

Residential Credit Subcommittee Report – July 23, 2011

Members: Andrew McDirmid, Tim Eastman, Kristie Dimak, Gary Bashor, Kevin Callaghan, Angela Gerbracht

DSHS Leader: George Smylie

Subcommittee's Recommendations (a work in progress):

- Threshold:
 - The Subcommittee has agreed a 25% minimum threshold should be applied if a Cross Credit Multiple formula is used. The Subcommittee is considering the use of an Indiana type residential credit formula which would reduce the threshold to 14%, or maybe lower.
 - There is consensus amongst the subcommittee regarding changing the current wording describing when the residential credit should be applied from “significant amount of time” to indicate when the lower time parent has the child/ren 25% or more of the time the residential credit needs to be applied. If the judge, commissioner, or administrator finds there clearly is not adequate income in a house to care for the child/ren or the child/ren are receiving TANF, the residential credit can be modified to ensure there is adequate income to care for the children.

- Written Plan: The Subcommittee agreed a written plan needs to be in place before the Residential Credit (RC) is applied. A written plan can be in the form of a written order or a written agreement between parents.

- Residential Credit Formula: Subcommittee reviewed Residential Credit Calculations detailed in attached tables and bar graphs:
 - Subcommittee agreed we are trying to provide a guideline calculation (recommendation) but not a rigid formula. We would prefer allowing the judge or commissioner's discretion, when needed, to confirm there is adequate money in each household to care for the child/ren, especially when the child/ren is receiving TANF. If there is not enough income in a home to care for the child/ren then the RC should be adjusted accordingly to allow for adequate income in that home.
 - The Subcommittee is considering two formulas:
 - Cross Credit Calculation using a 1.35 multiple.
 - Indiana Residential Credit.

- Adjustment to Residential Credit: If the obligor who has been granted a residential credit fails to exercise 25% or more of the overnights that were used to calculate the residential credit for more than 6 months without reasonable justification for the failure to exercise the time, the obligee shall be entitled to move to terminate or reduce the credit by motion to the court or by making a request for a review of the administrative order which established the residential credit

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- **Sample Language (Cross Multiple at 1.35, would need to be adjusted if Indiana Residential Credit was recommended):**
 - The court or administrative tribunal may adjust the standard calculation if there is an agreed written parenting plan or court order that the child/ren spend 25% or 91 or more overnights in a calendar year with the parent who is obligated to make a support transfer payment. The residential schedule credit shall be determined by a cross credit method after application of a 1.35 multiplier subject to limitations.
 - Limitations: The court or administrative tribunal may not adjust the standard calculation on the basis of the residential schedule if the adjustment will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving TANF.
 - Review of credit: If the obligor who has been granted a residential credit fails to exercise 25% or more of the overnights that were used to calculate the residential credit for more than 6 months without reasonable justification for the failure to exercise the time, the obligee shall be entitled to move to terminate or reduce the credit by motion to the court or by making a request for a review of the administrative order which established the residential credit.

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**Residential Credit Cross Credit Worksheet – Example, 1.35
multiple, time split = CP at 55%/NCP at 45%, & income
split = CP at 30%/NCP at 70%.**

| | Multiple | | Total |
|---|----------|--------|--------|
| | CP | NCP | |
| Time split | 55% | 45% | |
| A Net Income (line 3 of Child Support Worksheet) | 2,100 | 4,900 | |
| B Combined Net Income (line 5 from Worksheet) | | | 7,000 |
| C Basic Child Support - from table A | | | 986.00 |
| D Proportional Share A Divided by B | 30% | 70% | |
| E Basic Child Support times multiple | | | 1,331 |
| F Proportional Share E X D | 399 | 932 | 1,331 |
| G Each parents number of overnights per year | 201 | 164 | 365 |
| H Each Parents % overnights | 55% | 45% | 0 |
| I Each Parents % H x other parents obligation (E) | 513 | 179 | |
| J Subtract Lesser amount from greater in I = pmt | | \$ 334 | |

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Indiana RC Example –Time split: CP 55%/NCP 45%, Income split: CP 30%/NCP70%

| NCP's time with child | | 45% | |
|-----------------------|---|--------|-----------|
| | | CP | NCP |
| | | 164 | 201 |
| | | Weekly | Monthly |
| 1PT | Annual Number of Overnights | 164 | |
| 2PT | Enter BCSO from table | 227.54 | 986.01 |
| 3PT | Enter total % Time Exp as a % of BCSO | 0.644 | |
| 4PT | Enter Duplicated Exp as % of BCSO | 0.488 | |
| 5PT | Parents Share of Combined NI | | 70% |
| 6PT | Ave weekly total exp during parenting time (mult line 2PT times 3PT) | 146.54 | 634.99 |
| 7PT | Ave weekly Duplicated expenses (mult line 2PTX line 4PT) | 111.04 | 481.17 |
| 8PT | Parent's Share of Duplicated Exp (mult line 5PT times 7PT) | 77.73 | 336.82 |
| 9PT | Allowable Expenses during Parenting time (Line 6PT - Line 8PT) | 68.81 | 298.17 |
| | Transfer Pmt before Residential Credit | | 690.20 |
| | Residential Credit (Line 9PT) | | 298.17 |
| | Transfer Pmt after Credit | | \$ 392.04 |

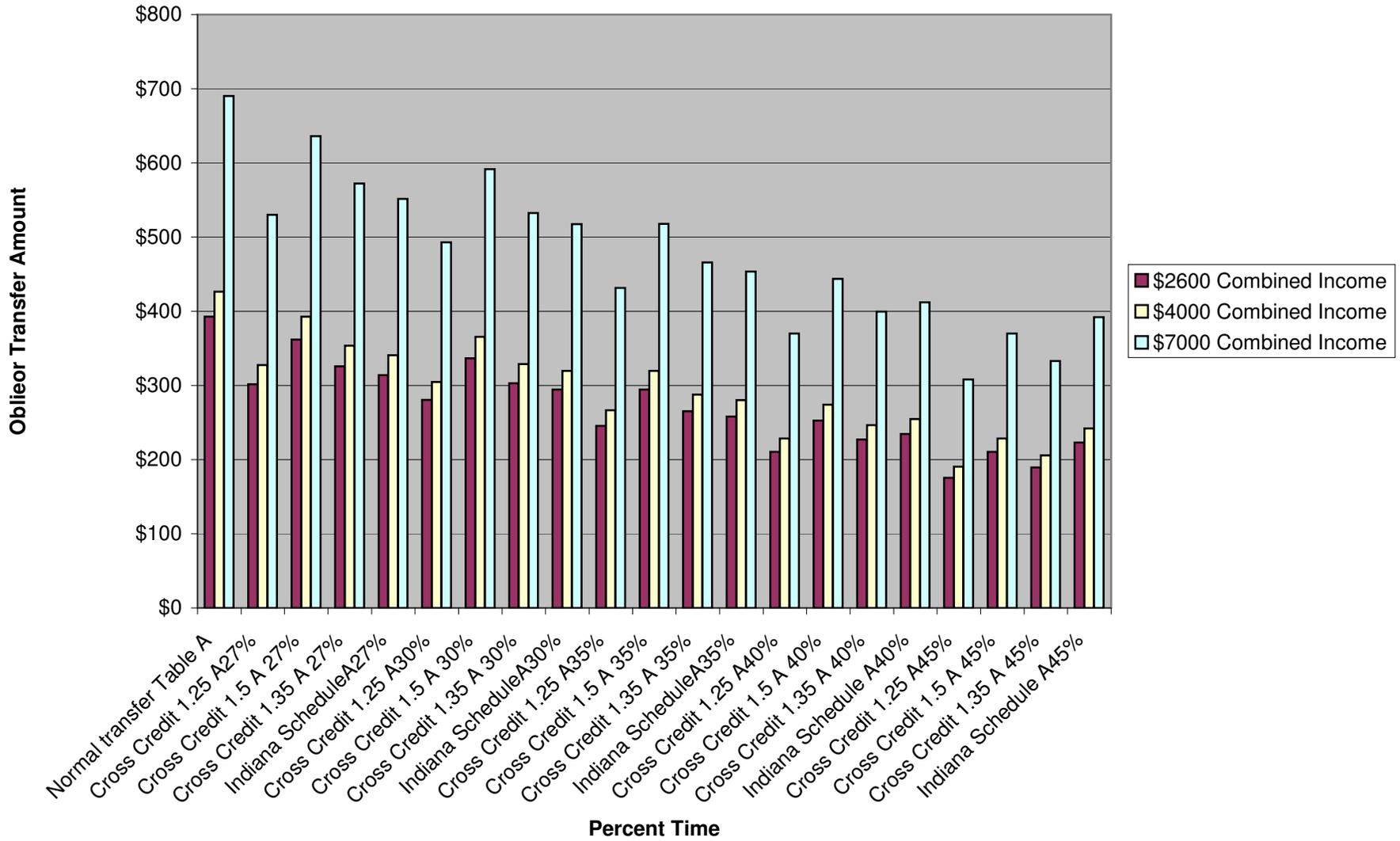
Table PT

| ANNUAL OVERNIGHTS | | | |
|-------------------|------------|--------------|--------------|
| FROM | TO | TOTAL | DUPLICATED |
| 1 | 51 | 0.000 | 0.000 |
| 52 | 55 | 0.062 | 0.011 |
| 56 | 60 | 0.070 | 0.014 |
| 61 | 65 | 0.080 | 0.020 |
| 66 | 70 | 0.093 | 0.028 |
| 71 | 75 | 0.108 | 0.038 |
| 76 | 80 | 0.127 | 0.052 |
| 81 | 85 | 0.150 | 0.070 |
| 86 | 90 | 0.178 | 0.093 |
| 91 | 95 | 0.211 | 0.122 |
| 96 | 100 | 0.250 | 0.156 |
| 101 | 105 | 0.294 | 0.195 |
| 106 | 110 | 0.341 | 0.237 |
| 111 | 115 | 0.388 | 0.280 |
| 116 | 120 | 0.434 | 0.321 |
| 121 | 125 | 0.476 | 0.358 |
| 126 | 130 | 0.513 | 0.390 |
| 131 | 135 | 0.544 | 0.417 |
| 136 | 140 | 0.570 | 0.438 |
| 141 | 145 | 0.591 | 0.454 |
| 146 | 150 | 0.609 | 0.467 |
| 151 | 155 | 0.623 | 0.476 |
| 156 | 160 | 0.634 | 0.483 |
| 161 | 165 | 0.644 | 0.488 |
| 166 | 170 | 0.652 | 0.491 |
| 171 | 175 | 0.660 | 0.494 |
| 176 | 180 | 0.666 | 0.495 |
| 181 | 183 | 0.675 | 0.500 |

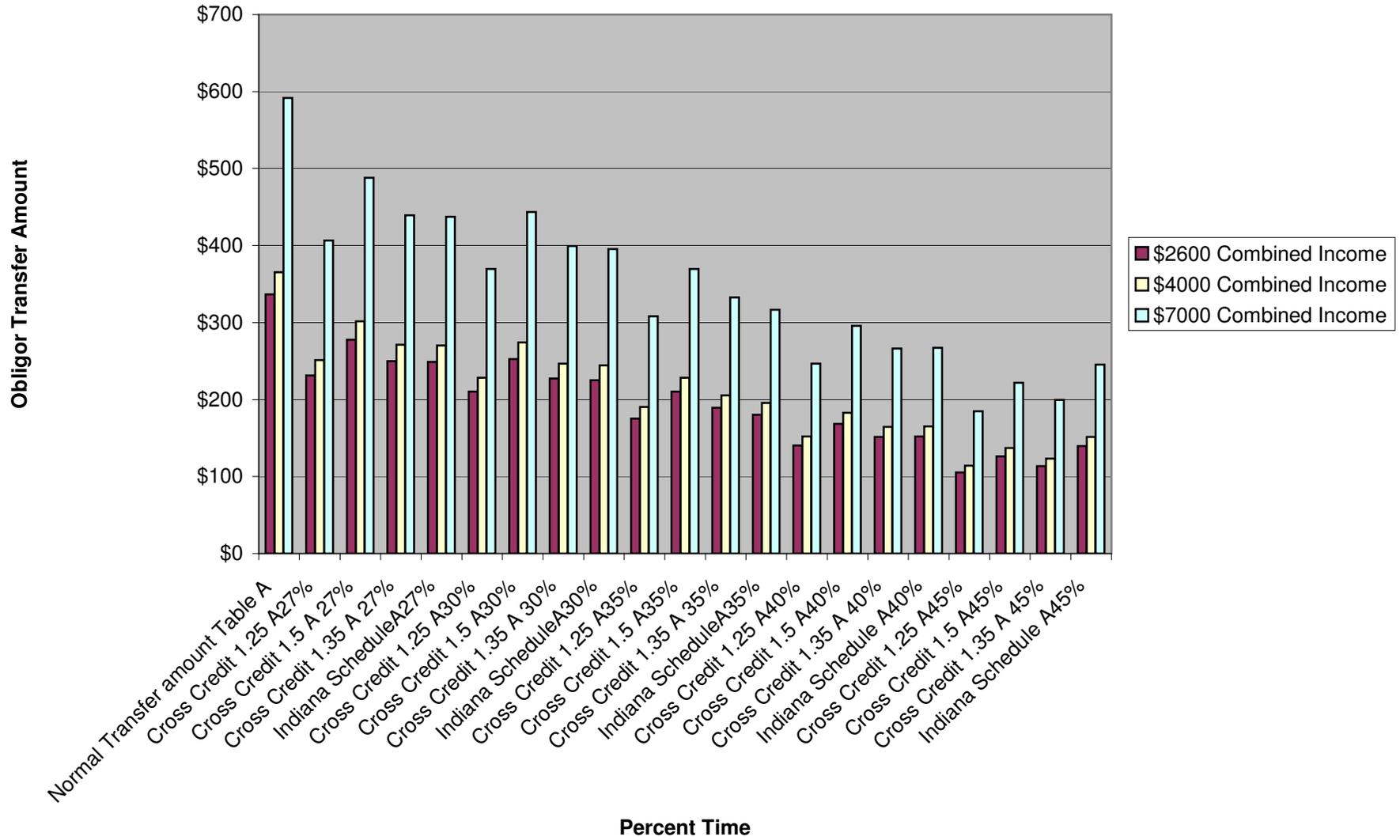
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- **Workgroup questions from June, 2011 Meeting:**
 - Question from the Workgroup – does this make sense to use this as a cross credit when it reduces the custodial parent’s child support by more than half when the noncustodial parent has the child 45% of the time? Answer: Yes, the table is a presumptive table and obligee has an obligation to transfer funds to the obligor. Time permitting at the Work Group meeting we will review sample calculations of the Cross Credit and Indiana calculations.
 - Should there be a cap on the credit? Answer: The subcommittee does not think a cap should be applied, but the subcommittee is willing to discuss with the entire workgroup. We are recommending a Residential Credit which is a “recommendation” to the Judge or Commissioner. Accordingly if in the Judge or Commissioner’s discretion there is not enough funds for the child/ren in the higher time parents home the Judge or Commissioner has discretion to adjust the residential credit.
 - Should the cross credit be higher? Answer: See attached charts. The Subcommittee is recommending a 35% multiplier and is considering recommending the use of the Indian Formula.
 - Can the subcommittee go back and run other cross credit numbers to avoid the situation where the custodial parent’s support is reduced by more than 50%? Answer: See above, this would require a Cap, and the Sub Committee is recommending giving the judge or commissioner discretion to adjust the RC if there is not adequate income in the home or the child/ren are receiving TANF.
 - Can the subcommittee make a recommendation when visitation has not been exercised, what would the factors be to not allow or to remove the existing credit, and what would that process look like? Would it be a court process? Or, could you develop an administrative process? Answer: The Subcommittee is recommending the use of an expedited administrative process.
 - Will there still be a definition of “substantial time”? Answer: Yes, the Subcommittee has and continues to recommend changing “substantial time” to time equal than or greater than 25%.

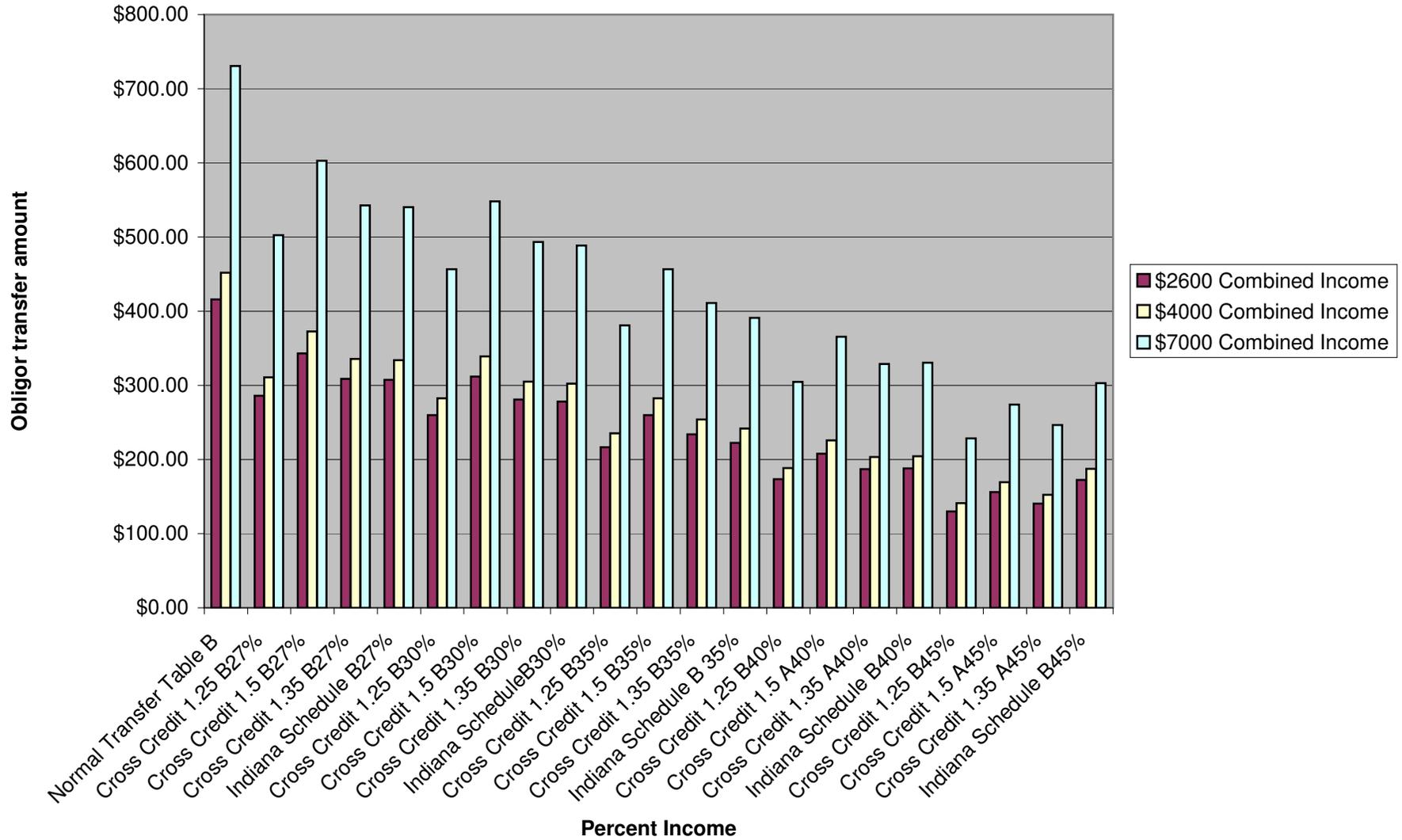
Residential Credit Table A 70/30 IS



Residential Credit Table A 60/40



Residential Credit Based on 60/40 IS



Residential Credit Based on 70/30 IS

