Nebraska Child Support Calculator Documentation

Welcome to the Nebraska Child Support Calculator. This instruction manual is intended to be a "quick reference" to answer the most common questions that may arise as you use the product. If you have additional questions that are not covered in this manual, if you run into problems, or if you have suggestions for improvement, please contact the author.

This product is available as an exclusive member benefit to lawyers who are dues-paying members of the Nebraska State Bar Association. Individuals representing themselves are allowed to use the Calculator for their own case(s) for a maximum of three (3) days.

This Manual Isn't Legal Advice

The author of this product is a lawyer, but he isn't <u>your</u> lawyer. The instructions in this manual are general, are not specifically tailored to the facts of your case, and are not the substitute for the personalized legal advice of a lawyer licensed to practice in your jurisdiction. **If you have questions about your case, consult a competent lawyer.**

Location

The Calculator is located at https://ne.childsupportcalculator.com/ There are two login pages: one for NSBA members and another for Self-Represented Users.

The NSBA login page has a green "alert" banner above the login fields, and the Self-Represented login page has a blue banner. The link to the other login page is on the Navigation Menu on the left-hand side of the page.

NSBA Login Page
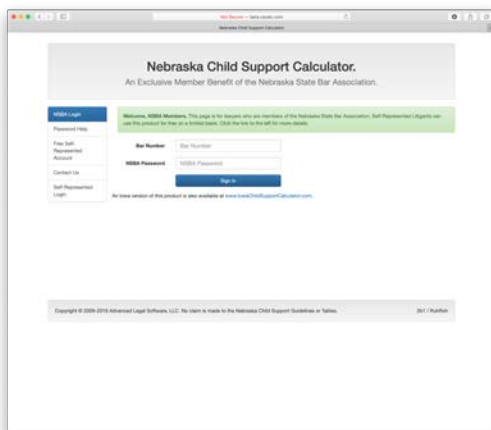
Self-Represented Login Page
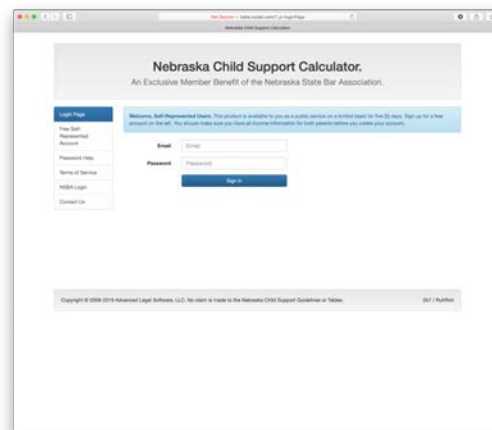
NSBA members login using the same credentials they use to login to the NSBA's website, www.nebar.com. By default, an NSBA member's username is their bar number.

To create your own Self-Represented Account, click the link "Free Self-Represented Account" on the Navigation Menu on the left-hand side of the login page. **Remember, this account is only active for three (3) days, so make sure you have all of the information you will need before you create the account.**

Mobile Access

The Calculator uses the Bootstrap framework to provide a modern, mobile-friendly interface that should work well on most smart phones and tablets.

Forgotten Passwords

The "Password Help" link on the NSBA login page will take you to the NSBA's password reset tool, because the Calculator queries the NSBA's database real-time to determine if your password is correct. If you don't know your NSBA password, you need to reset it through the NSBA.

The "Password Help" link on the Self-Represented login page will auto-generate a new password for you. Passwords are "hashed" in the database, meaning that they cannot be recovered because they are not stored in a human-readable format.

Inline Help

The Calculator's forms have inline help icons for each section. Clicking on the lower-case "i" with a blue circular background will display contextual instructions for that section. To dismiss the help dialogue, just click your mouse again, somewhere else on the screen.
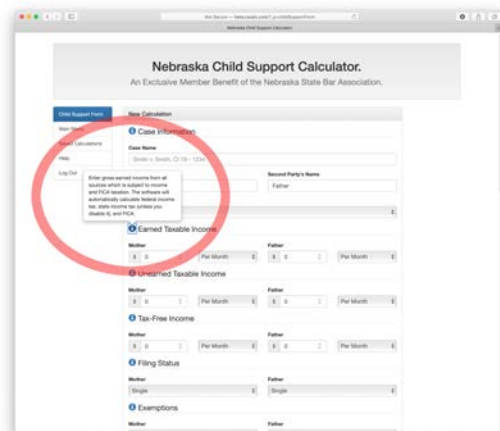
Running a Calculation

Once you login, click the link for <u>Child Support Form</u> on the Navigation Menu on the left-hand side of the page. This will take you to the main form to run a calculation.
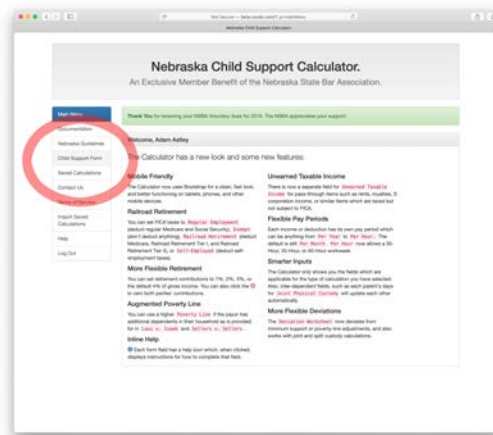
The first few fields are optional. You can change the names of the parties from their defaults of "Mother" and "Father," and those changes will re-write the labels throughout the form. You can also specify a case name and number, if you like.
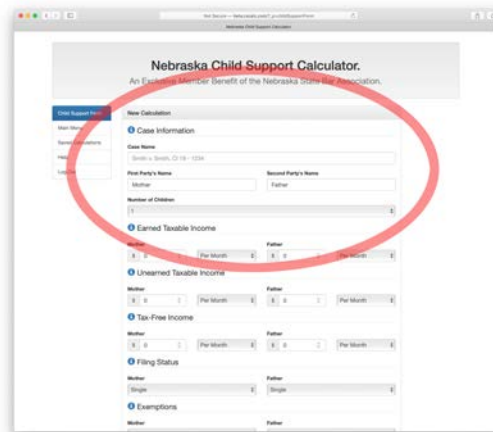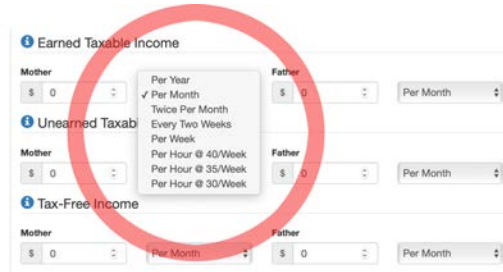
The only <u>Required</u> fields are the number of children, and some kind of income for at least one of the parents.

Number of Children

Select the number of children who are at issue <u>in this case</u>. Do not include children besides children between the parties. This value defaults to one child, and can be as high as six children. The Nebraska Child Support Guidelines do not explain how to calculate child support for more than six children.

Periods

Starting with Version 2, the Calculator provides a separate "Period" for each item of income or deduction. Unlike the prior version, these periods are not tied together.

Each of these periods (except hourly) will convert the input to a monthly amount based on full-time employment of 40 hours per week, 52 weeks per year. For example, the "Per Year" Period will divide the input by 12 to arrive at a monthly amount, and the "Every Two Weeks" Period will multiply the input by 26 and divide by 12 to arrive at a monthly amount.

Starting in Version 2, the Calculator now provides an Hourly input based on less than 40 hours per week. You can choose to use a 40, 35, or 30-hour work week as may be appropriate for the facts of your case and the applicable law. These Periods will multiply the input by the selected number of hours per week, then by 52 weeks per year, then divide by 12 to arrive at a monthly amount.

Income

Starting with Version 2, the Calculator allows you to enter Earned Taxable Income, Unearned Taxable Income, and Tax-Free Income.

Earned Taxable Income is how most people get paid. This is income that is paid through a regular paycheck, and is subject to federal and state income taxes, and "payroll" taxes, which are also sometimes called FICA taxes (Social Security and Medicare). If you aren't sure what kind of income someone earns, chances are good that it is Earned Taxable Income.

Unearned Taxable Income is income which is subject to federal and state income taxes but is not subject to FICA tax. Examples of this include royalties, rental income, interest, some dividends, and pass-through income from Subchapter S corporations or other pass-through entities (but usually not entities taxed as a partnership).

Tax-Free Income is income which is not subject to tax. Examples of this include military entitlements like BAH and BAS, employee perks, etc. This is not to suggest that in every case it is appropriate to add up all perquisites an employee receives

Filing Status

Select the filing status that is most appropriate for each party. The Calculator will estimate federal and state income taxes based on the relevant Revenue Procedure which establishes the inflation-adjusted tax brackets for each year (federal) and the relevant Nebraska statute which sets the state brackets.

Note: The Calculator assumes each party takes the Standard Deduction as required by Neb. Ct. R. § 4-205. Taxpayers who itemize deductions might have substantially lower tax liability than the amount reflected on the worksheet if their itemized deductions exceed the Standard Deduction.

Exemptions

Enter the number of exemptions each party will claim. Starting in 2018, the Internal Revenue Code reduced the credit for each exemption to zero, so exemptions do not affect taxable income under federal law. The Nebraska tax laws still provide a nominal credit for each exemption, and that credit is automatically applied.

Each party should claim one exemption for themselves, and one for each child they will claim (this is exactly how it should look on their tax return). If there are an odd number of children, and if the parties will alternate the odd exemption, you can give each party ½ of the exemption. So if there are three children, each party will claim 2.5 exemptions (one for themselves, one for the child they will claim every year, and one-half for the child they will alternate).

FICA Tax Type

Starting with Version 2, the Calculator combined the "Self Employed" and "Deduct FICA" options into one, and added Railroad Retirement. This single option now allows you to choose between Regular, Self-Employed, Railroad Retirement, and Exempt.

Regular is how most people earn their living. This means they receive a paycheck and pay 6.2% of their gross income to Social Security (sometimes called OASDI), and 1.45% to Medicare. The employer pays a matching amount to the government, which doesn't appear on the employee's pay stub, and which isn't counted. Social Security taxes only apply to the income which is less than the "Social Security Wage Base." This figure is adjusted each year; in 2019, it is $132,900. If you aren't sure what to select, chances are that "Regular" is correct.

Self-Employed is for people who file a Schedule SE with their tax return. This means they pay both the employee's contribution (7.65%) and the employer's contribution (the same

amount, except they get to deduct the employer's contribution so their gross income is multiplied by 92.35% before applying the tax).

Railroad Retirement is a new feature in Version 2. This applies to people who work for a Railroad. Instead of paying Social Security tax, they pay Railroad Retirement Tier I and Railroad Retirement Tier II. Railroad Retirement Tier 1 is the same as Social Security (6.2%, up to the top of the Wage Base). Tier 2 can vary, but in 2019, it is 4.9% up to $98,700.

Exempt means what it says – it will not deduct any FICA or Railroad Retirement Tax. This causes Earned Taxable Income to be treated the same as Unearned Taxable Income.

Deduct State Income Tax

By default, Nebraska state income tax is deducted. This feature allows you to turn off the deduction. This may be appropriate if the party has legal residence in a state with no income tax.

Health Insurance for Each Party

Enter the amount each party pays for health insurance for themselves. The premium that each party pays for themselves is treated as a deduction from their income. Neb. Ct. R. § 4-205(F) limits the deduction to 5% of the party's gross income. **The software automatically applies this limitation, so if you enter a higher amount, it will reduce your input to 5% of the party's gross income.**

Health Insurance for the Children

Enter the amount of the health insurance premium that is allocable to the children. This is determined either by subtracting the "Employee" rate from the rate for "Employee + Kids" or the Employee rate from the Family rate. The children's premium is pro-rated between the parents, meaning that it affects the outcome far more than the parent's premium.

Retirement

Neb. Ct. R. § 4-205(C) permits a deduction of 4% of a party's gross income if paid to a voluntary retirement plan. If the party has a mandatory plan, they are permitted to deduct all of their contribution.

By default, the Calculator will automatically deduct retirement contributions equal to 4% of the party's gross income. Starting in Version 2, the 4% option is moved into the Pay Period selector, and does not have its own check-box.

If you want to set Retirement to zero for both parties, choose a pay period other than "4% of Gross" and enter "0" in the number field. You can automatically set both parties' Retirement contributions to zero by clicking on the red "X" surrounded by a circle.

If you want to deduct more than 4%, then choose the appropriate period and enter the amount in the box. **If you leave the period at "4% of Gross," then the amount you enter in the box will be ignored, just as it was in prior versions.**

Previously Ordered Support

Enter support that each party pays for other children under court orders in different cases.

Regular Support For Other Children

This field exists on the official Nebraska Supreme Court form to deduct the amount of support that a party pays for children who are not the subject of another support order, such as children born after the child(ren) at issue in this case. If you are going to determine Regular Support using the *Prochaska* method, or the *Lasu v. Issak / Sellers v. Sellers* method (both described below), then leave this field blank. Only enter data in this field if you are calculating regular support using your own method.

Other Deductions

If you want to try to convince the Court that some other deduction should count, enter it here.

Child Tax Credit

Enter the number of children that each party will claim for the child tax credit. The Calculator will determine the amount of credit that each party is eligible to receive. The Child Tax Credit is limited to a $1,400 "net refund," meaning that it can only exceed the party's federal income tax liability by $1,400 per year or $116.66 per month, no matter how many children are claimed.

Deduct Cash Medical Support

If either parent will be subject to Cash Medical Support, select "Yes" in their column next to "Deduct Cash Medical Support." The calculator will determine the maximum cash medical support obligation for each parent in a separate table.

Cash medical support is "reasonable" if it does not exceed 3% of the obligor's gross monthly income, and does not put them below the poverty line.

Cash Medical Support between the parents on Worksheet 1 in the same manner as the health insurance premium. This would require cash medical support to be calculated first. But Neb. Rev. Stat. § 42-369 states that Cash Medical Support cannot be ordered if it would put the obligor below the poverty line, which would require child support to be calculated first, creating a seemingly endless loop.

This calculator solves the problem by determining if the poverty line comes into play, and making appropriate adjustments in "close" cases where the poverty line partially limits cash medical support but does not eliminate it entirely.

First, the Calculator determines if payment of child support will put the obligor close enough to the poverty line that cash medical support would be limited. If child support already puts the obligor at or below the poverty line, his or her support will be limited by Neb. Ct. R. § 4-218 and no cash medical support can be ordered. If the obligor's net income is sufficient to pay the child support plus the full cash medical support (3% of gross income) without going below the poverty line, then cash medical support will be calculated at three percent of gross income.

If the poverty line limits, but does not eliminate cash medical support, then simply taking the excess amount over the poverty line will not suffice because of the pro-rating on Worksheet 1. This method would artificially limit cash medical support and would still leave the obligor with excess income over the poverty line. The calculator solves this problem by reversing the pro-rating process in these "close cases." To do this, the Calculator divides the "tentative" cash medical support by the obligor's percentage of the combined net monthly income (Line 6 of Worksheet 1) to determine how much total cash medical support would result in the maximum pro-rated amount. If this happens to exceed 3% of the obligor's gross monthly income, then cash medical support is capped at 3%. Otherwise, cash medical support will be the excess over the poverty line, divided by the obligor's percentage contribution.

There are four important notes to consider before using the Cash Medical Support feature:

1.   Cash Medical Support is only available in IV-D cases.

2.   Cash Medical Support can only be ordered when health insurance is not available. The Calculator will return an error if you attempt to deduct cash medical support and a health insurance premium.

3.   The calculator will automatically calculate the maximum allowable amount of cash medical support, and then deduct that on Worksheet One. In rare cases, this might result in an unreasonably high number. If that is true in your case, argue for a lower cash medical support number, and deduct it as if it was a health insurance premium (in other words, turn off the CMS deduction).

4.   The Supreme Court mandated that Cash Medical Support be pro-rated between the parents, but it did not update Worksheet Three (for joint physical custody) or Worksheet Two (for split custody). And it failed to properly update Line 11 on Worksheet 1 to give credit for support that is actually paid. This Calculator implements what the author believes the Court "meant" when it updated the Guidelines. Worksheets One, Two, Three, and Four which are generated by this program all treat Cash Medical Support the same as the health insurance premium, and pro-rate it between the parents.

Type of Calculation

Starting in Version 2, the options for Joint Physical Custody, Split Custody, and Prochaska (Subsequent Children) are all combined into this field. New options for Sole Physical Custody (which prior versions would produce if no options were checked) and Augmented Poverty Line have been added. **Selecting a type of calculation besides Sole Physical will cause additional fields to appear which are necessary for the calculation type you have selected.**

Sole Physical Custody will generate Worksheet 1 and Worksheet 4, and assumes that one parent will have sole physical custody of the children.

Prochaska (Subsequent Children) will generate a three-step calculation endorsed by the Nebraska Court of Appeals in *Prochaska v. Prochaska*, 6 Neb.App. 302 (1998). "Step One" is a a basic calculation between the parties, using their income information, and without a deduction for subsequently born children. "Step Two" is a hypothetical calculation between the payor and subsequent spouse. In "Step Two," the support obligation from "Step One" is deducted as "Previously Ordered Support." "Step Three" is another calculation between the parties, which deducts the result of "Step Two" as "Regular Support for Other Children." Worksheet Four is then displayed to show the effect of children becoming ineligible for support.

If you choose a Prochaska calculation, additional fields will appear to ask whether each parents has subsequent children. Choose one or both. After you press the "Calculate" button, you will be prompted for the income and deduction information for the spouse(s) of the parent(s) that have subsequent children.

Note: If both parents have subsequent children, then "Step Two" will generate two hypothetical calculations - one for the Father and subsequent spouse, and another for the Mother and subsequent spouse.

Joint Physical Custody will generate Worksheet 1 and Worksheet 3. If there is more than one child, the Calculator will generate a separate Worksheet 3 showing the total reducing as each child ages out. Choose the number of days (typically meaning overnights) that each

parent will have the children. Also choose whether to add the discretionary support under § 4-203(C) for high-income cases.

Split Custody will generate Worksheet 1 and Worksheet 2. This only works if there is more than one child. Select the number of children that will live with each parent, and whether to add the discretionary support under § 4-203(C) for high-income cases.

Augmented Poverty Line is a new feature in Version 2. This implements the holdings in *Lasu v. Issak* and *Sellers v. Sellers* to apply a higher poverty line when the obligated parent has additional members of the household. Select the number of underlined additional household members (not including the party themselves). Then, if any of the other household members are able to work, enter their net income or earning capacity. The Calculator will determine the poverty line based on the household size, will compare household income to the poverty line, and will determine whether this is helpful or hurtful to the party when compared to the poverty line for a single-member household.

High Income Cases

The basic child support table (Table 1) only covers combined net incomes up to $15,000 per month. For higher income cases, Neb. Ct. R. § 4-203(C) provides a "safe harbor" method to calculate support.

This section is a "safe harbor" because it states that the Court "may" do it, but that it is not a "rebuttable presumption."

If combined net monthly income exceeds $15,000, the "safe harbor" table (shown to the right) will automatically be displayed for Sole Physical Custody. It will also be displayed by default for Joint Custody, Split Custody, and Prochaska calculations, but it can be turned off within the contextual fields for each calculation. The adjusted shares for each party are shown on the bottom two lines, and they step down to show the effect of children aging out.

Low Income Cases

In low income cases, the Calculator automatically determines if either § 4-218 (the Basic Subsistence Limitation) or § 4-209 (Minimum Support) is applicable.

First, the Calculator applies § 4-218 to determine whether the Final Share (Line 12) when combined with any cash medical support ordered to be paid would put either parent below the federal poverty level of $908 per month. In those cases, it adds a line below Line 12 for

the "Section 4-218 Adjusted Share," which is the difference between the parent's net income (after payment of cash medical support) and the federal poverty line for a single-member household. If a parent's net income (after payment of cash medical support) is below the poverty line before paying any regular support, then the § 4-218 Adjusted Share will always be zero.

Then, the Calculator determines whether Minimum Support pursuant to Section 4-209 is applicable. Minimum support is the greater of $50 per month, or 10% of the obligor's net monthly income. § 4-209 is applicable only if the Minimum Support would be greater than the § 4-218 Adjusted Share.

If the Minimum Support for either parent is greater than the § 4-218 Adjusted Share, then the Calculator creates another line at the bottom of Worksheet One for § 4-209 Minimum Support.

In any low-income case, the Calculator will also annotate Worksheet Four with the § 4-218 Adjusted Share or § 4-209 Minimum support which is applicable for each number of children.

View Permutations

The "Permutations" worksheet can be helpful in cases where a bona fide dispute exists as to one party's income or earning potential. This worksheet allows the user to simultaneously run One Hundred Twenty-one (121) calculations using variations on the monthly gross income for each parent. The Permutations worksheet uses the data entered by the user for the "middle" calculation. Then, it increases and decreases each parent's gross income in iterations of $100 to produce an 11x11 grid. The resulting worksheet is read like a multiplication table - select the Father's gross income from the top row, and the Mother's gross income from the Left column. Then, follow the row and the column to the square where they converge.

To adjust the increments in the worksheet, use the form at the bottom. To return to the main worksheet, click "Return to Calculation" at the top.

The Permutations worksheet contains only the "final shares" from Worksheet One. It does not attempt to implement the high income or low income adjustments, Joint Custody, *Prochaska*, Split Custody, or Augmented Poverty Line.

Life Insurance Requirements

The Calculator can automatically calculate the amount of term life insurance coverage necessary to secure either party's support obligation. This feature is available only for Sole Physical Custody, and is not compatible with Split Custody, Joint Custody, *Prochaska,* or Augmented Poverty Line calculations.

To perform an insurance calculation, run the normal calculation and then click "Life Insurance Requirements at the top of the page. The Calculator will prompt you for the year and month that each child was born. <u>Enter the oldest child's information first, then the second-oldest, and so forth.</u> If you enter the children's dates of birth out of order, you will not receive accurate results.

Enter an appropriate discount rate. The discount rate represents the amount of interest that the surviving parent can expect to earn <u>after paying all taxes and investment expenses.</u> Most practitioners will be comfortable with a discount rate of four percent (4%), however, the author takes no formal position on this subject.

After you enter the dates of birth and discount rate, click "Continue." A table will be generated similar to the one below. The table lists the children in order of age, beginning with the oldest. Because support for multiple children is "grouped," the "Months Remaining" column refers to the number of months that the support obligations will continue at the level in that row. In the example below, the oldest child will reach the age of majority in 50 months. The middle child will reach the age of majority 32 months thereafter, and the youngest after another 56 months.

The monthly support amounts for each parent are copied from the "Final Share" of Worksheet Four, which includes adjustments based upon the health insurance premium. The monthly support amounts <u>are not</u> adjusted for the Basic Subsistence Limitation (Section 4-218) or Minimum Support (Section 4-209).

Case Name: <u>Life Insurance Test</u>

Life Insurance Requirements Calculation (5% Discount Rate Used)

Child	Year & Month of Birth	Months Remaining *	Mother Monthly Amount	Mother Total Amount	Mother Present Value	Father Monthly Amount	Father Total Amount	Father Present Value
1	August, 1995	50	$779.77	$38,988.50	$35,129.35	$1,153.23	$57,661.50	$51,954.07
2	April, 1998	32	$677.31	$21,673.92	$16,450.22	$1,001.69	$32,054.08	$24,328.62
3	December, 2002	56	$465.93	$26,092.08	$16,517.64	$689.07	$38,587.92	$24,428.16
	Totals			$86,754.50	$68,097.22		$128,303.50	$100,710.85

* "Months Remaining" refers to the number of months that the support obligation remains at each level. See the documentation for further detail.

Saving Calculations

To save a calculation on the server, just click "Save" from the page displaying the finished calculation. The saved calculation is accessible from the main menu or the "form" page by clicking on "Saved Calculations."

Saved calculations are displayed in reverse chronological order (the most recently saved calculation is at the top), and are labeled based on the Case Name that you entered when entering the income information. When you click "View" next to any saved calculation, the Calculator will immediately display the finished worksheet. From the finished worksheet, you

can edit any values just as you could when you first ran the calculation. **If you click "Save" again after editing, the Calculator will automatically save a new version with a new date/time stamp.** It is not possible to over-write a calculation that you have already saved. If you want to do this, view the calculation, make your edits, save your changes, and delete the old version.

When you "Save" a calculation, you are not saving the completed worksheet, but rather, you are saving the inputs that you used to create the worksheet. If the tax tables or child support guidelines change after you save a calculation, when you view the saved calculation, the worksheet will calculate support based on the current guidelines and current tax tables. If new features have been added to the Calculator since you saved your calculation, those features will be used based upon their default settings.

Printing

If the completed worksheets don't print correctly, you probably need to configure your web browser to "Print Backgrounds." Consult the browser's documentation for instructions on how to do this.

Getting Help

Before calling for help, please read the "inline help" (by clicking on the blue "i" icons), look at the "Help" page, and read this Manual. If none of those work, you can contact the author by calling 402-933-4333 or emailing adam@nebraskachildsupportcalculator.com. Please remember, assistance is limited to how to use the software, not what to do in your case, or how to handle your child support obligation.