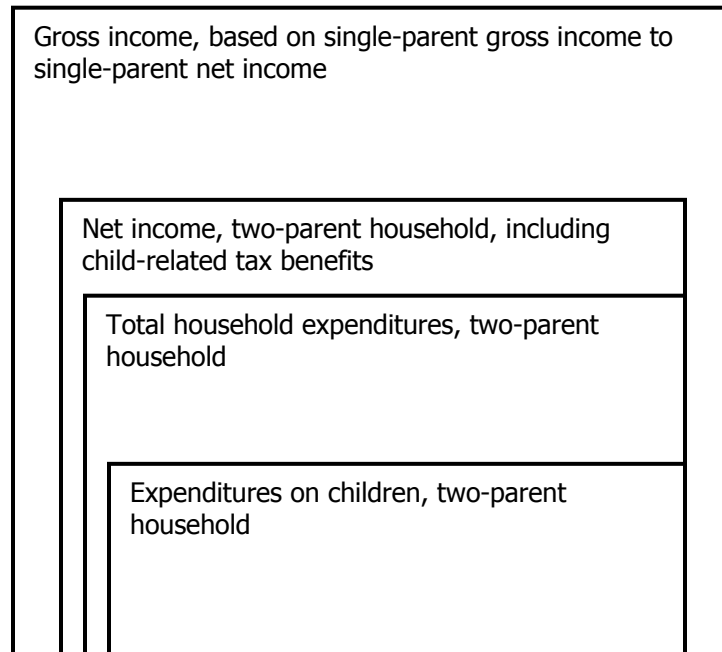
³⁹ See *Alabama Updated Child Support Schedule*, February 25, 2004 by Jane C. Venohr and Tracy E. Griffith of Policy Studies, Inc., Denver, Colorado, submitted to State of Alabama, Administrative Office of the Courts, Montgomery, Alabama, pp. I-1 through I-2. See *Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report*, Office of Child Support Enforcement, U.S. Department of Health and Human Services, September 1987.

⁴⁰ This process is typical Income Shares methodology. See, for example, Robert Williams, et al., *Economic Basis for Updated Child Support Schedule, State of North Carolina*, prepared for Administrative Office of the Courts, North Carolina Supreme Court, State of North Carolina, submitted by Policy Studies, Inc., November 19, 1993. See also, Robert G. Williams, et al., *Economic Basis for Updated Child Support Schedule, State of Maryland, December 2, 1996*, submitted to School of Social Work, University of Maryland, submitted by Policy Studies, Inc., Denver, CO.

require the two parents to share child costs in proportion to each parent's share of gross income, but allow only the custodial parent to presumptively enjoy the cost offset from child-related tax benefits.⁴¹

Exhibit 31.

Income Shares child costs converted from share of total household expenditures to share of gross income



- The Income Shares methodology has no built in adjustment to the cost schedule to reflect child-related tax benefits as a cost offset.
- The Income Shares cost schedule takes into account child-related tax benefits only to the extent of treating these benefits as after-tax income in the intact household that incurs child costs—but not as cost offsets.
- Not only are child-related tax benefits as cost offsets not built into the child cost schedule but they cannot be built in as a cost offset in a sound manner since the cost schedule is based on combined income and the magnitude of child-related tax benefits depends on an individual parent's income.

The Income Shares cost schedule reflects child costs associated with combined parental income. However, the size of the tax benefits depends on the income level of the parent (or parents) with the child-related tax benefits. For example, if at combined monthly gross income of \$10,000 for the parents, if the custodial parent has all of the child-related tax benefits, these benefits are higher when the custodial parent has \$5,000 monthly gross income than \$3,000 monthly income because the value of exemptions and standard deduction as head of household is higher when the marginal income tax rates are higher. See Exhibit 34. Yet, the Income Shares cost schedule cannot predetermine the income of the custodial parent for a given level of combined parental income. There is no economically sound method for building child-related tax benefits into a single child cost schedule.

⁴¹ Even were Income Shares to use net income to allocate the child costs (as in Florida), the child-related tax benefits would still be primarily a windfall to the custodial parent. Only the portion of the tax benefits equal to the marginal propensity to spend on children would be taken into account through use of net income if the benefits are not specifically identified and shared between the parents.

- Even though there are no child-related benefits as cost offsets built into the Income Shares child cost schedule, were such adjustments already included there would be a before adjustment table and a documented process of how the adjustments were made in order to see if they are appropriate for a particular case.

There is no before adjustment table for child-related tax benefits as cost offsets, nor documentation of the adjustments since there are no built in adjustments.

Curiously, a number of states actually put “explanations” in the guideline code that it is assumed that the custodial parent receives the child-related tax benefits. See, for example, the child support guidelines of Alabama, Missouri, and North Carolina.⁴² Essentially, the fact that the child-related tax benefits are counted as net income to determine spending on children is confused with the issue of treating the child-related tax benefits as a partial cost offset. States including such language that the child-related tax benefits are assumed to be claimed by the custodial parent at a minimum have misleading language in the child support code. Indeed, the child-related tax benefits are counted as net income for the intact households used in Income Shares survey data—but there is no treatment of these benefits as cost offsets which is economically appropriate.

A review of the only Policy Studies, Inc.’s methodology in deriving the cost schedule shows no incorporation of child-related tax benefits as cost offsets. Policy Studies, Inc.’s 2004 submission to the Administrative Office of the Courts, shows in that submission’s Appendix I and Appendix II the tables of data for each of the key steps in the process of developing a schedule of child costs. In Appendix I, Table I-2 shows net income and household consumption at selected net income levels. Table I-4 shows expenditure on children as a percent of total consumption expenditures for one to three children. Table I-3 shows factors for expanding child costs to 4 through 6 children since the key data were for one to three children only. Table I-4 shows how adjustments for child care expenditures and medical expenses are factored into the computation of a proportion that relates expenditures on children to net income. Table I-5 shows child costs as shares of net income by income brackets. Immediately following Table I-5, Appendix II is a conversion table of gross income to net income from which Table I-5 child costs as a percentage of net income are converted to child costs in gross dollars related to gross income levels. Appendix II simply assumes that the gross income is for a non-custodial parent with two withholding exemptions (a simulated equivalent of single tax payer standard deduction with one exemption). At no point in this calculation process is there an adjustment to the gross child costs for child-related tax benefits as a cost offset. This is the same type of process used for the current Rule 32 child cost schedule as well as the one proposed by PSI in 2004.

- Any statement that any of the Income Shares child support guidelines—including those of Alabama—already take into account child-related tax benefits as a cost offset is factually incorrect.

Some states correctly state the fact that child-related tax benefits as cost offsets have not been taken into account in the cost table. One such state is Indiana. According to commentary in this state’s guidelines, “Development of these Guidelines did not take into consideration the awarding of the income tax exemption.”⁴³ Also, Arizona in its guidelines acknowledges that the tax benefits are not treated as cost offsets in the cost schedule. That state’s guidelines specifically state that the child exemptions should be pro-rated between the parents as close as possible to each parent’s share of combined income.

⁴² See Alabama Rules of Judicial Administration, Rule 32, Comment; Supreme Court of Missouri, *Order*, March 2, 1998, *In re: ... Civil Procedure Form No. 14*, Assumptions; and North Carolina Administrative Office of the Courts, G.S. 50-13.4, Assumptions And Expenses Included In Schedule Of Basic Child Support Obligations.

⁴³ See *Indiana Child Support Rules and Guidelines*, Guideline 6. Additional Commentary, adopted effective October 1, 1989, Supreme Court of Indiana.

Pro-rating is both by exemptions (if multiple exemptions) and by alternating years for when a parent is entitled to the exemption.⁴⁴

Kansas requires consideration of how to share the child-related tax benefits. First, the custodial parent may choose to share the tax benefits and sign appropriate forms from the Internal Revenue Service for the non-custodial parent. Kansas also requires that if the custodial parent does not agree to share the economic benefits of child-related tax benefits with the non-custodial parent, that the court shall consider the tax effects in the award calculation.⁴⁵ Kansas also states how the value of the child-related tax benefits should be calculated according to formula.⁴⁶

Idaho takes an approach similar to Kansas. But instead of prescribing a formula for calculating the value of the tax benefits in each case, Idaho develops a table of values for the child-related tax benefits at various income levels for one through six children and for single with greater than 50 percent parenting time (IRS code only allows the parent with more than 50 percent of parenting time to have head of household status), for single but not with more than 50 percent of parenting time, and for a parent that has remarried. This table is incorporated into the guidelines. The court assigns the benefits to the parent with the higher value of benefits and then gives the other parent a pro-rated share in the child support award (add-on amount for the custodial parent and a credit if for the non-custodial parent).⁴⁷

The clincher regarding the fact that the Income Shares cost tables do not already take into account child-related tax benefits as cost offsets is that Colorado child support guidelines mandate that the child exemptions shall be shared between the parents in the same proportion that parents share gross costs. This is found in the Colorado Statutes Annotation for the guidelines code section.⁴⁸ Colorado largely adopted their guidelines from those developed by Policy Studies, Inc. of Denver, Colorado.

- However, further detailed analysis below will indicate that child-related tax benefits are taken into account in part and only in part in the presumptive child cost schedule. Detailed discussion of what child-related tax benefits are will help that discussion.

What Are Child-Related Tax Benefits?

The child-related tax benefits received by custodial parents can include:

- head of household tax payer status,

⁴⁴ See *Arizona Child Support Guidelines Adopted by the Arizona Supreme Court for Actions Filed After April 30, 2001*, Section 26, "Federal Tax Exemption for Dependent Children.

⁴⁵ See Kansas Judicial Branch, Rules Adopted by the Supreme Court, Rules Relating to District Court, Administrative Order 180, Re: 2003 Kansas Child Support Guidelines, Kansas Child Support Guidelines, IV(E)(3).

⁴⁶ See Kansas Judicial Branch, Rules Adopted by the Supreme Court, Rules Relating to District Court, Administrative Order 180, Re: 2003 Kansas Child Support Guidelines, Kansas Child Support Guidelines, Appendix V.

⁴⁷ See Idaho Rules of Civil Procedure, Rule 6(c)6 as adopted by the Idaho Supreme Court.

⁴⁸ See Colorado Statutes, 14-10-115, Annotation, General Consideration, Tax exemptions: Tax exemptions. Court has authority to divide tax exemptions between the parents. In re Berjer, 789 P.2d 468 (Colo. App. 1989); In re Nielson, 794 P.2d 1097 (Colo. App. 1990); In re Larsen, 805 P.2d 1195 (Colo. App. 1991). Court must allocate dependency exemption between the parties based on their respective gross incomes. Federal tax law contemplates such an allocation, and does not preempt it. S.F.E. in Interest of T.I.E., 981 P.2d 642 (Colo. App. 1998). When allocating tax exemptions between the parents, the phrase "contributions to the costs of raising the children" refers to the percentage of child support attributed to each parent in the course of making the child support computation. In re Staggs, 940 P.2d 1109 (Colo. App. 1997).

- child dependency exemptions,
- child tax credits,
- additional child tax credits
- child care tax credits, and
- higher earned income credits for low-income working custodial parents.

Before quantifying the magnitude of these child-related tax benefits, what are some of the specifics of these benefits?

Differences in Tax Treatment between the Custodial Parent and the Non-custodial Parent

The Internal Revenue Service generally attributes child-related tax benefits to the custodial parent in divorced and unwed situations. The custodial parent is entitled to head of household status while the non-custodial parent typically has single tax payer status. Child-related tax benefits are summarized in Federal Form 1040 from the Internal Revenue Service.

From Federal form 1040 from the Internal Revenue Service for calendar tax year of 2005, the divergent treatment of custodial and non-custodial parents is substantial:

- The standardized deduction (line 40, Form 1040), for a single person (the non-custodial parent) was \$5,000 compared to \$7,300 for a head of household taxpayer (the custodial parent). This is a bonus of \$2,300 in deductions for the custodial parent.
- The custodial parent only is able to claim the dependent exemptions as a legal right (lines 6c and 42, Form 1040). The 2005 value of each dependent exemption is \$3,200.
- For low income and moderately low income working parents, custodial parents receive dramatically more favorable treatment than do non-custodial parents in terms of the size of earned income credits under Federal income tax law, calendar 2005 code.

The earned income credit was as much as:

- \$399 if you did not have a qualifying child (non-custodial parent),
 - \$2,662 if you had one qualifying child, or
 - \$4,400 if you had two qualifying children.
- The Taxpayer Relief Act of 1997 gave custodial parents a tax credit of up to \$400 per child. The credit went to up to \$500 per child in 1999. Subsequent legislation boosts child tax credits to up to \$1,000 per child by 2010.
 - The marginal tax rate increases for head of household taxpayers begin at higher income threshold levels than for single, non-custodial parents. This is seen in Schedule X and Schedule Z, 2005 1040, Forms and Instructions, Department of the Treasury, page 82.

Exhibit 32.

Schedule X—If your filing status is Single

If your taxable income is:		The tax is:		of the amount
Over—	But not over—			over—
\$0	\$7,300	-----	10%	\$0
7,300	29,700	\$730.00 +	15%	7,300
29,700	71,950	4,090.00 +	25%	29,700
71,950	150,150	14,652.50 +	28%	71,950
150,150	326,450	36,548.50 +	33%	150,150
326,450	-----	94,727.50 +	35%	326,450

Schedule Z—If your filing status is Head of household

If your taxable income is:		The tax is:		of the amount
Over—	But not over—			over—
\$0	10,450	-----	10%	\$0
10,450	39,500	\$1,045.00 +	15%	10,450
39,500	102,800	5,447.50 +	25%	39,500
102,800	166,450	21,197.50 +	28%	102,800
166,450	326,450	39,019.50 +	33%	166,450
326,450	-----	91,819.50 +	35%	326,450

Defining the Value of Child-Related Tax Benefits

The value of child-related tax benefits is defined as the difference in after-tax income for a parent with the child-related tax benefits versus without the child-related tax benefits. These benefits generally are limited to head of household status, the child exemption, and the child tax credits. There may also be earned income credits and child care credits. The below table is an example of calculating the child-related tax benefits for a custodial parent in Alabama using official 2005 tax code. The example is for two children (under age 17) and with head of household status, child dependency exemptions, and child tax credits.

In Exhibit 33, one sees an example for a moderate income custodial parent with \$3,000 monthly gross income—or \$36,000 annual salary. The example is for two children. One sees the child-related tax benefits in part with the higher federal standard deduction for head of household status for the CP with tax benefits (\$7,300 versus \$5,000), the two extra federal dependency exemptions (\$9,600 versus \$3,200), and the child tax credits (\$2,000 versus zero). Additionally at the federal level, the with-benefits federal income tax is \$2,346 versus \$3,809 without. Similar effects are seen at the state level. The net impact of the child-related tax benefits is that the custodial parent's after-tax income is \$31,437 with the child-related tax benefits versus \$27,584 without. The annual child-related tax benefit is an extra \$3,853 in after-tax income, or \$321 monthly. Essentially, the custodial parent has \$321 per month in child-related tax benefits as a cost offset against spending on the children.

Exhibit 33.

Quantifying Child-Related Tax Benefits	Custodial Parent <u>With</u> Tax Benefits	Custodial Parent <u>Without</u> Tax Benefits
Monthly Gross Wages/Salary	\$3,000	\$3,000
Monthly Gross Income Total	3,000	3,000
Annual Total Gross Income	\$36,000	\$36,000
Standard Deduction (2005 tax code)	-7,300	-5,000
Exemptions	-9,600	-3,200
Federal Taxable Income	19,100	27,800
Federal Income Tax	-2,346	-3,809
Earned Income Credit	+0	+0
Child Tax Credits	+2,000	+0
Social Security Tax	-2,232	-2,232
Medicare Tax	-522	-522
Alabama Income Tax	-1,463	-1,853
After Tax Income, <u>Annual</u>	\$31,437	\$27,584
Addendum: After-Tax Income, <u>Monthly</u>	\$2,620	\$2,299

Based on final 2005 tax code, Alabama and Federal.

The Impact of Tax Benefits on Each Parent's Ability to Pay Shares of Child Costs

Exhibit 34 summarizes the difference in Federal and Alabama tax code treatment of custodial parents (CPs) to that of non-custodial parents (NCPs). The horizontal axis is gross income for each parent (with each having the same gross income). The vertical axis is the net income advantage that the custodial parent has at each level of gross income. It shows the after-tax income of the CP minus the after-tax income of the NCP. Taxes are Federal personal income taxes, Medicare, Social Security taxes (2005 tax), and Alabama income taxes. Earned income credits are added. Standard deductions are used. Exhibit 34 shows a dramatic after-tax advantage for the custodial parent.

- As seen in Exhibit 34, child-related tax benefits are a very significant offset to total child costs—typically worth \$250 to \$400 in extra monthly after-tax income for the custodial parent (for one to two children). Child-related tax benefits typically include head of household status, exemptions, child tax credits, and earned income credits.

As seen in Exhibit 35, even if only the child exemptions and tax credits are considered, the extra after-tax monthly income from child-related tax benefits is quite substantial—generally about \$100 per child per month.

Child-Related Tax Benefits: Additional Net Income Per Month, Federal and Alabama Income Tax Code, 2005

Exhibit 34.

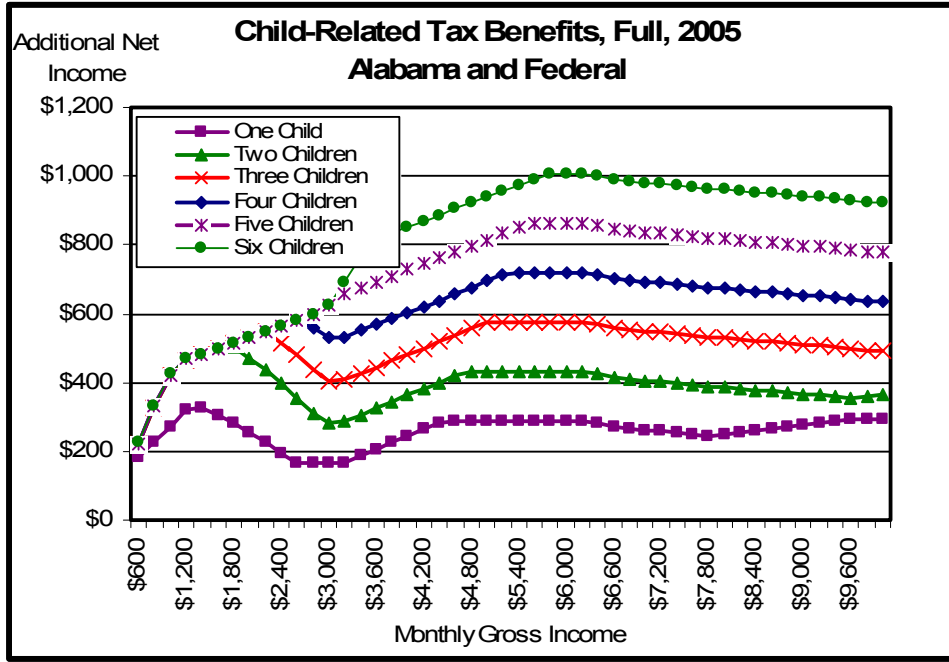
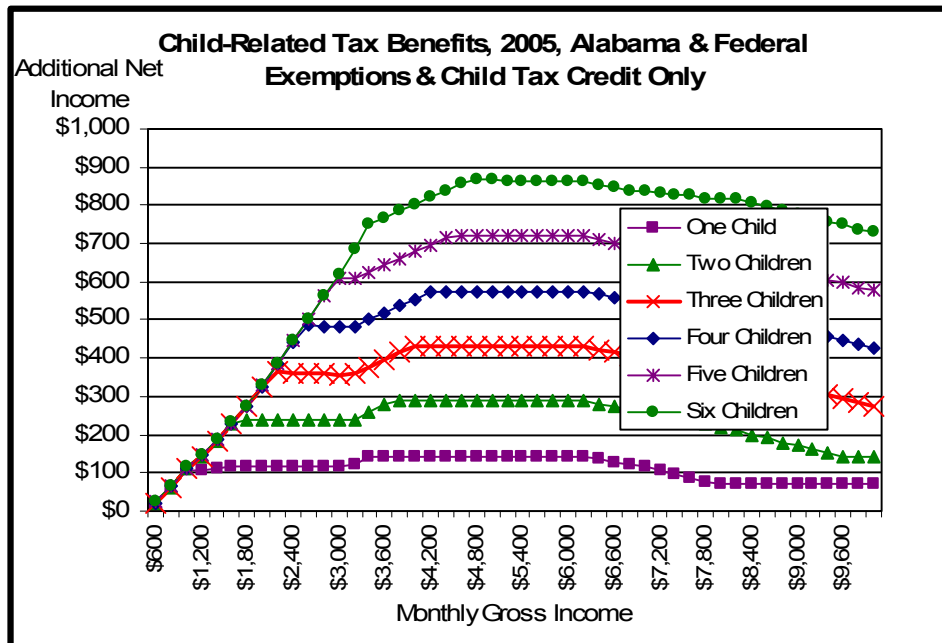


Exhibit 35.



How Much of the Child-Related Tax Benefits Are Taken Into Account in the Child Cost Schedule and How Much Are Not?

Policy Studies, Inc., currently maintains that child-related tax benefits are taken into account in the child cost schedule. Their logic is that net income would be higher for a given level of gross income if the net income basis child costs were grossed up based on custodial parent net income. Additionally, the custodial parent's share of net income would be higher and the two effects are essentially offsetting.

The flaw in this logic is that when a custodial parent receives additional net income, not all of the extra net income is spent on the child. PSI's logic requires that all of the custodial parent's additional net income from child-related tax benefits be spent on the child. In reality, only a portion of additional income is spent on the child and the remainder is spent on other things or is put into savings.

It does appear that the child cost schedule assumes that both parents pay income taxes as if they both have single tax payer status and have no child-related tax benefits. Therefore, the amount of net income that is not taken into account in the cost schedule is only the additional net income that the custodial parent receives due to the child-related tax benefits as seen in Exhibit 34.

The key question is, how much of additional income does the custodial parent spend on the child out of the child-related tax benefits—this would be the amount of the child-related tax benefits that are taken into account in the presumptive child cost schedule. To answer this question, one needs to know the percentage rate that the custodial spends on the child "at the margin"—that is, the spending rate based on additional income, not total income.

Once the custodial parent's marginal spending rate on children is known, then the marginal rate of not spending on the child is defined as 1 minus the marginal spending percentage—the marginal spending rate on the child and the marginal not-spending on the child must equal 100 percent. The unaccounted child-tax benefits amount is the dollar value of total child-related tax benefits multiplied by the custodial parent marginal rate of not spending on the child.

Where can the marginal spending rate on the child be found? If one believes that the Policy Studies, Inc. 2004 schedule of basic child support obligations is correct, then it is such a source. However, this table is for average spending percentages on the child for a given income level. To get the marginal spending percentages from this schedule, one must look at the changes in the child cost figure as a percentage of the changes in income. For example, using the 2004 PSI cost schedule, going from \$3,300 to \$3,400 in gross income, the change in income is \$100. The child cost figure at \$3,300 is \$605 and at \$3,400 it is \$614—the change in costs is \$9. Thus, the marginal propensity to spend on the child is 9 percent ($\$9$ divided by $\$100$). The marginal propensity to spend out of net income is somewhat higher. These percentages are higher at lower incomes and decrease as income increases. Of course, these marginal percentages rise with the number of children rising.

Exhibit 36 shows the marginal propensity to spend on children for one to six children based on the 2004 PSI proposed cost schedule. These percentages are heavily smoothed to take into account that the cost schedule brackets are not smooth due to rounding and due to tax grossing effects. This chart shows the percentages of child-related tax benefits that are taken into account with the presumptive child cost schedule.

Exhibit 37 shows how much of full child-related tax benefits is not taken into account in the cost schedule. This chart is based on multiplying "1 minus the marginal propensity to spend on children percentage" times the full child-related tax benefits. Clearly, only a fraction of child-related tax benefits are taken into account with the presumptive child cost schedule.

Exhibit 36.

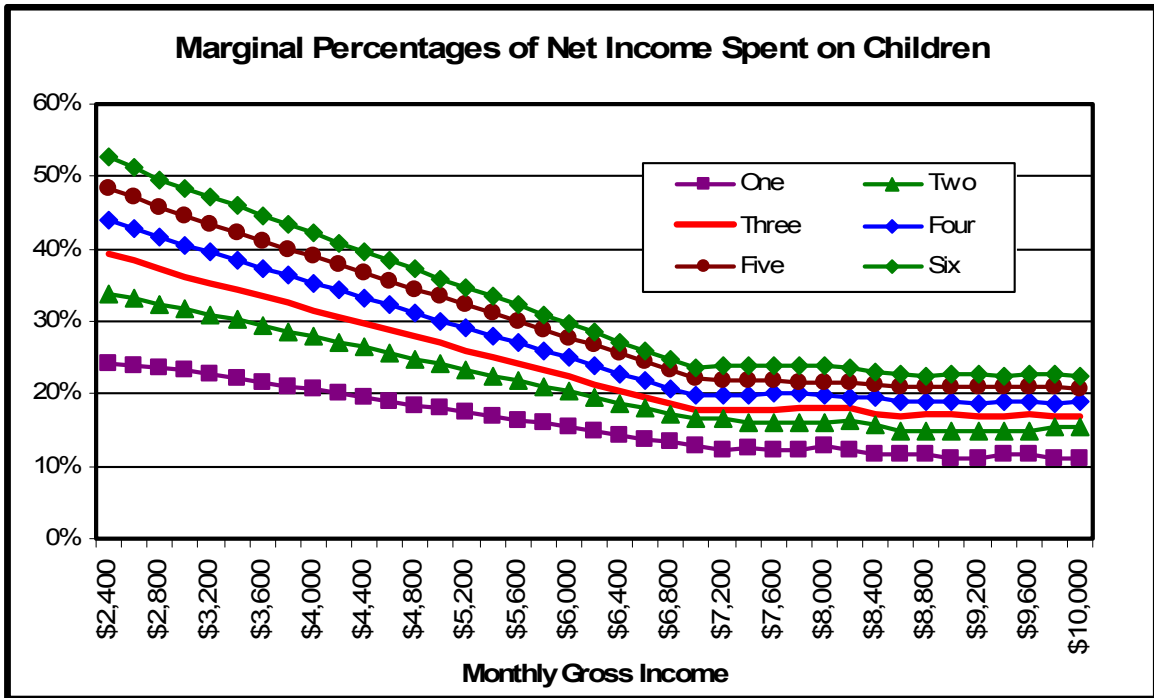
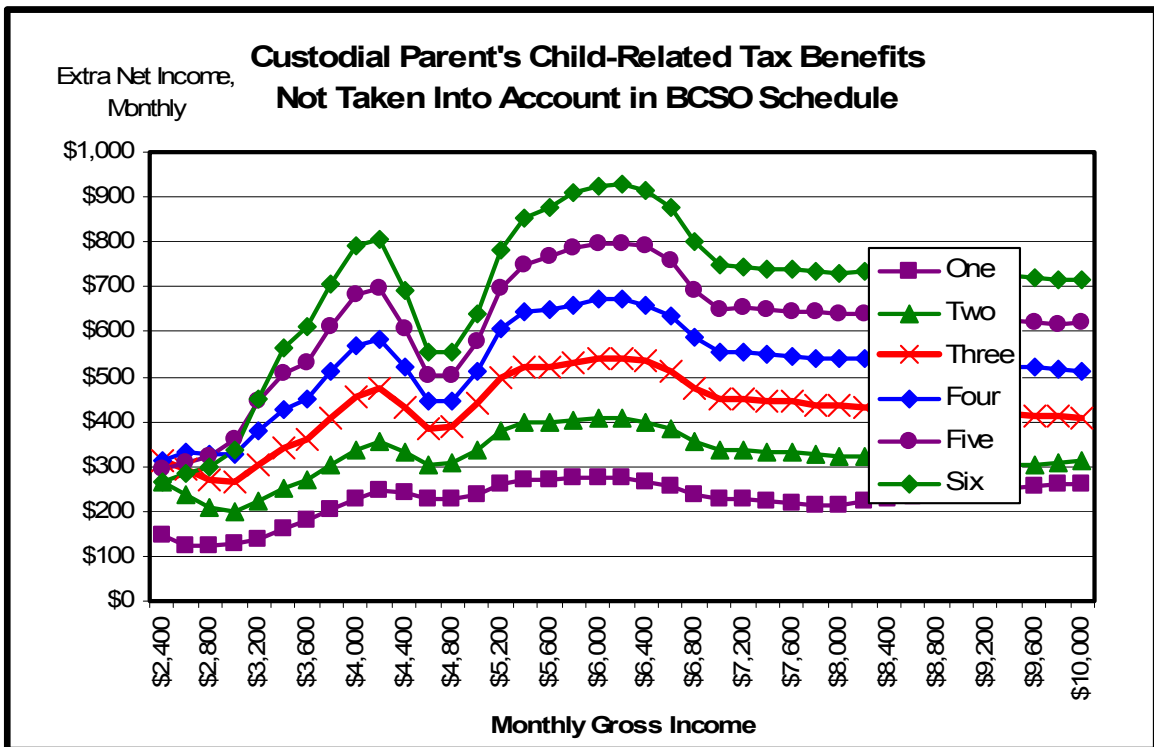


Exhibit 37.



APPENDIX IV

Detailed Analysis: Alabama's Income Shares Child Support Guidelines and the Issue of Parenting Time Adjustments

Introduction to Parenting Time Adjustment Issue

Rule 32 commentary gives the impression that "standard parenting time" costs for the non-custodial parent are taken into account in the presumptive child cost schedule.

From Rule 32:

Other assumptions incorporated in the Schedule of Basic Child Support Obligations include:

(3) Visitation. The Schedule of Basic Child Support Obligations is premised on the assumption that the noncustodial parent will exercise customary visitation rights, including summer visitation. Any abatement of child support because of extraordinary visitation should be based on visitation in excess of customary visitation.

Studies Underlying the Income Shares Methodology Consistently State that No Child Costs of the Non-custodial Parent Are Taken Into Account in the Income Shares Presumptive Child Cost Schedule

Does Alabama's presumptive child cost schedule include built in adjustments for a non-custodial parent's standard parenting time?

First, it can be documented that Alabama's guidelines are an Income Shares guideline with attendant economic characteristics. The 2004 report by Policy Studies, Inc. corroborates these origins:

The current Alabama Child Support Guidelines are based on the Income Shares model, which was developed under the Child Support Guidelines Project funded by the U.S. Office of Child Support Enforcement (CSE) and administered by the National Center for State Courts.⁴⁹

The developer of Income Shares, Robert G. Williams, specifically states in the original manual issued by the federal government for developing child support guidelines that the Income Shares costs tables are based on intact family data and are allocated between the parents according to intact family costs. That is, all of the child costs in the cost tables are assumed to be in one household—there are no built-in parenting time adjustments.

The Income Shares model calculates child support as the share of each parent's income estimated to have been allocated to the child if the parents and child were living in an intact household. A basic child support obligation is computed based on the combined income of the parents (replicating total income in an intact household).⁵⁰

⁴⁹ See *Alabama Updated Child Support Schedule*, February 25, 2004 by Jane C. Venohr and Tracy E. Griffith of Policy Studies, Inc., Denver, Colorado, submitted to State of Alabama, Administrative Office of the Courts, Montgomery, Alabama, p. I-1.

⁵⁰ Robert G. Williams, *Development of Guidelines for Child Support Orders*, U.S. Department of Health and Human Services, Office of Child Support Enforcement, September 1987, p. II-68.

An Ohio appeals court has confirmed that Income Shares has no built in adjustment for standard visitation. See *Thomas D. Vliek, Plaintiff-Appellant v. Kristina G. Myllykoski, Defendant-Appellee*, Accelerated Case No. 97-L-300, Court of Appeals of Ohio, Eleventh Appellate District, Lake County, December 11, 1998.

Second, appellant says there is no statutory basis for the proposition that the worksheet “presumes” a standard visitation order, so that deviation is necessary when there is no visitation. He argues that each court has its own conception as to what constitutes a “standard” order of visitation. Two months may be standard in Lake County, but another amount might be standard elsewhere. He also says that visitation for a newborn is highly irregular, so the magistrate could not “presume” the juvenile court would order a standard two months visitation if it had been asked to decide that issue.

These arguments have some merit. We agree that nothing in the structure of the Child Support Worksheet set forth in R.C. 3113.215(E), or in the terms of R.C. 3113.215 “presume” a standard, two-month visitation order. In fact, the opposite is true. If the magistrate’s “presumption” that the Worksheet accounted for two months of visitation were valid, then the trial court would be instructed in the Worksheet to divide the annual child support obligation by ten to arrive at the amount of support to be paid each month. The magistrate’s rule would reflect only ten months of child support obligations (spread out over twelve payments), and two months off when the child spends time with the obligor spouse pursuant to a visitation order, during which the obligor spouse pays the child care expenses directly instead of to the residential parent. Line 28 of the Worksheet actually directs the court to divide the annual child support obligation of the payor spouse by twelve. In our view, that means the payor spouse owes his child support all twelve months of the year, and the Worksheet makes no implied allowances for a standard, two-month visitation order.

Policy Studies, Inc. (PSI) continues to document that visitation costs of a non-custodial parent are not taken into account in Income Shares cost schedules. Examples are found in recent reports by PSI. From *Economic Basis for Updated Child Support Schedule, State of Oregon, Salem, Oregon, December 31, 2001*, submitted to Oregon Department of Justice, Division of Child Support; submitted by Policy Studies Inc., Denver, Colorado, p. 40:

Visitation costs are not factored into the schedule. Since the Schedule is based on expenditures for children in intact households, there is no consideration given for visitation costs. Taking such costs into account would be further complicated by the variability in actual visitation patterns and the duplicative nature of many costs incurred for visitation (e.g. housing, home furnishings).

Finally, Policy Studies, Inc., states in its 2004 report to Alabama Administrative Office of the Courts that the cost schedule is based on intact family data—the children live in only one household and the expenses reflect those of one household.

The child-rearing expenditures discussed in this report are estimates from samples of two-parent households. This is appropriate since the Income Shares model (upon which the Alabama guidelines are based) seeks to apportion to the child the amount that the parents would have spent if the household were intact.⁵¹

⁵¹ See *Alabama Updated Child Support Schedule*, February 25, 2004 by Jane C. Venohr and Tracy E. Griffith of Policy Studies, Inc., Denver, Colorado, submitted to State of Alabama, Administrative Office of the Courts, Montgomery, Alabama, p. I-8.

There is no adjustment to the cost schedule for any parenting time expenses incurred by a non-custodial parent.

Why Parenting Time Adjustment Cannot Be “Built Into” the Child Cost Schedule

An Example:

A true parenting time adjustment depends not just on parenting time shares but also on each parent’s income. If the cost schedule is based on combined income, you do not know each parent’s share from the table.

Assume: 1) Combined income of \$10,000/month; 2) Child cost of \$1,000 per month; and 3) non-custodial parenting time of 25 percent. Use straight-line allocation of parenting time.

Scenario 1: CP has \$7,000 income, NCP has \$3,000.

Exhibit 38.

	CP	NCP
Gross income/month	\$7,000	\$3,000
Child costs by parenting time	\$750	\$250
Share of combined income	.70	.30
Share of other’s costs (other’s costs times own share of combined income)	\$175	\$225
Net cash paid for support		\$50

Scenario 2: CP has \$3,000 income, NCP has \$7,000.

Exhibit 39.

	CP	NCP
Gross income/month	\$3,000	\$7,000
Child costs by parenting time	\$750	\$250
Share of combined income (other’s costs times own share of combined income)	.30	.70
Share of other’s costs	\$75	\$525
Net cash paid for support		\$450

Each scenario has same information from the cost schedule but each has very different outcomes.

Alabama’s Presumptive Child Cost Schedules Do Not Include Any Built in Adjustments for “Standard” Parenting Time

In summary, there are two facts that provide key corroboration that Alabama’s presumptive child cost schedule—the Basic Child Support Obligation schedule—has no built in adjustment for a non-custodial parent’s standard parenting time:

- All Income Shares studies are found to be based on intact family data, the child lives in only one household, and there is no provision for the child’s expenses in any other household, and
- It is not mathematically possible to correctly incorporate a built in adjustment in the presumptive child cost schedule that takes into account standard parenting time of the non-custodial parent (or any other parenting time share).

APPENDIX V

Detailed Analysis: Do the Rothbarth and Engel Child Cost Estimation Methodologies “Bracket” True Child Costs?

Introduction

One issue that frequently is raised during child support guideline reviews and during legislative consideration of changes in child support guidelines is that of determining economically correct presumptive child costs. Typically, the presumptive cost issue is addressed in terms of designing or choosing a cost schedule that indicates “appropriate” child costs at varying income levels and according to the number of children. That is, in a typical presumptive child cost schedule, child costs rise as income rises and child costs rise with the number of children.

The most common method for a state to develop its presumptive child cost schedules is to hire Policy Studies, Inc. (PSI) of Denver, CO. This company was co-founded by Robert Williams, one of the researchers hired by the federal government to update the concept of Income Shares. Robert Williams was the primary author of *Development of Guidelines for Child Support Orders*, a key federal document underlying a federal advisory panel’s support for states’ use of the Income Shares methodology.⁵²

What is not often recognized is that the Income Shares methodology has undergone several significant changes since its emergence on the national scene in the mid-1980s. The original Income Shares cost schedule espoused by PSI was based on the research of Thomas Espenshade.⁵³ That research was an adaptation of earlier research by Ernst Engel. While a number of Income Shares states implemented variations of the original Engel-based cost schedule, a consensus developed that the Engel-based cost tables were too high. At the same time, David Betson of the University of Notre Dame had developed a slightly different methodology for cost schedules based on the research of Erwin Rothbarth. Additionally, Betson and PSI have changed the Rothbarth methodology from its original design in the early 1990s to a somewhat different technique starting with a 2001 study.

During the academic debate over which methodology, Engel or Rothbarth, is best or most economically “correct” for determining presumptive child costs, a view developed by some policy makers that the Engel methodology established a ceiling on what child costs “really are” and the Rothbarth one established a theoretical floor.

To evaluate whether or not the Engel methodology establishes a ceiling on appropriate child cost schedules and whether the Rothbarth methodology creates a floor, one must examine the actual methodologies and their assumptions. Such a review indicates that the Engel methodology indeed likely overstates child costs and that the claim that Rothbarth underestimates child costs has no credibility. To make the claim that the Rothbarth methodology understates child costs, two highly unlikely assumptions must be made:

- 1) Parents do not like sharing shared household goods with their children, and
- 2) Parents get no sense of well-being from their children.

⁵² Robert G. Williams, *Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report*, Parts II and III, Policy Studies, Inc., Denver, Colorado, under a grant to National Center for State Courts, Williamsburg, Virginia, submitted to U.S. Department of Health and Human Services, Washington, D.C., September 1987.

⁵³ Robert G. Williams, *Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report*, pages II-19 through II-20.

More realistic assumptions for the Rothbarth methodology indicate instead that Rothbarth overestimates child costs.

Income Shares Uses an Indirect Methodology for Estimating Child Costs

Contrary to the belief of some policy makers, Income Shares Cost schedules are not based on measures of actual prices for goods and services for children such as the price of a pair of jeans, or the cost of baby formula, or the price of a child's hair cut. There are no specific prices by category built into an Income Shares cost table. Child costs are measured indirectly. The rationale for indirect measurement is that a number of goods and services expended on children are also shared by adults in the same household. For example, parents and children share the same living room, television, and kitchen. Even food is bought for the household and then allocated "at the table" between the parents and the children—how does one measure that?

The Engel and Rothbarth child cost methodologies look at economic measures of the well-being of the adults (parents) to estimate child costs. That is, how does some measure of adult well being change before and after having children? Then, how much income does it take to restore that measure of adult well being after having the children? These are the questions that these methodologies use in a statistical approach to measure child costs. It is alleged statistical flaws in these methodologies that underlie the claims that they either overestimate or underestimate child costs. Whether these alleged flaws actually exist as claimed determines the credibility of these claims.

The Engel Methodology

The Engel methodology of estimating child costs was the first incorporated into the Income Shares child support guidelines and cost schedule espoused by Policy Studies, Inc. Engel believed that one could look at a household's spending patterns on food items to determine how economically well off various households were to each other. Because food is a necessity, the higher the percentage of a family's spending is on food, the less economically well off that family is compared to a family that spends a smaller percentage of their total spending on food. The equivalent statement is that the higher the non-food shares of family spending, the higher the family's standard of living.

In 1895, Ernst Engel developed a methodology to measure the cost of children that was based upon the supposition that the standard of living of the household could be proxied by the share of total expenditures devoted to the consumption of food. Examining budget data, he found that as total household expenditures rose, the share of total expenditures devoted to food fell, i.e., the standard of living rose. He also found that as the family size increased, holding total expenditures constant the food share rose, i.e., the standard of living fell. Combining these two empirical facts, Engel felt that he had sufficient justification to declare that food shares were inversely related to standards of living.⁵⁴

The corollary to this analysis is that when families of different sizes have the same share of spending on food, then those families are equally well off. This is the same as saying that when different families have the same share of total spending on non-food items, they are equally well off. Child costs are defined as the difference in total spending for two families of different size (with number of children being the difference in size) when both families spend the same share of their budget on food.

⁵⁴ David M. Betson, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Department of Economics, University of Notre Dame, Notre Dame, Indiana 46556, September 1990, pp. 11-12.

The Engel approach is explained by David Betson [Figure 2 in Betson's discussion is Exhibit 40 in this document]. Referring to the below figure:

If we let $\Theta(X, K)$ denote the relationship between the share of total expenditures spent on food, total expenditures (X), and the number of children (K), the Engel approach would compute the cost of a child (CC_E), where CC_E must satisfy the following relationship:

$$\Theta(X, K=1) = \Theta(X - CC_E, K = 0)$$

Figure 2 [in Betson's document but Exhibit 40 here] depicts the determination of the cost of a child under the Engel methodology. The two curves, representing the relationship between total expenditures and the share of total expenditures spent on food, are downward sloping, the share curve for a couple with a child ($FS = 3$) lying above the share curve for the household composed of two adults without a child ($FS = 2$). Both of these relationships correspond to the assumption that the budget share spent on food is inversely related to total expenditures and hence to the standard of living to the household. If the household with a child has total expenditures X_3 [point (1)], then Θ_3 will be spent on food. A couple with X_3 dollars of total expenditures without a child, however, will enjoy a higher standard of living [point (2)]. For this couple to enjoy the same level of living as the couple with the child, they would only require X_2 dollars of total expenditures [point(3)]. The difference in levels of total expenditures, $X_3 - X_2$, represents the cost of the child, CC_E .⁵⁵

In simplified terms, the child cost is the difference in total expenditures in families with and without the added child and in which both spend the same share of total expenditures on food.

Now that the theoretical model of the Engel approach to estimating child cost has been established, what is the basis for believing that the Engel approach overestimates child costs? Basically, the problem lies with a built-in assumption that adults (parents) and children consume the same shares of food relative to shares of non-food items out of the total household budget.

From the Lewin report:

The validity of the Engel estimator [of child costs] is critically dependent on the assumption that the percentage of the family's expenditures on non-food items that should be attributed to the family's children is the same as the percentage of the family's food expenditures that is attributable to the family's children. There is reason to believe that this assumption is invalid; children are probably relatively "food-intensive." That is to say, the percentage of the family's food that is consumed by children is probably greater than the percentage of non-food items consumed by children. If this is the case, then the Engel estimator overestimates [emphasis original] the true expenditures on children.⁵⁶

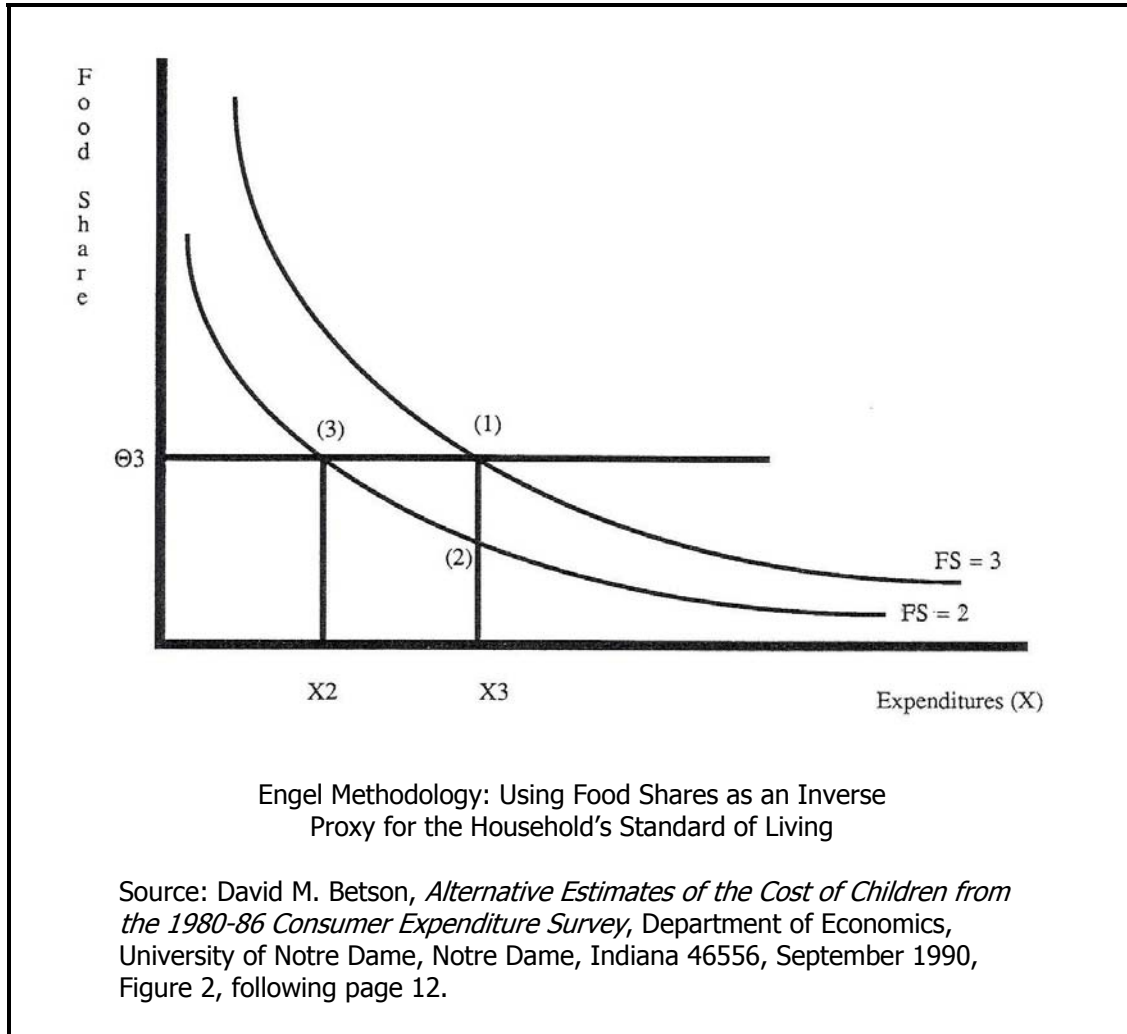
Essentially, children have spending that is more basic goods than that of adults. Adults buy non-essential goods for the household that would be bought with or without children. Adults' food shares are typically smaller than children's food shares. Conversely, children are food intensive—food is a bigger share of what is spent on children. The outcome of this is that if children have a natural tendency to consume food as a greater proportion of total spending (as is generally believed), then the Engel methodology will

⁵⁵ David M. Betson, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Department of Economics, University of Notre Dame, Notre Dame, Indiana 46556, September 1990, p. 12.

⁵⁶ Burt S. Barnow et al., *Estimates of Expenditures on Children and Child Support Guidelines*, Submitted to Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, Submitted by Lewin/ICF, Washington, D.C., October 1990, page 2-28.

require even greater levels of income to boost the family's overall spending on non-food items back to pre-child shares. This leads to overestimating child costs.

Exhibit 40.



Dr. David Betson of the University of Notre Dame has added his voice to those finding the Engle methodology excessively high.

The Engel approach theoretically is believed to provide an upper bound estimate on the cost of raising children. The use of economies of scale in food consumption to estimate the average economies in other goods seems on the surface unrealistic in today's society. But given the high estimates that result from this methodology, even when

compared to the per capita method, the estimates from the Engel method should be discounted.⁵⁷

It is generally accepted that children are “food intensive” and as a result the Engel methodology overestimates child costs.

The Rothbarth Methodology

After it became apparent that the Engel-based guidelines imposed too great a burden on the child support obligor and also had serious flaws in its theoretical underpinnings, a methodology begun by Erwin Rothbarth gained favor and was adopted by Policy Studies, Inc., in its child cost studies. The version adopted by Policy Studies, Inc., was researched by David Betson of the University of Notre Dame. The Rothbarth methodology is similar to that of Engel and is an indirect estimation technique.

The Rothbarth methodology is based on measuring a household’s economic well-being based on the level of spending on selected goods consumed only by the adults in the household. The higher a household’s spending level is on these adult goods, then the higher the household’s economic well-being. The differences in Rothbarth and Engel methodologies are primarily: 1) that Rothbarth focuses on household changes in purely adult goods while Engel focuses on changes in the jointly consumed good of food, and 2) Rothbarth looks at changes in the level (dollar amounts) of spending on target goods while Engel evaluates changes in percentage shares of the selected good.

With Rothbarth, for a given level of income, as children are added to the family, the amount of household spending on adult goods falls. So, the questions become how much income is needed to restore that level of spending on those adult goods and what is the difference in total household spending? For households of two different sizes (with children being the difference in size), child costs are the difference in total spending when both households spend the same amount on those adult goods.

The Betson approach is explained by David Betson [Figure 1 in Betson’s discussion is Exhibit 41 in this document]. Referring to the below figure:

[A]nother reasonable approximation to measuring expenditures on children is to observe how much adults reduce spending on themselves. Hence, we could measure the expenditures on a child by observing how the household reduced its spending on pure adult goods (A).

We can reformulate this observation into an estimation of the cost of children by first assuming that the parents’ standard of living can be proxied by how much is spent on adult goods. As we have already assumed, expenditures on adult goods should fall with the number of children in the household and hence is related to the reduction in the standard of living of the parents. However, holding the number of household members constant while increasing household income would raise both the standard of living of the adults and expenditures made on adult goods. Thus, to estimate the cost of the children in the household, we would first observe the level of expenditures made on adult goods in the household with children. We would then ask what level of income the parents would need so that they would spend the same amount on adult goods when the children were not present. The difference between the actual total expenditures of the household and this hypothetical level would represent the cost of the children. This

⁵⁷ David M. Betson, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Department of Economics, University of Notre Dame, Notre Dame, Indiana 46556, September 1990, pp. 55-56.

approach to cost estimation was proposed by Erwin Rothbarth and in the literature has been given his name.⁵⁸

Betson continues with the explanation of the Rothbarth methodology:

Let $E_A(X, K)$ represent the relationship between the level of expenditures on adult goods and the household's level of total expenditures on all goods (X) and the number of children (K). Given the knowledge of this relationship, the Rothbarth approach would compute the cost of one child to be equal to CCR , where CCR solves the following relationship, holding the level of the standard of living constant:

$$E_A(X, K = 1) = E_A(X - CCR, K = 0)$$

Figure 1 [in Betson's document but Exhibit 41 here] illustrates the Rothbarth methodology for the case of one child. The two curves in the figure represent the relationship between total expenditures (X) and expenditures on adult goods for a household of a couple without children ($FS = 2$) and a couple with a child ($FS = 3$). Note that the relationship is upward sloping, representing the positive relationship between expenditures on adult goods and the adults' standard of living. Second, the figures are constructed so that the curve for the household without children lies above the curve for the household with a child representing the assumption that for a given level of total expenditures, an additional person lowers the standard of living of the household. Now if the household with a child has total expenditures X_3 , it will spend A_3 on adult goods [point (1)]. If the child was not present in the household, the adults would reach a higher standard of living (spend more on adult goods) [point (2)]. For them to achieve [the] same standard of living in the absence of the child as with the child, Rothbarth assumes that the household should spend not more but the same amount, A_3 , on adult goods [point(3)]. The level of total expenditures for a household without children that is consistent with spending A_3 dollars on adult goods is X_2 . The difference between these two level[s] of total expenditures ($X_3 - X_2$) is equal to the cost of the child (CCR).⁵⁹

One sees that the Rothbarth measure of child costs is based on comparing consumption levels of purely adult goods with and without children and the amount of income needed to restore pre-children spending levels. The alleged reason that the Rothbarth methodology understates child costs is that children affect adult use of shared household goods. Since adults have less use of shared goods, they change preferences to adult goods.

[A]dults in households with children may have a tendency to substitute away from those goods which involve a large degree of sharing and into those goods that need not be shared (i.e., adult goods). In sum, adults in households with children, particularly those with large numbers of children, have an economic incentive to spend a disproportionately smaller percentage of their total expenditures on goods that are consumed by both

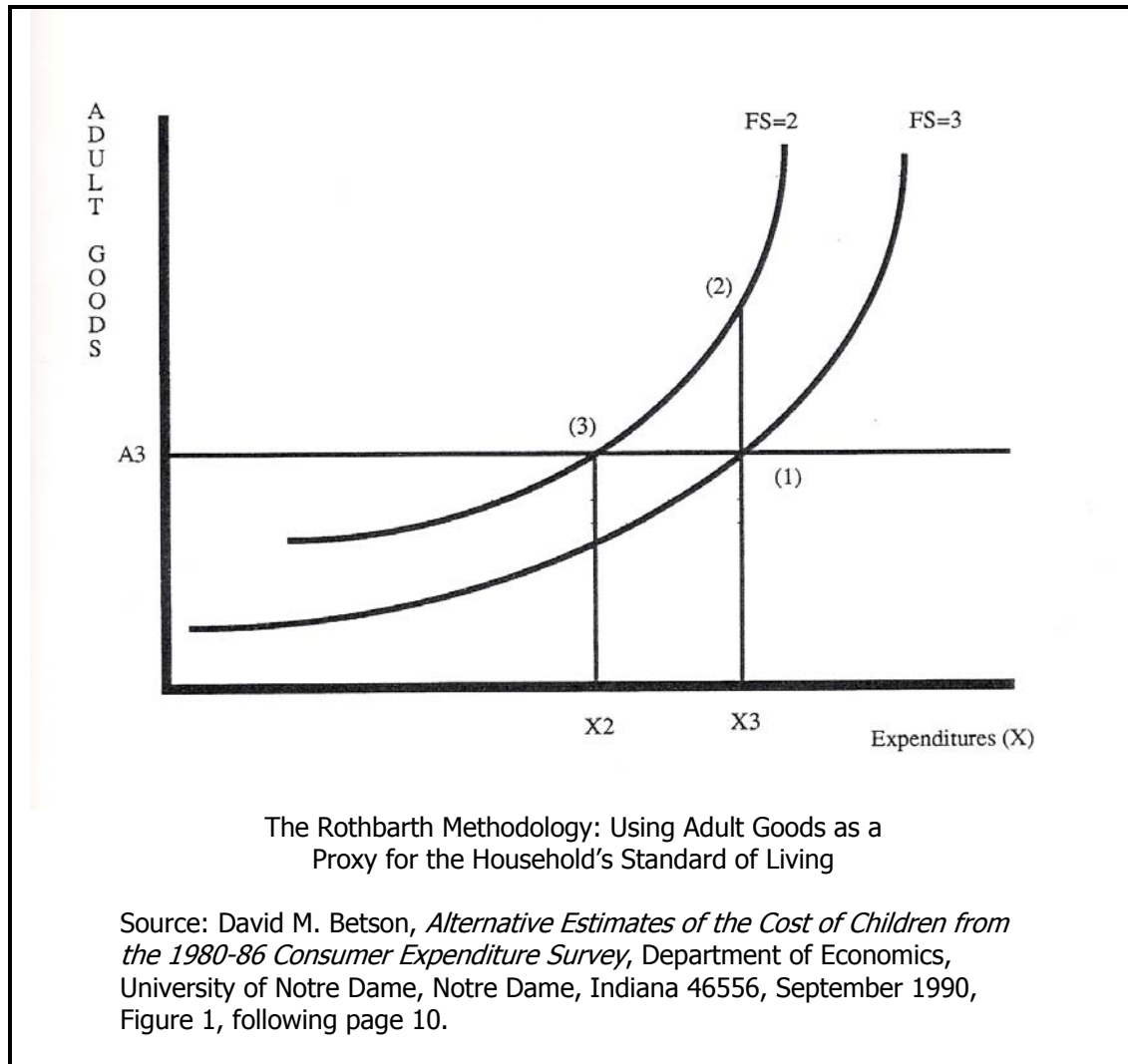
⁵⁸ David M. Betson, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Department of Economics, University of Notre Dame, Notre Dame, Indiana 46556, September 1990, pp. 9-10. Additionally, Betson's footnote number six appears at the end of the final paragraph in this quote. This footnote reads as follows:

Erwin Rothbarth, "Note on a Method of Determining Equivalent Income for Families of Different Composition." In *War Time Pattern of Saving and Spending*, edited by Charles Madge, Cambridge, Cambridge University Press, 1943.

⁵⁹ David M. Betson, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Department of Economics, University of Notre Dame, Notre Dame, Indiana 46556, September 1990, pp. 10-11.

children and adults, and a larger share on adult goods. While this type of "selfishness" strikes many observers (especially parents) as unlikely, it is, nonetheless, a possibility that should ideally be considered.⁶⁰

Exhibit 41.



This undocumented theoretical belief is again restated by Barnow in the Lewin study for U.S. HHS in 1990:

The Rothbarth estimator, on the other hand, is likely to underestimate [emphasis original] expenditures on children. The Rothbarth estimator does not account for the possibility that the presence of children in a household may lead to substitution from goods that must be shared with children toward goods consumed only (or mostly) by adults. If such substitution does occur, the Rothbarth estimator will indicate that

⁶⁰ Burt S. Barnow et al., *Estimates of Expenditures on Children and Child Support Guidelines*, Submitted to Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, Submitted by Lewin/ICF, Washington, D.C., October 1990, pp. 2-25 through pp. 2-26.

relatively low levels of additional income are needed to restore the level of adult expenditures to that which would have prevailed in the absence of children.⁶¹

The required assumption in this claim is that adults behave in a “selfish” manner—preferring to maintain pre-child levels of consumption of adult goods. It requires that adults not like sharing shared goods with children. It is this expected “selfish” conduct that allegedly biases the statistical outcome of the Rothbarth methodology.

Importantly, Barnow, et al raise the issue that the Rothbarth methodology may actually overestimate child costs if adults do not behave selfishly related to sharing shared goods with children. From footnote 37:

There is, of course, the possibility that adults behave “selflessly,” and that the substitution mechanism works in the opposite manner of that which is outlined here. In this case, the validity of all the estimation procedures discussed here is called into question.⁶²

What does this mean using real life examples? Shared goods are such as bath rooms, living rooms, and the television. Based on the current version of the Rothbarth methodology, the claim that Rothbarth understates child costs means that parents realize they have to share the living room with their children and therefore decide to buy more adult clothes instead. The shift in preferences then biases the estimate of how much income is needed to restore pre-children spending on adult clothes—it takes less income to restore pre-children spending on adult clothes. However, there is no empirical study that validates the alleged theory behind Rothbarth estimates of child costs being “low” due to a shift in preferences to adult clothes after having children.

In fact, if one believes that after having children, the parents have a preference to spend more time with shared goods, then the Rothbarth methodology overestimates child costs. That is, if parents decide they want to spend Friday or Saturday nights with the children watching videos, then that likely leads to the Rothbarth methodology overstating child costs because there is now a parental bias toward the shared goods and away from adult clothing. It therefore takes more income to restore the pre-children level of spending on adult clothes.

What does this mean in terms of every day application? This issue has to do with how parents react to having children and then wanting to share the shared goods (and services) or not with the children. The argument that the Rothbarth methodology sets a floor for child cost estimates is based on the statistical need for an economic “fact” that parents do not want to share with their children the shared goods of the household. The Rothbarth methodology requires that parents have an aversion to sharing the shared goods with children in order for the claim to be valid that the Rothbarth methodology is an underestimate for child costs. If parents are selfless and actually want to share the household shared goods with children, the “floor” argument for Rothbarth not only is invalid but Rothbarth then becomes an overestimate for child costs.

⁶¹ Burt S. Barnow et al., *Estimates of Expenditures on Children and Child Support Guidelines*, Submitted to Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, Submitted by Lewin/ICF, Washington, D.C., October 1990, page 2-29.

⁶² Burt S. Barnow et al., *Estimates of Expenditures on Children and Child Support Guidelines*, Submitted to Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, Submitted by Lewin/ICF, Washington, D.C., October 1990, page 2-26.

One can claim that the Rothbarth methodology understates child costs only if one also claims that parents do not want to share household shared goods with children. If parents want to share household shared goods with children, then the Rothbarth methodology overstates child costs.

Rothbarth Assumes that the Parents Get No Sense of Well-Being from Their Children

Another key assumption in the claim that the Rothbarth methodology underestimates child costs that is that parents do not get enjoyment from having children.

Finally, it is important to note that some researchers have argued that the standard approaches [such as Engel and Rothbarth] used to estimate expenditures on children are fundamentally flawed because the decision to have children usually is voluntary. [Added note: This would hold true in samples of intact families used for these studies.] If adults decide to have children and if they behave rationally, then the adults' well-being should be at least as much as when they were childless. ... All the methods for estimating expenditures on children [inclusive of Engel and Rothbarth] are based on the assumption that adding a child does not increase the well-being of the adults in the family.⁶³

If indeed parents do enjoy having children this creates an upward bias in the Rothbarth methodology and one cannot claim that the Rothbarth methodology underestimates child costs. Given that the Rothbarth studies use data from intact families, it is more likely that parents gain well-being from having children than not gaining such satisfaction.

Summary of Engel and Rothbarth “Bracketing” Issues

Indeed, child costs schedules based on the Engel methodology are generally recognized as being excessive and above actual child costs. The economic rationale for this belief is realistic and credible—that children are more food intensive than adults.

To make the claim that the Rothbarth methodology understates child costs, two highly unlikely assumptions must be made:

- 1) Parents do not like sharing shared household goods with their children, and
- 2) Parents get no sense of well-being from their children.

If these assumptions do not hold true, the Rothbarth methodology likely overstates child costs. This author believes that it is more likely that parents do like to share shared household goods with their children and also that parents do get a sense of well-being from their children. These are more realistic assumptions.⁶⁴ Based on these more credible assumptions, the Rothbarth methodology likely overstates child costs. Importantly, embracing more realistic assumptions opens wide the door for true child costs to lie below the estimates produced by the Rothbarth methodology.

While it is reasonable to state that true child costs lie below Engel estimates, there is no sound economic basis for making the claim that true child costs must lie above Rothbarth estimates.

⁶³ Burt S. Barnow et al., *Estimates of Expenditures on Children and Child Support Guidelines*, Submitted to Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, Submitted by Lewin/ICF, Washington, D.C., October 1990, page 2-32.

⁶⁴ One might object to these assumptions by this author since child support guidelines are applied to families that are not intact. However, the estimation of child costs in the Incomes Shares methodology (Engel and Rothbarth) is based on data from intact families. Even in non-intact families (which do not affect the Income Shares estimates), it is more likely that this author's assumptions still hold true for the most part.