

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10068 SENATE HEALTH EDUCATION & SOCIAL SERVICES

HB

392

FISCAL NOTE

No: 1

Bill version: CSHB 392 (HES)

(H) Publish Date: 3/3/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____	Dept. Affected	Law
Title <u>"An Act relating to continuances for temporary placement hearings ... emergency custody of a minor ..."</u>	BRU	Civil Division
Sponsor <u>Representative Whitaker</u>	Component	Human Services
Requester <u>House HESS Committee</u>	Component No.	<u>2208</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 392 allows the parent of guardian of a minor to request the continuance of the temporary placement hearing for up to seven days in order to prepare a response to the allegation that the child is a child in need of aid. The bill further amends Rule 10, Alaska Child in Need of Aid Rules to parallel the statutory change.

This bill will have no fiscal impact on the Department of Law.

Prepared by: <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>2/25/00, 4:49 PM</u>
Approved by Commissioner <u>Bruce M. Botelho</u> <i>Botelho</i> , Attorney General	Date <u>2/25/00</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

No: 2

Bill Version: CSHB 392 (HES)

(H) Publish Date: 3/3/00

Revision Date/Time (Note if correction): _____

Dept. Affected: Health and Social Services

Title: Relating to continuances in temporary placement

BRU: Family and Youth Services

hearings following emergency custody.

Component: FYS Management

Sponsor: Rep. Whitaker

COMPONENT SERIAL NO. 2306

Requestor: House (HES)

See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

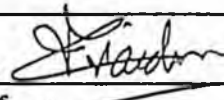
Estimate of any current year (FY2000) cost: \$0.0

POSITIONS:

FULL-TIME	0				
PART-TIME	0				
TEMPORARY	0				

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on the Department if enacted.

Prepared by: Theresa Tanory, Director 
 Division: Family and Youth Services

Phone: 465-3191
 Date/Time: 2/23/00 3:06 PM

Approved by Commissioner: Karen Perdue, Commissioner 
 Agency: Department of Health & Social Services

Date: 2/28/00

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Also, on page 1 at lines 1 and 7, and on page 2 at line 3, the word "placement" should be replaced with the word "custody." This more accurately reflects that the precipitating issue in the hearing is that the child has been taken into emergency custody. Placement is addressed only after probable cause for emergency custody has been found, at the end of this section.

Also, to improve the internal consistency of this statute, the words "or supervision" should be added to section 1, on page 2, at the end of line 7. This reflects more accurately that after finding probable cause, the court may either temporarily place the child with the department or may return the child to the child's parent or guardian subject to departmental supervision, as provided in AS 47.10.142 (e).

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Alaska State Legislature

Representative Jim Whitaker

Session
Capitol Building, Room 13
Juneau, Alaska 99801
Phone: (907) 465-3004
Fax: (907) 465-2070



Interim
119 N. Cushman St. Suite 101
Fairbanks, AK 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Sponsor Statement HB 392 Continuances of CINA Hearings

HB392 acknowledges that, at the 48 hour temporary custody hearing during which the court determines whether a child is a "Child In Need of Aid", the parent or guardian of that child may request a continuance, and instructs the court to advise the parent or guardian of that right at the time of the hearing.

When the State takes action to protect the safety of a child, it is an emotionally charged and very confusing situation for a parent. Often, at the time of the first hearing, which occurs within 48 hours of the time the child is taken into custody, parents have not had an opportunity to see the allegations made against them. This legislature recognizes that parents may need time to comprehend and respond to those allegations. For this reason, HB392 ensures that parents and guardians are informed of their right to request a continuance.

HB 392

Changes incorporated in the CS:

Change in the title and all references to the hearing from "temporary placement" hearing to "temporary custody" hearing.

The purpose of the hearing is to determine if there is probable cause for emergency custody, this amendment is to more accurately reflect that purpose.

Remove the language, "for up to seven calendar days" from all references to length of continuance.

Leaving the time limitation in the bill may prevent the presiding judge from exercising discretion in determining how much or little time is actually needed for the parents or guardian to prepare their response to the allegations.

For the same reason, page 2, line 1...the sentence, "The court may not grant more than one continuance before a temporary placement hearing is held.", has been deleted.

There are circumstances where two parents may have differing interests or positions with regard to the proceedings. An example that could be used in this regard is that if a second parent is located several days after the first parent had been granted a continuance, the parent who was notified later, may require more time to prepare as well.

If the limitation is left in the bill, it may also prevent the judge from granting subsequent requests for continuances.

HEB

445

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 445

Revision Date: _____
Title: School Construction Program

Dept. Affected Education & Early Development
BRU Education Support Services
Component Education Facilities Support

Sponsor: House Finance Committee
Requester: _____

Component Serial No. 1957

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	
CAPITAL EXPENDITURES							
CHANGE IN REVENUES []							

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
1091 Designated Program Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

Estimate of any current year (FY98) cost: _____

POSITIONS		FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
Full-time		0	0	0	0	0	0
Part-time		0	0	0	0	0	0
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by *Eldon Mulder*
Rep. Eldon Mulder, Co-Chair House Finance Committee

Gene Theriault
Rep. Gene Theriault, Co-Chair House Finance Committee

Phone 465-2647

Phone 465-4797

Date 4/11/00

SENATE COMMITTEE REPORT

DATE: 4/20/00

FURTHER:

DATE TURNED
IN TO OFFICE: 4/21/00

HESS Committee considered

CS FOR HOUSE BILL NO. 445(RLS) am

"An Act relating to a rural school construction and planned maintenance pilot program; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Gary White</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Mike Miller</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
<i>HFC</i>	<i>4/11/00</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

REPRESENTATIVE
GENE THERRIault
Co-Chair
(907) 465-4797
Fax: (907) 465-3884

INTERIM ADDRESS
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271

Alaska State Legislature
House Finance Committee



State Capitol, Juneau, Alaska 99801-1182

REPRESENTATIVE
ELDON MULDER
Co-Chair
(907) 465-2647
Fax: (907) 465-3518

INTERIM ADDRESS
716 W. 4th Ave., Suite 310
Anchorage, Alaska 99501
(907) 269-0265
Fax: (907) 269-0264

BILL SUMMARY
CS for HOUSE BILL 445(RULES)

Rural School Construction and Planned Maintenance Pilot Program

HOUSE BILL 445 authorizes a pilot program designed to create efficacy in design, firm price proposals and prompt, timely completion of school construction projects in rural Alaska.

It calls for collaboration between community and local school district input, Department of Education and Early Development priorities, State of Alaska public financing methodologies with private sector development techniques to meet community needs more quickly, inexpensively and reliably.

House Bill 445 also addresses the need for developing a meaningful maintenance plan for the new facilities and training for maintenance workers.

The school construction and planned maintenance pilot program will be established and implemented by the Department of Education and Early Development. The department, through a request for proposals, will use a qualifications-based process to select private sector developers.

The department must obtain the best value to the state in terms of proposed methodologies to reduce capital construction costs, timely delivery schedules with developer guarantees, local hire programs, post construction maintenance plan and utilization of existing planning and design elements.

SUPPORTERS
HOUSE BILL 445

Dick Cattanach
Monty Montgomery
Terry Fike
Roxanna Horschel
Kenneth Maynard
Jon Stolle
Sam Kito III
Mark Pfeffer
Derald Schoon
John Wheatley
Dennis Berry
Mano Frey
Jerry Neeser
C. B. Bettisworth
Dick Armstrong
Ted Trueblood
Tom Sweringen

AGC of Alaska
AGC of Alaska
Alcan General, Inc.
ACME Fence Co.
USKH
American Institute Architects Alaska
AK Professional Design Council
Koonce Pfeffer & Bettis
Unit Company
American E & S
CECA
AFL-CIO
Neeser Construction
CB Bettisworth & Co.
RSA Engineers
Tryck Nyman Hayes Engineers
EHS Alaska

Alaska State Legislature

HOUSE MAJORITY NEWS

web site: <http://www.akrepublicans.org>

State Capitol
Juneau, AK 99801
Actuality line: 1-800-478-6540

Jerry Ritter
Press Secretary
(907) 465-3804

FOR IMMEDIATE RELEASE: April 19, 2000

CONTACT: Representative Eldon Mulder
(907) 465-2647

House Approves Pilot Program for Rural Schools

(JUNEAU) -- The Alaska House of Representatives Wednesday passed House Bill 445, sponsored by the House Finance Committee.

HB 445 authorizes a pilot program designed to implement design efficiency, firm price proposals, and prompt, timely completion of school construction projects in rural Alaska. The bill also addresses the need for developing a meaningful maintenance plan for new facilities and training for maintenance workers. The school construction and planned maintenance pilot program will be established and implemented by the Department of Education and Early Development (DEED).

"HB 445 calls for collaboration between community and local school districts, DEED priorities, and State of Alaska public financing methodologies with private sector development techniques," said Representative Eldon Mulder (R-Anchorage), Co-Chair of the House Finance Committee. "This collaboration should enable the State to meet community needs more quickly, inexpensively, and reliably."

HB 445 is designed to assist the DEED in obtaining the best value for the State in terms of containment of cost overruns and a guarantee of a firm fixed price, firm fixed delivery schedules with developer guarantees, local hire programs, post-construction maintenance plans, and utilization of existing planning and design elements.

"The intent of HB 445 is, and always has been, to provide Alaskans with the best value for every dollar the State spends," Mulder said. "HB 445 has received broad support from the construction industry, labor, and design and engineering entities."

HB 445 passed the House 28-12.

###

Broadcasters note: Comments are available on the Majority Actuality Line 1-800-478-6540

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 7, 2000

FURTHER REFERRALS:

File of Committee Action: 4112100

The FINANCE Committee considered:

HB 445

HOUSE BILL NO. 445

SCHOOL CONSTRUCTION PROGRAM

"An Act relating to a rural school construction and planned maintenance pilot program; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 445 (Fin) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) HFC zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>[Signature]</i>	Mulder	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	Bunde			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	Austerman	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	J. DAVIES			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	Quissendot			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	Moses			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	G. DAVIS	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	Williams	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	Phillips			<input checked="" type="checkbox"/>	

CO CHAIR'S SIGNATURE [Signature]

HCR

15

FISCAL NOTE

- No: 1

Bill Version: HCR 15

(H) Publish Date: 1/21/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date: 1/10/00

Title: Developmental Disability Awareness Month

Sponsor: Rep. Porter

Requester: Gov.

Dept. Affected _____

BRU _____

Component _____

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES []						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Representative
Fred Dyson
Chair
House HESS



Phone: 465-2199

Phone: _____

Date: 1/20/00

COMMITTEE COPY



ALASKA STATE LEGISLATURE

SPEAKER OF THE HOUSE BRIAN PORTER

SPONSOR STATEMENT FOR HCR 15

This resolution will designate the month of March as Developmental Disability Awareness Month in a special effort to help people recognize and understand the obstacles and lifestyles of Alaska citizens who experience developmental disabilities. This resolution coincides with President Ronald Reagan's national designation of March as Developmental Disability Awareness Month in 1983.

An estimated 12,000 Alaskans with developmental disabilities experience severe and/or multiple disabilities which are often present at birth and are permanent. These are people with capabilities, competencies, personal needs and preferences. Recognizing March as Developmental Disabilities Awareness Month offers an opportunity for improving the quality of life of people with developmental disabilities in the hope that the barriers and fears that affect their everyday lives can be replaced with awareness and understanding.

Progress continues to be made due, in large part, to the caring people of the Key Campaign. This is a state-wide network of community providers of services, consumers, parents and guardians of people with disabilities, parent organizations, protection and advocacy groups, independent living centers, vocational rehabilitation centers, residential agencies and private citizens who share the unified belief in community-based services.

With the governor's signature on this resolution, the members of the Twenty-First Alaska State Legislature will join the Alaska Key Campaign and all the caring service providers in the state of Alaska in recognizing March as a time specifically set aside to acknowledge those with developmental disabilities and by recognizing these citizens as full members of the family of Alaska.



TONY KNOWLES, GOVERNOR
State of Alaska

GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION

P.O. Box 240249 • Anchorage, Alaska 99524-0249 • Phone: 907-269-8990 • Fax: 907-269-8995

Creating Change That Improves The Lives Of People With Disabilities

December 3, 1999

Representative Brian Porter
Speaker of the House of Representatives
Alaska State Legislature
716 West 4th Avenue
Anchorage, Alaska 99501 2133

Dear Representative Porter:

Subject: Proclamation

I am writing to ask your consideration to have the 21 Alaska Legislature proclaim March 2000 as Developmental Disability Month. The Key Campaign is set for February 29 and March 1. The participants would be greatly honored if the Legislature agreed to a joint proclamation.

The people who attend the Campaign events have always valued your assistance in allowing the House and Senate Finance Committees to hold a joint hearing on the issues of concern to people with developmental disabilities and their families. Recognizing March 2000 as DD Month would please them to no end.

For your review, the attachment suggests some language for the proclamation. A Joint Proclamation was last done in March, 1993. I will be sending a copy of the attachment the Senator Pearce, President of the Senate, and I have asked the Governor's Office to consider it as well.

Thank you for your attention to our request and for all of the help you have given to Alaskans with developmental disabilities over the years. If I can answer any questions about this request or help you in anyway, please call me at 269 8991.

Sincerely,



David Maltman
Executive Director

HJR

12

FISCAL NOTE

No: 1

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: CSHJR 12 (FIN)
BILL NO. (H) Publish Date: 2/17/99

Title: NO FED. CLAIM ON STATE TOBACCO
SETTLEMENT
Sponsor: Rep. Harris
Requestor: H FIN

Dept. Affected: Law
BRU: Civil Division
Components: Fair Business Practices
Serial # 2206

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

This resolution has a zero fiscal impact. However, if federal law is not enacted to prevent HCFA from asserting its claim against the settlement money, the result could be a loss to the State of Alaska of \$400 million over 25 years.

Prepared by: House Finance Committee *[Signature]* Date: 2/16/99
Representative Eldon Mulder *[Signature]* Phone: 465-2647
Representative Gene Therriault *[Signature]* Phone: 465-4797



Alaska State Legislature

REPRESENTATIVE JOHN HARRIS

District 35 - Valdez, Cordova, Whittier, Glennallen, Delta Junction, Tatitlek, Kenny Lake, Paxson, Gakona, Cherega Bay

Sponsor Statement

HJR 12 – Relating to federal claims against funds obtained by settlement of state tobacco litigation.

Last November, Alaska and 45 other states settled a comprehensive lawsuit against the nation's major tobacco producers for a total sum of \$246 billion, to be paid out over a period of about 25 years. The federal government, which was not a party to the litigation, asserts that it is entitled to recoup a significant portion of the settlement monies to reimburse it for Medicaid funds given to the states over the years.

We do not believe the federal government should be asserting a claim to any of the settlement monies. The lawsuit brought by the various states against the tobacco companies was based on violations of state laws. The federal government did not join the suit or assert any federal claims of its own.

For its part of the settlement, the State of Alaska is scheduled to receive a total of \$668,903,056.53 over the next 25 years, in annual payments of between \$21 million and \$28 million. The federal government, if successful in asserting any right to recoupment of the settlement funds, could take as much as \$400 million of Alaska's share.

The Clinton administration is evidently so determined to take the lion's share of the settlement funds that it has included them as a funding source in the FY 2000 budget introduced by the President on February 1.

Legislation has been introduced in the Congress to prohibit federal recoupment of settlement monies. HJR 12, directed at the President and our Congressional delegation, asks the Congress to enact such legislation and the President to sign it.

FREQUENTLY ASKED QUESTIONS

1. **Who are the parties to the Tobacco Settlement?** The parties to the settlement include 46 states (Florida, Minnesota, Mississippi, and Texas had previously settled with the tobacco manufacturers), Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and the District of Columbia, Brown & Williamson Tobacco corporation, Lorillard Tobacco Company, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Commonwealth Tobacco, and Liggett & Myers.
2. **What is the effective date of the tobacco settlement?** The parties signed the Master Settlement Agreement (MSA) on Monday, November 23, 1998, the Master Settlement Agreement Execution Date. States that sued the tobacco manufacturers must go to state court and file a motion for the approval of the settlement agreement by December 11, 1998. States that had not filed a suit, must go to state court to file suit and to make a motion to approve the settlement agreement by December 23, 1998. The effective dates for the non-economic provisions of the MSA vary, but many are related to the MSA Execution date (e.g. 60 days after the MSA Execution date). There are two important effective dates related to the economic provisions of the MSA: the **State Specific Finality Date** and the **Final Approval Date**. The State Specific Finality Date is the date when a state court gives final approval to the settlement and the consent decree. The Final Approval Date is the earlier of June 30, 2000 or the date when 80 percent of the states have obtained State Specific Finality and those states represent 80% of the payments.
3. **When do the settlement funds become available to the states?** No funds can be dispersed to the states until Final Approval is attained. If the requisite number of states have not reached State Specific Finality before June 30, 2000, the funds will become available to all states that have reached State Specific Finality on June 30, 2000. If a state fails to obtain State Specific Finality by December 31, 2001, its participation in the settlement is terminated.
4. **I understand that tobacco manufacturers will begin making payments in December 1998. Where will these funds go if they are not available to states until June 30, 2000?** The payments made by the tobacco manufacturers will be deposited into an escrow account. When a state obtains State Specific Finality, the funds that are to be allotted to that state will be moved from the general escrow account into a state specific escrow account, where the funds will accrue interest and will become available to the state on the Final Approval date.
5. **What must states do to attain State Specific Finality?** States must get the settlement approved by a state court. This includes approval of the consent decree. In addition, all opportunities for appeal of the approval must have expired, so that the court's approval is final.
6. **What will state legislatures need to do to implement the tobacco settlement agreement?** State legislatures will need to enact the model statute included in the Master Settlement Agreement (See question #12), regarding the treatment of non-participating manufacturers, before the state begins receiving its allotment from the settlement. In addition, if there is any question about the legislative appropriation of the settlement funds, legislatures may want to enact laws to clarify the treatment of the funds under state law. The settlement agreement is silent on that issue. Finally, the legislature should probably review the state's consent decree, the document that implements the settlement agreement in the state.
7. **What is the purpose of the model statute included in the Master Settlement Agreement? What happens if my state fails to enact the statute?** The model statute creates a reserve fund for non-participating manufacturers to pay future claims, establishing a level playing field between participating and non-participating manufacturers. The model act must be enacted by states exactly as it is drafted in the MSA (Exhibit T) and as a stand-alone piece of legislation or the state must enact a "qualifying statute," as determined by a firm jointly retained by the settling states and the original participating manufacturers. The ruling of the

firm is final. A "qualifying statute" is defined in the MSA as a settling state's statute, regulation, law and/or rule (applicable everywhere the state has authority to legislate) that effectively and fully neutralizes the cost disadvantages that the participating manufacturers experience (as opposed to the non-participating manufacturers) experience as a result of the MSA. If a state fails to enact the model statute or if a state enacts the model and a court subsequently overturns it, the state allotment will be reduced by no more than 65 percent.

8. **When the Final Approval Date arrives and the funds become available to the states, who controls the funds?** The Master Settlement Agreement is silent on the matter; therefore the general belief is that the funds will be appropriated according to state law.
9. **How are the amounts each state will receive determined? Are the state allotments listed in the Master Settlement Agreement the actual amounts each state will receive?** The state allotments were established by a formula developed by the Attorneys General. These allotments are subject to a number of adjustments, reductions and offsets. In addition, the federal government is laying claim to more than half the settlement dollars. The exact amount a state will receive is the net of the listed allocation minus any adjustments, reductions and offsets and may also be subject to recoupment of any settlement funds attributable to Medicaid.
10. **What is the basis of the federal claim on state tobacco settlement funds?** The U.S. Department of Health and Human Services (DHHS) contends that existing Medicaid law (Section 1903(d) of the Social Security Act) compels it to recover its share (federal Medicaid matching percentage) of third party payments, collected by states on behalf of Medicaid clients, and argues further that state tobacco settlement funds are third-party recoveries under the provisions of the Medicaid statute. DHHS has "recouped" some funds from states that reached an earlier settlement agreement with the Liggett Group, but temporarily suspended the collection of state tobacco settlement funds pending comprehensive federal tobacco legislation. An amendment to the Medicaid statute that would exempt tobacco settlement funds from recoupment must be enacted to prevent the seizure of state tobacco settlement funds when they become available to states in 2000.
11. **Does the Master Settlement Agreement restrict or earmark the settlement funds?** No. States will determine how the funds will be spent.
12. **If the federal government adopts an excise tax on tobacco products, will my state receive less money from the tobacco settlement?** Maybe. Under the provisions of the settlement, if the federal government enacts a tax or fee on tobacco products, and uses the proceeds to provide either unrestricted funds to states or funds earmarked for health care or tobacco-related health care, these funds would be subtracted from the state allotment on a dollar-for-dollar basis. The federal legislation offset would not apply if the funds were earmarked for assistance to tobacco growers or impacted communities.
13. **Aside from determining funding priorities and enactment of the model statute, are there other legislative actions related to the tobacco settlement state legislators might consider?** Yes. The settlement agreement prohibits the sale and manufacture of cigarettes in packages of less than 20 cigarettes. This prohibition sunsets December 31, 2001. The settlement agreement also prohibits tobacco manufacturers from opposing state legislation prohibiting the sale and manufacture of these small cigarette packages. If a state wants to continue the ban, considered a key provision to discourage youth access to cigarettes, state legislation would be required. In addition, the settlement agreement identifies areas of state legislation, law and administrative rule related to youth access to tobacco products, that the tobacco industry is prohibited from opposing. That list provides a starting point for considering future legislation. Finally, there is a wide range of youth access issues that are not addressed in the settlement agreement that could be the subject of state legislative initiatives.



CAPITOL to CAPITOL

An Information Service of NCSL's
Assembly on Federal Issues



National Conference of State Legislatures

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STATES PREVAIL ON FIRST TOBACCO RECOUPMENT SHOWDOWN. On March 4, Senator Kay Bailey Hutchison (R-Texas) successfully added language forbidding the federal government from seizing state tobacco settlement funds to S. 544, a FY 1999 supplemental appropriations bill (see related story below). The amendment was added by voice vote in the Senate Appropriations Committee. The committee also rejected an amendment from Senator Tom Harkin (D-Iowa) that would have compelled states to spend 25 percent of their settlement funds for federally designated purposes. full-court press by state legislators, including critical communications to Appropriations Committee chair Ted Stevens (R-Alaska) from his home state, and governors led to these opening "victories" on tobacco recoupment. When the supplemental hits the Senate floor, states will again be tested. Senator Orrin Hatch (R-Utah) is working on recoupment legislation that may earmark as much as 25 percent of state settlement funds. On the other side of the aisle, Senator Kent Conrad (D-North Dakota) is drafting a similar proposal that would designate that 10 percent to 20 percent of settlement funds be spent for smoking cessation, smoking abatement and related health programs. Senate floor action is scheduled for next week. State legislators should urge their U.S. senators to support the recoupment prohibition provision, as is, in the FY 1999 supplemental appropriations bill.

On the cosponsorship front, communications from state legislators and NCSL advocacy efforts continue to produce outstanding bipartisan results. S.346 now has 41 cosponsors with this week's addition of Senators Mike Crapo (R-Idaho), Carl Levin (D-Michigan), John Edwards (D-North Carolina), Chuck Robb (D-Virginia) and John Warner (R-Virginia). H.R. 351's cosponsorship count has soared to 90. Signing up this week were Representatives Adairholt (Alabama), Campbell (California), Tancredo (Colorado), Goss (Florida), Lucas, Northup, Rogers and Whitfield (Kentucky), Upton (Michigan), Sununu (New Hampshire), Roukema, Saxton and Smith (New Jersey), Gilman, Kelly and King (New York), Hayes (North Carolina), Noy (Ohio), Wamp (Tennessee), Barton, Combest and Lampson (Texas), Pickett (Virginia) and Sensenbrenner (Wisconsin). State legislators should continue to press their congressional delegations to cosponsor S. 346 and H.R. 351. (NCSL staff contacts: Michael Bird, Joy Johnson Wilson, Steve Lewis)

WELFARE BLOCK GRANT FUNDS "SEIZED." During further debate on S. 544, the committee that produced the recoupment victory also fired the first shot of what will likely be many attempts to reduce current year and future Temporary Assistance for Needy Families (TANF) funding. The Senate Appropriations Committee, without objection, took \$350 million of FY 1999 TANF funds as an offset for its \$1.8 billion "emergency" supplemental appropriations bill. The supplemental primarily provides disaster and foreign aid assistance. NCSL and governors objected strenuously. NCSL Health and Human Services chair, Representative Bill Martin (North Carolina), wrote on March 8 that this action "abrogates a fundamental agreement reached among state legislators, governors and Congress in 1996 regarding welfare reform." The White House opposed this offset. Many members of Congress believe that states are sitting on mountains of unused TANF funds, and therefore there is no need to stick to the agreement reached over two years ago, even though it was a five-year agreement. To stop these attempts in their tracks, state legislators should contact their U.S. senators and urge them to drop this \$350 million offset, preserve the 1996 welfare reform accord and protect the block grant commitment. (NCSL staff contact: Sheri Stelsel)

SENATE FIRST TO ACT ON Y2K LIABILITY PROTECTION. On a straight party-line vote (11-9), the Senate Commerce Committee voted to limit liability for Y2K failures. S. 98, introduced by Senator John McCain (R-Arizona), would preempt state tort law by setting federal caps on non-economic damages and liability of corporate officers and directors, and creating federally determined time periods for remediation before plaintiffs can proceed with lawsuits. McCain's bill also would create immunity from punitive damages for state and local governments. Awaiting action in the Senate Judiciary Committee is legislation, S. 481, introduced by Senator Orrin Hatch (R-Utah) which is similar to the McCain approach in capping damages. However, S. 481 would establish a program to provide financial assistance grants to state and local governments and small businesses to fix their Y2K problems. The Hatch bill has the support of the Chamber of Commerce and many other business associations. In the House, Representative Tom Davis (R-Virginia) has introduced legislation which is similar to the Hatch version, except that the Davis bill, H.R. 775, also would cap attorney's fees. While further Committee action is expected in the Senate, the Davis bill is on hold in the House Judiciary Committee. (NCSL staff contact: Neal Osten)



William T. Pound
Executive Director

Carl Tubbsing
Deputy Executive Director

Federal Affairs Staff

Michael Bird: (202) 624-8688
Joy Johnson Wilson: (202) 624-8688
Alyson McLoughlin: (202) 624-8691

Washington Office
444 M. Capitol St., N.W., Suite 515
Washington, DC 20001
Ph: (202) 624-5400
Fax: (202) 757-1069

Denver Office
1560 Broadway, Suite 700
Denver, CO 80202
Ph: (303) 836-2200
Fax: (303) 863-8023



NCSL

Federal Budget & Tax Update

An Information Service of the AFI Federal Budget and Taxation Committee
February 2, 1999, Vol. 5, No. 1

President's Budget for FY 2000 Released State Tobacco Funds Targeted

The President's **Fiscal Year 2000 Budget** released on February 1, 1999 calls for \$1.765 trillion in funding for the president's fiscal priorities. The budget reserves 62% of the expected budget surplus (over the next 15 years) for Social Security Reform. The president intends to reserve the entire projected FY 2000 surplus, or 117.3 billion for Social Security reform (see chart below). The president's five-year proposal raises spending by \$30 billion.

The Projected Budget Surplus. The president's broad plan for the surplus includes the following:

- reserve 62% of the surplus for Social Security, setting aside roughly one-fifth of that portion for investment in private securities;
- reserve 15% of the surplus for Medicare;
- dedicate 12% to fund a new presidential initiative for Universal Savings Accounts; and
- reserve 11 percent of the projected surplus for military readiness and domestic priorities.

Presidential Priorities. The FY 2000 Budget includes many of the proposals previously announced by the White

House, including a \$1,000 tax credit for long term care costs (\$5 billion over five years) and for a variety of health care, education, environment, international affairs and defense proposals. In education, the president proposes to spend \$200 million for performance accountability, \$600 million for after-school services, \$450 million for technology, \$22 billion for school construction and \$1.4 billion to continue the administration's 100,000 new teachers initiative.

The budget increases funding for child care, including \$6.3 billion over five years to expand the child and dependent care tax credit, \$1.2 billion to increase the child care and development fund in 2000, \$3 billion over five years for a new Early Learning Fund and \$173 million in 2000 for quality improvements.

Labor spending includes \$965 million for job training, \$144 million in additional spending in Welfare-to-Work to support housing and transportation and \$150 million to states to support fathers' efforts to pay child support.

The budget increases the low-income housing tax credit from \$1.25 to \$1.75 per capita (\$1.7 billion in cost over five years).

President's FY 2000 Budget Proposal

Budget Summary (Dollar amounts in billions)

	1998	Estimates					
	Actual	1999	2000	2001	2002	2003	2004
Receipts	1721.8	1806.3	1883.0	1933.3	2007.1	2075.0	2165.5
Outlays	1652.6	1727.1	1765.7	1799.2	1820.3	1893.0	1957.9
Reserve Pending Social Security Reform	69.2	79.3	117.3	134.1	186.7	182.0	207.6
Surplus	0.0	0.0	0.0	0.0	0.0	0.0	0.0
On-budget Deficit (-)	-29.9	-41.7	-12.2	0.2	44.4	31.4	49.8
Off-Budget Surplus	99.2	121.0	129.5	133.9	142.3	150.7	157.8
Resources contingent upon Social Security Reform							
Defense	....	....	....	9.6	17.1	13.0	15.0
Non-Defense	....	....	....	15.1	19.7	16.5	9.2
Priority initiatives	1.6	4.1	7.0	9.9
Debt Service	0.7	2.3	4.3	6.3
Remaining Reserve	107.2	143.6	141.3	167.3

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- Senator Walt Kavanagh, New Jersey
- Representative Jim King, Florida
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Committee Staff

- Gem Madrid, Senior Policy Specialist, 202-624-8670
gemmadrid@ncsl.org
- Jennifer Grant, Staff Assistant, 202-624-8188
jennifergrant@ncsl.org

Washington Office

444 North Capitol Street, N.W.
Suite 515
Washington, DC 20001
Phone: 202/624-5400
Fax: 202/737-1069

Health care spending includes \$930 million over five years to extend Medicaid benefits to legal immigrants, \$1.2 billion to help disabled workers buy into Medicaid and Medicare, and \$358 million for mental health grants. States would have the option to provide health care to legal immigrant children, to restore SSI eligibility to legal immigrants with disabilities, and to restore Food Stamp eligibility to certain aged immigrants (\$1.1 billion over five years). The proposal would allow states to provide health coverage to legal immigrant children and pregnant women under Medicaid or CHIP.

\$200 million supports state and local efforts to reduce emissions, \$800 million for the Clean Water State Revolving Fund, a reduction of \$55 million from 1999 levels, and \$825 million for the Drinking Water SRF, and increase of \$50 million over 1999.

Discretionary and Mandatory Offsets. Tobacco revenues, FAA user fees, health care savings, superfund revenues and other fees offset the \$17.1 billion in increased discretionary spending above the caps that the president recommends for 2000. Health care, student loan, revenue and other offsets totaling \$6.5 billion offset the class size, child care, health care, revenue initiatives and other mandatory program increases the president has proposed. Annual examination fees of state-chartered member banks of the Federal Reserve (\$450 million over five years) and state-chartered FDIC insured banks (\$458 million over five years) are included in the offset package.

Tax Plans. The president's budget includes an increase in the federal cigarette tax of 55 cents-per-pack and speeds up the timetable for the 15 cents-per-pack increase included in the 1997 BBA. These increases combined raise \$34.5 billion over five years. The budget offsets \$32 billion in spending by closing "tax loopholes and eliminating unwarranted benefits," the majority of these proposals are aimed at corporate taxes. Proposals that affect individuals include taxation of signing bonuses and income from residence rental, disallowance of interest on debt allocable to tax-exempt obligations, increased penalties for failure to file correct information on returns, withholding of gambling winnings, and a change to the foster child definition under EITC.

Human Services. The president's proposal restores Social Services Block Grant (Title XX) funding to its authorized level of \$2.38 billion, an increase of \$471 million over 1999. The president decreases the amount of TANF that may be transferred to SSBG from 10% to 4.25%, providing federal savings of \$600 million in 2000. The budget reduces the TANF Contingency Fund by \$360 million along with a legislative proposal making it easier for states to access the money. The proposal freezes Supplemental TANF Grants for population increases at FY 1999 levels, for federal savings of \$241 million over five years.

The proposal also eliminates the child support hold harmless payment and reduces the match for establishing paternity from 90% to 66%, providing federal savings of \$324 million over five years and adjusts child support orders, saving the feds \$85 million over five years.

Recoupment of State Tobacco Funds. As suspected, the 2000 Budget includes the president's plan to recoup \$15.98 billion of the \$246 billion settlement reached between the tobacco industry and states during the five-year budget period. Recoupment would not begin until 2001 to allow time for a resolution of the expected federal-state dispute. NCSL opposes efforts by the federal government to recoup state tobacco funds. The administration states (we) will work with the States and the Congress to enact tobacco legislation that, among other things, resolves these Federal claims in exchange for a commitment by the states to use tobacco money to address shared national and State priorities which reduce youth smoking, promote public health and children's programs, and assist affected rural communities.

Medicaid Cost Allocation. As was done with Food Stamps in the Agricultural Research bill, the president's budget reduces state administrative funds by \$300 million annually. For the impact on individual states of this reduction see: <http://www.ffis.org/misc/cost.htm>.

Transportation. Transportation spending includes \$6.1 billion for public transit and \$2.4 billion for planning and congestion. Highway obligation is \$28.3 billion in 2000, an increase of \$1.8 billion above 1999 funding. While providing an increase, the levels set in the president's proposal violate TEA21 because rather than distributing the revenue aligned budget authority (RAB-A) proportionately to the five core highway programs, the administration prioritizes the increase of highway trust fund revenues to other specific categories within transportation. FAA budget authority is set at \$10.1 billion for 2000. The president proposes to eliminate general fund contributions to aviation, reducing funding for the Airport Improvement Program.

Pension Portability. The president's budget allows the use of 403(b) and Section 457 plan funds to purchase service credit through a direct transfer to state and local plans without having to take a taxable distribution of these amounts.

Support for Selected State Programs. A summary of Major discretionary and Mandatory Program funding prepared by Federal Funds Information for States follows this update. The information is available online in PDF format at <http://www.ffis.org/misc/99jmpb.pdf>

President Budget Available On-Line. Access the president's budget at <http://www.gpo.gov/usbudget>

PRESENTATION ON TOBACCO ISSUES and HJR 12

Alaska Department of Law
to
House Finance Committee
February 16, 1999

INTRODUCTION

During the past two years, the Knowles administration, with the help of the Alaska Legislature, has addressed the problems caused by tobacco and the challenge of limiting access on a number of fronts. Our joint efforts have included legislation to increase taxes on tobacco products, measures to limit youth access to tobacco, and stepped-up enforcement activities, and, of course litigation and participation in the national settlement with the industry. The Department of Law's efforts have been closely coordinated with the Alaska Departments of Health and Social Services and Revenue, local tobacco control groups, and other state attorneys general.

ENFORCEMENT OF TOBACCO VENDOR AND TAX LAWS

- **TOBACCO VENDOR ENFORCEMENT (STING OPERATIONS):** During 1997 and 1998, the Department of Law ("Law") worked closely with the Anchorage and Juneau Police Departments to coordinate enforcement and prosecution of tobacco vendors that sold tobacco products to persons under 19. Law plans to work with the Fairbanks Department of Public Safety and Fairbanks City Attorney's Office to enforce state tobacco laws during the early spring.
- Today, Law will announce a settlement related to tobacco business licensing litigation with 9 vendors operating a total of 11 stores (5 in Anchorage and 6 in Juneau). The vendors agreed to a settlement that requires. (1) a three-day suspension of their tobacco licenses, (2) that they re-train all of their tobacco sales clerks in stores where violations occurred, and (3) that vendors make contributions totaling more than \$50,000 to a statewide youth tobacco prevention television campaign. This television campaign will air statewide for a month this spring.

- **STATE SALES TAX ENFORCEMENT:** State law requires any person who causes cigarettes to be brought into the state for personal consumption or resale to obtain a license from the Alaska Department of Revenue and pay the appropriate taxes. A federal law known as the "Jenkins Act" requires persons shipping cigarettes into Alaska to provide the state with a list identifying the recipients. With the growth of Internet sales, the Alaska Departments of Law and Revenue have worked closely with the federal Alcohol, Tobacco and Firearms investigators and U.S. Attorney's Office to vigorously pursue illegal cigarette shipments. Investigations are currently underway, and additional investigations are likely.

LITIGATION AND THE NATIONAL SETTLEMENT

- **ALASKA'S LITIGATION:** In April, 1997, Alaska filed suit against the major tobacco manufacturers based on state consumer protection and antitrust laws. The suit was scheduled to go to trial in February, 2000.
- **NATIONAL SETTLEMENT:** On November 23, 1998, after extended negotiations the State of Alaska and 45 other states reached a final settlement of litigation with the tobacco industry – Mississippi, Texas, Florida, and Minnesota had already settled their lawsuits. The settlement, which was approved by the Juneau Superior Court on , ends the State's litigation with the industry. The settlement will mean payments of nearly \$670 million to Alaska over the next 25 years, starting in FY 2000.
- **PUBLIC HEALTH TERMS:** The significant public health terms of the settlement require: bans on marketing to youth; changes in corporate culture; disbanding trade associations; lobbying restrictions; opening industry research; and creation of a national teen smoking foundation and public education fund. The full settlement agreement is available at www.naag.org on the Internet.
- **THE PAYMENT STREAM:** The State of Alaska does not need to pass any legislation to receive payments under the settlement. However, legislation is required to protect Alaska's payments from the rather remote possibility of a nonparticipating manufacturer reduction, which is discussed in more detail below. The State also needs protection against attempts by HCFA (the federal Health Care Finance Administration) to recoup a portion of the state's funds, as will also be discussed below.

Under terms of the settlement agreement, Alaska will receive the following payments:

**PAYMENTS TO ALASKA
under
SETTLEMENT OF TOBACCO LITIGATION**

	Date of Payment	Amount of Payment
Up-front Payment	between April 1999 and June 2000 (depending on actions of other states)	\$8,194,049.54
Annual Payments	between April and June 2000	\$21,890,915.46
	April 2001	\$23,638,672.09
	April 2002	\$28,383,145.58
	April 2003	\$28,651,761.36
	April 2004	\$23,912,967.90
	April 2005	\$23,912,967.90
	April 2006	\$23,912,967.90
	April 2007	\$23,912,967.90
	April 2008	\$24,387,539.93
	April 2009	\$24,387,539.93
	April 2010	\$24,387,539.93
	April 2011	\$24,387,539.93
	April 2012	\$24,387,539.93
	April 2013	\$24,387,539.93
	April 2014	\$24,387,539.93
	April 2015	\$24,387,539.93
	April 2016	\$24,387,539.93
	April 2017	\$24,387,539.93
	April 2018	\$27,327,155.20
	April 2019	\$27,327,155.20
	April 2020	\$27,327,155.20
	April 2021	\$27,327,155.20
	April 2022	\$27,327,155.20
	April 2023	\$27,327,155.20
	April 2024	\$27,327,155.20
	April 2025	\$27,327,155.20
	TOTAL	\$668,903,056.53

- **TIMING OF UP-FRONT PAYMENT:** On December 28, 1998, the tobacco companies paid an up-front payment into escrow as part of the agreement. No legislation is required for Alaska to receive its up-front payment, which will be disbursed to Alaska only when 80 percent of the states' lawsuits are dismissed without any appeal, or on June 30, 2000, whichever comes first. Right now, there are appeals in California and New York, so the anticipated receipt of the up-front payment will probably come closer to June 30, 2000.
- **TIMING OF ANNUAL PAYMENTS:** The first annual payment will be available no later than June 30, 2000. No legislation is required for Alaska to receive its annual payments. Alaska's first annual payment could come as early as April 2000, if 80 percent of the states' lawsuits are dismissed without any appeal, but in any case will be made no later than June 30, 2000. Beginning in 2001, the annual payments will be made to the state on April 15 each year.
- **ATTORNEYS' FEES:** The State of Alaska was represented in the tobacco litigation by the law firm of Hagens & Berman, which represented all the Northwest states. The settlement agreement allows the state's outside counsel to seek payment from the tobacco companies without affecting Alaska's share of the settlement. Hagens & Berman requested reimbursement directly from the tobacco companies, which agreed to pay \$10 million as full payment for the firm's representation of Alaska. This payment did not affect Alaska's share of the settlement. However, when compared to the state's settlement of \$668,903,056.53, the Hagens & Berman fee is approximately 1.5 percent.

THREAT TO SETTLEMENT FROM HCFA

- **FEDERAL RECOUPMENT:** The U.S. Health Care Finance Administration (HCFA) has taken the position that as much as half of the funds recovered through the national settlement are subject to the agency's right of recoupment. HCFA apparently bases its position on an interpretation of §1903(d)(2)(A-B) of the Social Security Act, which states that reimbursements to a state by a third party are "overpayments" from which HCFA may claim a pro-rata share.
 - The agency's position is based on the assumption that the state was specifically suing to collect state and federal dollars under a Medicaid reimbursement theory. One estimate shows that HCFA's interpretation of §1903(d) could result in a loss to the State of Alaska of \$400 million over 25 years. The Department of Law is working through Alaska's congressional delegation and other states to solve this problem, and it will defend the state's right to settlement funds in court if necessary. HCFA has represented

that it will assert its claim against annual state payments beginning after the Year 2000 payment.

- **ALASKA'S RESPONSE TO THREAT: Alaska's Objectives** - The State had four primary objectives when it brought suit against the tobacco industry: (1) to end the industry's targeting of Alaska's children as new consumers for its products; (2) to force the industry to disclose the harmful effects of smoking and decades of research demonstrating that tobacco kills; (3) to thwart the industry's apparent efforts to prevent the development of a safer product; and (4) to require the industry to pay for the harm it already has caused and, in the future, fund public health programs directed at alleviating the related public health concerns.
- **Alaska Sued to Protect Alaskans:** Alaska brought suit to protect Alaskans and to protect the fiscal integrity of the state's Medicaid program against future smoking-related treatment costs. Unlike other states, Alaska did not specifically plead a federal Medicaid recoupment claim in state superior court. Collecting federal dollars is the responsibility of HCFA and the U.S. Department of Justice. The U.S. Department of Justice declined to sue the tobacco industry on behalf of HCFA, and HCFA provided no support to the states during the litigation.
 - **First Proposed Settlement and Congress vs. State Settlement:** The first settlement was signed by the states and tobacco industry on June 20, 1997. It called for the tobacco industry to make payments to the states and fund federal enforcement programs totaling \$368.5 billion over 25 years. This settlement also required congressional approval, which did not occur. Accordingly, the states returned to litigation and resumed negotiations with the industry on their own. The litigation and resumed negotiations resulted in the second state settlement of November 23, 1998. HCFA could have acted along with the states to protect its rights during the second settlement process, but chose not to.
 - **Use of Settlement Funds:** A key provision of the McCain Bill in the 105th Congress provided that if states directed 50 percent of the settlement money (of the proposed 1997 settlement) to supplement but not supplant existing health care programs, HCFA could not assert its claim for recoupment. While the states take the position that all settlement dollars are state funds, many states are abiding by the provisions of the McCain Bill (spending no less than 50 percent to supplement health care-related programs) to protect against recoupment by the federal government.
 - **Recent Development: SB 346:** On February 3, 1999, U.S. Senator Frank Murkowski and U.S. Senator Kay Bailey Hutchinson co-sponsored SB 346. SB

346 would protect all the states' settlement dollars from HCFA's attempted recoupment.

LEGISLATION

- **MODEL STATUTE:** The state is not required to pass the model statute included in the settlement to receive settlement payments. However, if the state does not pass the model statute, the state will risk a possible reduction in payments under the nonparticipating manufacturers' payment (NPM) reduction formula of the settlement. The settlement provides for an adjustment to the state's payments if the participating manufacturers experience a disadvantage and lose market share for sales of their tobacco products to other nonparticipating manufacturers as a result of the marketing restrictions, payments, and other restrictions in the settlement agreement.
- **NPM Risk Low In Alaska** - At this point, the risk to Alaska of a non-participating manufacturer reduction is minimal, given that many of the very small tobacco product manufacturers have decided to sign on to the settlement, which reduces the risk that they will take market share away from the largest companies. The risk is further lowered by the fact that the small tobacco products manufacturers only represent 1-2 percent of the U.S. market, making it unlikely that sales of their products will trigger the nonparticipating manufacturer reductions.
- **NPM Risk Can Be Eliminated** - The risk of nonparticipating manufacturer reductions can be eliminated by passage of the model statute. Under the terms of the settlement agreement, if the state passes the model statute and enforces it, the state will be exempt from any payment reductions even if the settlement was a significant factor contributing to the participating manufacturers' loss of market share.

CONCLUSION

In the upcoming months, Law will be working closely with the Alaska Departments of Revenue and Health and Social Services, and the federal Alcohol, Tobacco and Firearms investigators to assure full compliance with state tax laws. Law is also working closely at the direction of the governor with members of Alaska's congressional delegation to protect the state settlement from HCFA.

HJR

36

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HJR 36

Revision Date: 4/14/99
 Title: American Psychological Association Report
 Sponsor: Rep Fred Dyson
 Requester: _____

Dept. Affected _____
 BRU _____
 Component _____
 Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES []						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by

Rep. Fred Dyson
 Co-Chair
 House HESS



Phone _____

Phone _____

Date _____

SENATE COMMITTEE REPORT

DATE: 4/27/99

FURTHER:

DATE TURNED IN TO OFFICE: 5/3/99

HES Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 36(HES) am AMERICAN PSYCHOLOGICAL ASSOCIATION REPORT

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title
- House Bill:
- same title
- technical title
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Con Hille</i>	✓				
<i>DeLuca</i>	✓				
<i>E. P. ...</i>	✓				
<i>P. Kelly</i>	✓				
CHAIR: <i>Mike Hille</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

^{HOUSE}
PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>(A) Hess</i>	<i>4/19/99</i>	0	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



Alaska State Legislature

- Interim (May-Dec.) -
10928 Eagle River Rd. Suite 140
Eagle River, Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

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"Relating to rejecting the conclusions in a recent article published by the American Psychological Association that suggests that sexual relationships between adults and children might be positive for children; and urging the President of the United States and the United States Congress to similarly reject these conclusions."

In Western culture, child protection has become an increasing concern. State and Federal laws have been enacted to reflect the growing need to protect our children.

In 1998, the Alaska State Legislature continued and codified more protection for our children. These laws made a clear statement that adult sexual exploitation of children is criminal and damaging. Our laws now make it clear that parents who persist in molesting their children are unfit parents.

Recently, the American Psychological Association (APA) published a research paper entitled, "A Meta-Analytic Examination of Assumed Properties of Child Sexual Abuse Using College Samples," on the long-term impact of child sexual abuse (CSA). This paper, by Bruce Rind (Temple University), Philip Tromovitch (University of Pennsylvania), and Robert Bauserman (University of Michigan), appears to be a rigorous literature study. Peer review has identified several questionable assumptions and methodologies in this research paper.

The APA published paper suggests, in the conclusions, that many survivors of CSA have little or no long-term effects of the abuse. The paper further suggests that for some "willing" children, sexual abuse victims may actually benefit from the experience.

Since the article was published, the APA has vigorously tried to distance themselves from the paper's conclusions. They maintain that they have, in the past, published dozens of papers showing CSA is significantly or profoundly damaging to the victims.

Our own state research indicates that CSA is an enormous individual and societal problem. This resolution rejects some of the conclusions and suggestions in this paper. It is our desire that this paper be considered in the context of the wealth of research on this subject and that policy makers not give it more credence than deserved.

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Subject: Pedophilia: Observations on Methodology of the Study

Date: 1999-03-22

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Observations on Methodology of the Study Entitled: *A Meta-Analytic Examination of Assumed Properties of Child Sexual Abuse Using College Samples**

By Stanton E. Samenow, Ph.D
Clinical Psychology
Author of *Before it's Too Late: Why Some Kids Get into Trouble and What Parents Can Do About It*

. The authors used only other authors' studies. They did none of their own.

. All studies used were based upon self-reporting, that is, they were based upon the answers to questions posed to college students who said they had either forced or consensual sex with a significantly older person when they were young or who said they were coerced by a peer to have sex when they were young. What child or adolescent can make an informed decision to consent to sex?

. The studies used were not uniform with respect to: the purpose of the study, the questions asked and how they were presented, age group, definition of sexual abuse, degree of sexual interaction, and so on. Yet the data from such diverse studies was pooled. Pooling of diverse data and reinterpreting it by massaging it with statistical techniques mixes apples with oranges and also hides the flaws of individual studies.

. The studies were obtained from a key-word search of computerized bibliographies. 59 studies were chosen. Of these 23 (38%) were unpublished doctoral or masters degree dissertations. So, 23 of the 59 studies used were not subjected to peer review, that is, to the technical scrutiny of the psychological community.



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NEWS

STATEMENT ON CHILDHOOD SEXUAL ABUSE

Childhood Sexual Abuse Causes Serious Harm to its Victims

The American Psychological Association (APA), through its members, sponsored initiatives and publishing, has a long record in the area of the prevention and treatment of child abuse and neglect including sexual abuse. In the legislative arena, for example, APA has played an active role in advocating for programs expanding child abuse prevention, treatment and research. And, through its Coordinating Committee on Child Abuse and Neglect, APA has been a leader in helping the mental health profession document and treat the ill effects of childhood abuse.

In 1990, the APA Council of Representatives passed a resolution calling for a national strategy to prevent and treat child abuse and neglect and called such action a matter of the highest urgency. APA's position is, therefore, very clear: **The sexual abuse of children is wrong and harmful to its victims.**

As a publisher of psychological research, APA publishes thousands of research reports every year. But, publication of the findings of a research project within an APA journal is in no way an endorsement of a finding by the Association.

The article which is the basis for this controversy, *A Meta-Analytic Examination of Assumed Properties of Child Sexual Abuse Using College Samples*, is one of hundreds of studies which appear in the psychological literature on the effects of childhood sexual abuse. Unfortunately, the findings of this meta-analysis (a meta-analysis studies the data of multiple previous research projects on the subject) are being

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misreported by some in the media. The actual findings are that for this segment of the population (college students) being the victim of childhood sexual abuse was found to be *less* damaging to them than generally believed. However, one overall statement of the results was that students who were the victims of child sexual abuse were, on average, *slightly less well-adjusted* than students who were not victimized as children. One important follow-up question raised by the study is what happens to these students as they enter adulthood and start families of their own. Do they further experience detrimental effects of their childhood experiences later in life?

Those who are reporting that the study says that childhood sexual contact with adults is not harmful to children are misreporting the findings. The facts are that the majority of the psychological literature reveals that childhood sexual abuse has serious and long-term negative effects on its victims.

No responsible mental health organization, including the American Psychological Association, endorses pedophilia or denies its negative effects on children. Any statement that suggests otherwise is a serious distortion of the truth. The American Psychiatric Association writes: "An adult who engages in sexual activity with a child is performing a criminal and immoral act which never can be considered normal or socially acceptable behavior." This statement is fully consistent with the policies of the American Psychological Association and with the views of mental health professionals throughout the nation.

For copies of the *APA Policy Statement on the Psychological Issues Related to Child Abuse and Neglect*, the *Report of the APA Coordinating Committee on Child Abuse and Neglect* or for citations from the psychological literature on childhood sexual abuse contact:

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March 23, 1999

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A Meta-Analytic Examination of Assumed Properties of Child Sexual Abuse Using College Samples

Bruce Rind
Temple University

Philip Tromovitch
University of Pennsylvania

Robert Bauserman
University of Michigan

Many lay persons and professionals believe that child sexual abuse (CSA) causes intense harm, regardless of gender, pervasively in the general population. The authors examined this belief by reviewing 59 studies based on college samples. Meta-analyses revealed that students with CSA were, on average, slightly less well adjusted than controls. However, this poorer adjustment could not be attributed to CSA because family environment (FE) was consistently confounded with CSA, FE explained considerably more adjustment variance than CSA, and CSA-adjustment relations generally became nonsignificant when studies controlled for FE. Self-reported reactions to and effects from CSA indicated that negative effects were neither pervasive nor typically intense, and that men reacted much less negatively than women. The college data were completely consistent with data from national samples. Basic beliefs about CSA in the general population were not supported.

Child sexual abuse (CSA) has received considerable attention since the late 1970s from mental health care professionals, legislative, judicial, and law enforcement personnel, the media, and the lay public (Rind & Tromovitch, 1997). Much of this attention has focused on possible effects of CSA on psychological adjustment, as is shown in the professional literature and popular press (Pope & Hudson, 1995) and in the information and entertainment media (Esman, 1994; Kutchinsky, 1992; West & Woodhouse, 1993). The media have frequently presented lurid CSA cases combined with high prevalence estimates, creating the image that CSA produces intensely negative effects for all of its victims (Esman, 1994; Kutchinsky, 1992; West & Woodhouse, 1993). Many publications in the popular press and the professional literature have similarly portrayed CSA as a "special destroyer of adult mental health" (Seligman, 1994, p. 232), and some have attempted to explain much or all of adult psychopathology as a consequence of CSA (Esman, 1994; Nash, Hulsey, Sexton, Harralson, & Lambert, 1993). Examples in the professional literature include McMillen, Zuravin, and Rideout (1995, p. 1037), who commented that "child sexual abuse is a traumatic event for which there may be few peers," and Rodriguez, Ryan, Rowen, and Foy (1996), who combined estimates of national prevalence rates of CSA with selected examples of empirical research to argue that posttraumatic stress disorder is

a common sequel of CSA in the general population. Opinions expressed in the media and by many popular press and professional writers imply that CSA has certain basic properties or qualities irrespective of the population of interest. These implied properties are (a) CSA causes harm, (b) this harm is pervasive in the population of persons with a history of CSA, (c) this harm is likely to be intense, and (d) CSA is an equivalent experience for boys and girls in terms of its widespread and intensely negative effects. The purpose of the current review was to examine these implied basic properties. Our goal was to address the question: In the population of persons with a history of CSA, does this experience cause intense psychological harm on a widespread basis for both genders?

An important first step is to discuss terminology. The term *child sexual abuse* has been used in the psychological literature to describe virtually all sexual interactions between children or adolescents and significantly older persons, as well as between same-age children or adolescents when coercion is involved. The indiscriminate use of this term and related terms such as *victim* and *perpetrator* has been criticized because of concerns about scientific validity (e.g., Kilpatrick, 1987; Nelson, 1989; Okami, 1990; Rind & Bauserman, 1993). Kilpatrick argued that researchers have often failed to distinguish between "abuse" as harm done to a child or adolescent and "abuse" as a violation of social norms, which is problematic because it cannot be assumed that violations of social norms lead to harm. Similarly, Money (1979) observed that our society has tended to equate "wrongfulness" with harmfulness in sexual matters, but harmfulness cannot be inferred from wrongfulness. Nelson argued that the indiscriminate use of terms suggesting force, coercion, and harm reflects and maintains the belief that these interactions are always harmful, thereby threatening an objective appraisal of them. Rind and Bauserman demonstrated experimentally that appraisals of nonnegative sexual interactions between adults and

Bruce Rind, Department of Psychology, Temple University; Philip Tromovitch, Graduate School of Education, University of Pennsylvania; Robert Bauserman, Department of Psychology, University of Michigan.

We thank Ralph Rosnow for his meta-analytic advice and comments on an earlier draft and Steve Wexler for his helpful comments.

Correspondence concerning this article should be addressed to Bruce Rind, Department of Psychology, Temple University, Philadelphia, Pennsylvania 19122. Electronic mail may be sent to rind@vm.temple.edu.

two factors. It is noteworthy that neither the level of contact nor the interaction between gender and level of contact was related to intensity. These latter results failed to provide support for the common belief that contact sex is more harmful than noncontact sex or that contact sex for girls is especially harmful. These conclusions, however, should be viewed cautiously because of the overlapping nature of the two levels of the contact variable (i.e., contact only versus contact and noncontact sex). This same caveat applies to consent because its two levels (unwanted versus willing and unwanted) were overlapping as well. The finding that most women (72%) reacted negatively to their CSA at the time it occurred implies that most of this CSA was unwanted and that the overlap between the two levels of consent was high. Thus, even though consent did not moderate intensity for women, a true difference as a function of consent may have been obscured. The finding that level of consent did moderate intensity for men is consistent with less overlap between the two levels of consent for men, because the majority of men (67%) reacted nonnegatively at the time. Importantly, CSA was not related to adjustment for men in the willing and unwanted level of the consent variable.

In separate moderator analyses, we examined how aspects of the CSA experience moderated self-reported reactions and effects, as well as symptoms. Although these results should be viewed cautiously because they were usually based on a small number of samples, we found that only force and incest moderated outcomes. The largest relation occurred between force and self-reported reactions or effects, but force was unrelated to symptoms. Incest moderated both symptoms and self-reported reactions and effects. Penetration, duration, and frequency did not moderate outcomes. The near-zero correlation between penetration and outcome is consistent with the multiple regression analysis finding that contact sex did not moderate adjustment. This result provides empirical support for Finkelhor's (1979, p. 103) observation that our society's view of intercourse as the most damaging form of CSA is "a well-ingrained prejudice" unsupported by research. Composite measures consisting of various combinations of moderators (e.g., incest, force, penetration) showed no association with symptoms in four of five studies that constructed such measures. This finding is consistent with Laumann et al.'s (1994) failure to find an association between their composite variable (consisting of penetration, number of older partners—abusers, relatedness of partner—abuser, frequency of contacts, age when having contacts, duration of contacts) and adjustment for SA respondents in their study of a U.S. national sample. It is important to note, however, that these nonsignificant results may be attributable to the additive nature of the composite variables. Composites based on two-way or higher order interactions of moderators might have been more likely to yield significant results, particularly if the interactions included incest and force.

Child Sexual Abuse as a Construct Reconsidered

In light of the current findings, it is appropriate to reexamine the scientific validity of the construct of CSA as it has been generally conceptualized. In most studies examined in the current review, CSA was defined based on legal and moral, rather than empirical and phenomenological, criteria. This approach

may form a defensible rationale for legal restrictions of these behaviors, but is inadequate and may be invalid in the context of scientific inquiry (Okami, 1994). In science, *abuse* implies that particular actions or inactions of an intentional nature are likely to cause harm to an individual (cf. Kilpatrick, 1987; Money & Weinrich, 1983). Classifying a behavior as abuse simply because it is generally viewed as immoral or defined as illegal is problematic, because such a classification may obscure the true nature of the behavior and its actual causes and effects.

The history of attitudes toward sexuality provides numerous examples. Masturbation was formerly labeled "self-abuse" after the 18th century Swiss physician Tissot transformed it from a moral to a medical problem (Bullough & Bullough, 1977). From the mid-1700s until the early 1900s the medical profession was dominated by physicians who believed that masturbation caused a host of maladies ranging from acne to death (Hall, 1992; Money, 1985), and medical pronouncements of dangerousness were accompanied by moral tirades (e.g., Kellogg, 1891). This conflation of morality and science hindered a scientifically valid understanding of this behavior and created iatrogenic victims in the process (Bullough & Bullough, 1977; Hall, 1992; Money, 1985). Kinsey et al. (1948) argued that scientific classifications of sexual behavior were nearly identical with theological classifications and the moral pronouncements of English common law in the 15th century, which were in turn based on medieval ecclesiastic law, which was itself built on the tenets of certain ancient Greek and Roman cults and Talmudic law. Kinsey et al. noted that "[e]ither the ancient philosophers were remarkably well-trained psychologists, or modern psychologists have contributed little in defining abnormal sexual behavior" (p. 203). Behaviors such as masturbation, homosexuality, fellatio, cunnilingus, and sexual promiscuity were codified as pathological in the first edition of the American Psychiatric Association's (1952) *Diagnostic and Statistical Manual of Mental Disorders*. The number and variety of sexual behaviors labeled pathological has decreased, but mental health professionals continue to designate sexual behaviors as disorders when they violate current sexual scripts for what is considered acceptable (Levine & Troiden, 1988). This history of conflating morality and law with science in the area of human sexuality by psychologists and others indicates a strong need for caution in scientific inquiries of sexual behaviors that remain taboo, with child sexual abuse being a prime example (Rind, 1995).

As discussed previously, abuse implies that harm is likely to result from a behavior. The results for SA male college students, using this scientific conceptualization of abuse, highlight the questionable validity of the construct CSA as defined and used in the studies examined in the current review. For these male college students, 37% viewed their CSA experiences as positive at the time they occurred; 42% viewed these experiences as positive when reflecting back on them; and in the two studies that inquired about positive self-perceived effects, 24% to 37% viewed their CSA experiences as having a positive influence on their current sex lives. Importantly, SA men across all levels of consent (i.e., both willing and unwanted experiences) did not differ from controls in current psychological adjustment, although SA men with unwanted experiences only did, implying that willingness was associated with no impairment to psychological adjustment. The positive reports of reactions and effects,

a more scientifically valid understanding of the nature, causes, and consequences of the heterogeneous collection of behaviors heretofore labeled CSA.

Finally, it is important to consider implications of the current review for moral and legal positions on CSA. If it is true that wrongfulness in sexual matters does not imply harmfulness (Money, 1979), then it is also true that lack of harmfulness does not imply lack of wrongfulness. Moral codes of a society with respect to sexual behavior need not be, and often have not been, based on considerations of psychological harmfulness or health (cf. Finkelhor, 1984). Similarly, legal codes may be, and have often been, unconnected to such considerations (Kinsey et al., 1948). In this sense, the findings of the current review do not imply that moral or legal definitions of or views on behaviors currently classified as CSA should be abandoned or even altered. The current findings are relevant to moral and legal positions only to the extent that these positions are based on the presumption of psychological harm.

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Subject: Re: Legislative E-News 04-14-99
Date: Thu, 15 Apr 1999 12:31:37 -0800
From: "Tia M. Rosenbaum" <rosenbau@alaska.net>
To: "Lisa Torkelson" <Lisa_Torkelson@legis.state.ak.us>

Hello Lisa,

Unfortunately I will be on the Road to Anchorage at 3:00, so I will not be able to testify in person. Could you put in my response to this outrageous claim.

I am a survivor of child sexual abuse that didn't think the sexual abuse had harmed me till I was 26 years old. I never wanted to think that my father (my main perpetrator of the abuse) would do something to hurt me. Up until my father admitted that he had sex with me starting when I was eight years old, I was hoping to be diagnosed as "INSANE". No child (even when an adult) wants to believe that a caretaker would do something harmful to them. It seems easier on a young mind to stay in denial. I find no truth in this "Scientific" finding. There are many victims that are surviving with symptoms of post-traumatic stress that may not be readily diagnosed as an aftereffect of child sexual abuse. Many more are surviving in denial. I survived in denial by self-medicating for 13 years.

Child sexual abuse affects not only the victim, but our society as a whole. Incest and child sexual abuse are promoted in a large part by silence and ignorance.

Tia M. Rosenbaum, President
RID Alaska Child Sexual Abuse

Subject: psychology research

Date: Sun, 18 Apr 1999 18:40:58 -0700

From: robert ackerman <ackerman@mtaonline.net>

To: Representative_Fred_Dyson@legis.state.ak.us

We highly commend Fred Dyson for standing up and letting his voice be heard to protect the sex exploitation of our children , glad to see somebody with conscience, morality and character to speak up against the pedophilia fact sheet..... thanks for putting our children first .
With respect and sincerity , Robert and Michelle
Ackerman

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Lolita Nation

Sunday, March 28, 1999

DEBRA J. SAUNDERS

San Francisco Chronicle
 CHRONICLE SECTIONS

THE AMERICAN Psychological Association's Psychological Bulletin released a study of 59 other studies last year that concluded that college students who had been sexually abused as kids were "slightly less well adjusted" than other college kids. Authors Bruce Rind, Phillip Tromovitch and Robert Bauserman urged psychologists not to assume that sex between nonrelated adults and minors is abusive, as children often deem the experience to be positive. "In short," they wrote, "the self-reported effects data do not support the assumption of wide-scale psychological harm from CSA (child sexual abuse)."

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The authors want to dump the term "child sexual abuse" when children consent to sex with adults. Better, the three argue, to call such relations "adult-adolescent sex." Or when the "willing encounter with positive reactions" involves a 9-year-old and an adult, call it "simply adult-child sex, a value neutral term."

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 04/09/1999

Debra J. Saunders Archives:

Last week radio talk show host Laura Schlessinger -- a.k.a. Dr. Laura -- began a crusade against the piece and the APA for printing it. She fears the piece is part of a concerted effort to get the APA to remove pedophilia from its list of mental disorders.

January

1999

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APA spokeswoman Rhea Farberman thinks that it is valid to criticize the piece. She reiterated the APA position that pedophilia is "a mental disorder, extremely harmful to children, is illegal and should stay illegal."

Farberman criticized Schlessinger, however, for making a big issue of the piece. Maybe that's because the APA showed appalling judgment in printing this pedophilia propaganda.

RELATED ARTICLES

Schlessinger attacks the study's methodology. It would be the equivalent of asking women who had been raped 10 years ago how they feel today. Then, if most say they are fine, concluding that rape is "not harmful, in fact it might be beneficial." Thus the authors culled through their data on college students, then said do away with the abuse term because 37 percent of males viewed their childhood sexual experiences as positive and that males viewed their childhood sexual experiences with adults more positively than females.

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Backpedaling on pedophilia

By Kathleen Parker

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The American Psychological Association has asked me to correct a misconception regarding a recent column I wrote about a new study that suggests maybe pedophilia ain't so bad. I don't usually write follow-up columns on request, but Lord knows where I would be without the psychological community; I don't want those guys mad at me. Thus, humbly, I submit the following adjustment, if not a correction.

The column in question was about a study produced last year -- and published in an APA "Psychological Bulletin" -- that urged new terminology in discussions of adult-child sex. Basically, the study's authors concluded that we've been too judgmental in such relationships, that sometimes children actually enjoy having sex with adults; our terms should be more "value-neutral." Although the study had been in circulation for several months, it didn't become a topic of public discussion until radio-host Dr. Laura Schlessinger raised it on her show. Dr. Laura said she feared that the psychological community was trying to normalize pedophilia. I picked up on the story around the same time when a reader e-mailed me a copy of the study. I quoted the authors' findings accurately but fumbled, apparently, when I described the study as having been "released by the APA."

To normal people like you and me, that means that the APA, uh, released a study -- as in made it public. To the APA, it means that I'm suggesting that the APA either conducted the study or is endorsing adult-child sex, or both. Let's get this straight once and for all so we can get back to what really matters, which is that certain psychologists seem to be trying to normalize pedophilia. The APA did not conduct the study, did not endorse its conclusions and is categorically, irrefutably and unequivocally against adult-child sex.

An APA press release to that effect reads as follows: "As a publisher of psychological research, APA publishes thousands of research reports every year. But, publication of the findings of a research project within an APA journal is in no way an endorsement of a finding by the Association." Noted. The release goes on to confirm the American Psychological Association's agreement with a position statement on adult-child sex issued by the American Psychiatric Association: "An adult who engages in sexual activities with a child is performing a criminal and immoral act which never can be considered normal or socially acceptable behavior." Agreed.