
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair
2019 - 2020 Regular

Bill No: AB 1085 **Hearing Date:** June 26, 2019
Author: McCarty
Version: April 2, 2019
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: After school programs: substance use prevention: funding: cannabis revenue.

Note: This bill has been referred to the Committees on Education and Health. A "do pass" motion should include referral to the Committee on Health.

SUMMARY

This bill: (1) encourages After School Education and Safety (ASES) programs, the 21st Century Community Learning Centers (21st CCLC) programs, and the 21st Century High School After School Safety and Enrichment for Teens (ASSETs) programs to establish programs that are designed to educate about and prevent substance use disorders or to prevent harm from substance abuse; (2) requires the State Department of Health Care Services (DHCS) to enter into interagency agreements with the California Department of Education (CDE) to administer those programs and allocate their funding; and (3) specifically authorizes DHCS to consider selecting those programs for funding from the Control, Regulate and Tax Adult Use of Marijuana Act.

BACKGROUND

Existing law:

- 1) Establishes the ASES program through the 2002 voter-approved initiative, Proposition 49. The ASES program funds the establishment of local before and after school education and enrichment programs, which are created through partnerships between schools and local community resources to provide literacy, academic enrichment and safe constructive alternatives for students in kindergarten through ninth grade. (Education Code § 8482)
- 2) Establishes the 21st CCLC contained within the federal No Child Left Behind Act of 2001 to complement the ASES program, and specifies that the requirements of the ASES program apply to the 21st CCLC program with specified exceptions. (EC § 8484.7)
- 3) Establishes the 21st Century ASSETs Program to create incentives for establishing locally driven after school enrichment programs between schools and local community organizations serving pupils from grades nine through twelve. (EC § Section 8421)
- 4) Establishes effective January 1, 2018, a cannabis excise tax to be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15

percent of the average market price of any retail sale by a cannabis retailer.
(Revenue and Taxation Code § 34011)

- 5) Establishes the California Cannabis Tax Fund in the State Treasury consisting of all taxes, interest, penalties, and other amounts collected and paid to the board to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act (AUWA) and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are to be expended only in accordance with the provisions of the Act. (RTC § 34018)
- 6) Specifies that the Controller is to disburse funds in the California Cannabis Tax Fund as follows:
 - a) Reasonable costs incurred by various state agencies for carrying out specified duties associated with the Act.
 - b) Ten million dollars (\$10,000,000) to a public university or universities annually beginning in 2018-19 to 2028-29 to research the effect of the Control, Regulate and Tax Adult Use of Marijuana Act.
 - c) Three million dollars (\$3,000,000) annually from 2018-19 through 2022-23 to the California Highway Patrol to adopt protocols to determine whether a driver is operating a vehicle while impaired by the use of cannabis or cannabis products.
 - d) Ten million dollars (\$10,000,000) annually in 2018-19, increasing to fifty million dollars (\$50,000,000) in 2022-23 and beyond to the Governor's Office of Business and Economic Development to administer a community reinvestments grants program.
 - e) Two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research.
 - f) By July 15 of each year, beginning in 2018-19 the Controller will, after disbursing funds for the purposes identified in (a) through (e) above, disburse 60 percent of the remaining funds into the Youth Education, Prevention, Early Intervention and Treatment Account to California Department of Health Care Services (DHCS) for programs for youth designed to educate about and to prevent substance abuse disorders and to prevent harm from substance use. Requires the DHCS to enter into interagency agreements with the State Department of Public Health and the California Department of Education to implement and administer these programs. Specifies that these programs may include, but are not limited to, the following:
 - i. Prevention and early intervention services to recognize and reduce risks associated with substance use and the early signs of problematic use and of substance abuse disorders.

- ii. Grants to schools for student assistance programs designed to prevent and reduce substance abuse, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion.
 - iii. Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.
 - iv. Access and linkage to care provided by county behavioral health programs for youth who have, or are at risk of developing, a substance use disorder.
 - v. Youth-focused substance use disorder treatment programs, which utilize a two-generation approach with the capacity to treat youth and adults together.
 - vi. Programs to assist individuals, as well as families and friends, to reduce the stigma associated with substance use including seeking substance use disorder services. (RTC § 34019)
- g) Specifies that the funds identified in (f) above may also be utilized for workforce training and wage structures to increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise, and for construction of community-based youth treatment facilities.
- h) Specifies that the DHCS may contract with each county behavioral health program for the provision of services and that the funds identified in (f) above will be allocated to counties based on demonstrated need, including the number of youth in the county, and the prevalence of substance use disorders among adults.

ANALYSIS

This bill: (1) encourages ASES programs, 21st CCLC programs, and the 21st Century High School ASSETs programs to establish programs that are designed to educate about and prevent substance use disorders or to prevent harm from substance abuse; (2) requires the DHCS to enter into interagency agreements with the California Department of Education to administer those programs and allocate their funding; and (3) specifically authorizes DHCS to consider selecting those programs for funding from the Control, Regulate and Tax Adult Use of Marijuana Act. Specifically, this bill:

- 1) Expressly adds youth development activities that promote healthy choices and behaviors in order to prevent and reduce substance use and improve school retention and performance to list of activities authorized as part of the enrichment element of an ASSETs program.
- 2) Encourages schools to establish a 21st Century High School After School Safety and Enrichment for Teens (ASSETs) programs, After School Education and

- Safety (ASES) programs, and 21st Century Community Learning Centers (21st CCLC) programs, with an effective evidence-based, or evidence-informed educational enrichment element that is designed to educate about and prevent substance use disorders or to prevent harm from substance abuse through a broad array of academic and enrichment activities, including activities to prevent and reduce substance use, and improve school retention and performance.
- 3) Requires the DHCS to enter into interagency agreements with CDE to implement and administer such ASSETs, ASES, and 21st CCLC programs and to allocate to schools from the Youth Education, Prevention, Early Intervention and Treatment Account (YEPEITA) established pursuant to the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) in accordance with conditions and requirements as may be established by DHCS.
 - 4) Requires such an ASSETs, ASES, or 21st CCLC program to annually provide to the CDE, at a date determined by CDE, information indicating the specific outcomes being addressed by that program and any changes in measurable outcomes identified as goals of that program including, but not limited to, reductions in dropout rates, reductions in substance abuse disorders, decreased rates of school suspensions and expulsions, or increased graduation rates, over the span of the funding.
 - 5) Requires the CDE, for these ASSETS, ASES, and 21st CCLC programs, on or before January 1, 2021, and at least annually thereafter, to provide to the Legislature, and shall make available publicly on the CDEs internet website, a report detailing both of the following:
 - a) Budget information, including funding allocated to each agency and specific outcomes addressed.
 - b) Data measuring outcomes, and year-over-year trend data that demonstrate the progress that has been attained in meeting target levels for each outcome.
 - 6) Authorizes the DHCS, in determining which programs to fund for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use, to consider selecting the ASES, ASSETS, and 21st CCLC programs identified above.
 - 7) States Legislative findings and declarations relating to ASES, ASSETs, and 21st CCLC programs and the AUMA, including the following:
 - a) Because the ASES Program, the 21st CCLC program, and the 21st Century High School ASSESTs program augment the regular schoolday and keep youth supervised during a time when they are at risk of substance abuse, these programs are uniquely positioned to provide alternatives to substance abuse and provide education and assistance to pupils about substance abuse, how it can affect their academic performance, and how to avoid substance abuse.

- b) In approving Proposition 64 at the November 8, 2016, statewide general election, the voters of California identified substance abuse pupil assistance programs in schools as a high priority for the allocation of tax revenue from the sale and cultivation of cannabis and cannabis products.
 - c) The ASES Program, the 21st Century Community Learning Centers (21st CCLC) Program, and the ASSETs Program represent ideal conduits for Proposition 64 tax revenues to realize the goals of preventing and reducing substance abuse among pupils and improving school retention and performance.
- 8) States Legislative findings and declarations that its provisions the purposes of the After School Education and Safety Program Act of 2002.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “In November of 2016, the voters passed Prop 64—the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) of 2016—which legalizes, regulates, and taxes the adult use of cannabis. The initiative is expected to generate up to \$1 billion annually in tax revenue, with 60% of revenues dedicated to youth education, prevention, and treatment. The Yes on Prop. 64 ballot argument stated that Proposition, “64 pays for itself and raises billions for afterschool programs that help kids stay in school.”

The Prop 64 campaign clearly articulated its intent for after-school programs to be a prime beneficiary of these new revenues and it is critical that laws and regulations honor this intent. Even though voters were sold and promised that after school programs would receive Prop 64 funds, there are no current assurances, which is why AB 1744 is needed.

Stagnant funding for after school programs threaten quality and access to successful programs that help prevent youth substance abuse and that voters were promised would be funded to ensure student access but the demand for these programs far exceeds funding and these programs are inadequately funded to ensure quality programs which are necessary to prevent substance abuse. Keeping kids supervised and providing youth with positive opportunities and mentoring relationships do and will reduce drug use and ensure better academic success in the classroom.”

- 2) ***Proposition 64 (AUMA).*** AUMA was passed by the voters in November 2016. As a result of the passage of Prop 64, adults, aged 21 years or older, are allowed to possess and use marijuana for recreational purposes. AUMA created two new taxes; a cultivation tax on marijuana plants and flowers and a 15 percent excise tax on the sale of all marijuana and marijuana products. AUMA also exempted from the California state sales tax, sales of medical marijuana or marijuana products. Revenues collected from the new state excise tax and the cultivation tax on growing marijuana will be deposited in a new state account, the California Marijuana Tax Fund (Fund). Certain fines on businesses or individuals who violate regulations created by AUMA would also be deposited into the Fund.

Monies in the Fund will first be used to pay back certain state agencies for any marijuana regulatory costs not covered by license fees. A portion of the monies will then be allocated as follows:

- a) Sixty percent to youth Education, Prevention, Early Intervention and Treatment Account for youth programs including substance use disorder education, prevention, and treatment.
 - b) Twenty percent to clean up and prevent environmental damage resulting from the illegal growing of marijuana.
 - c) Twenty percent for programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and a grant program designed to reduce any potential negative impacts on public health or safety resulting from the measure.
- 3) ***California's expanded learning programs.*** The ASES programs are created through partnerships between schools and local community resources to provide literacy, academic enrichment and safe constructive alternatives for students in kindergarten through ninth grade. Funding is designed to: (1) maintain existing before and after school program funding; and (2) provide eligibility to all elementary and middle schools that submit quality applications throughout California. ASES programs must include an enrichment element must offer an array of additional services, programs, and activities that reinforce and complement the school's academic program. Educational enrichment may include but is not limited to, positive youth development strategies, recreation and prevention activities. Such activities might involve the visual and performing arts, music, physical activity, health/nutrition promotion, and general recreation; career awareness and work preparation activities; community service-learning; and other youth development activities based on student needs and interests. Enrichment activities may be designed to enhance the core curriculum.

21st CCLC programs are state-administered, federally funded program that provides five-year grant is a funding to establish or expand before-and after-school programs that provide disadvantaged kindergarten through twelfth-grade students with academic enrichment opportunities and supportive services to help the students meet state and local standards in core content areas. The purpose of the 21st CCLC programs, as described in federal statute, is to provide opportunities for communities to establish or expand activities that focus on improved academic achievement; enrichment services that reinforce and complement the academic program; and family literacy and related educational development services.

The 21st Century High School After School Safety and Enrichment for Teens program is a federal grant program that provides incentives for establishing before and after school enrichment programs that partner with schools and communities to provide academic support; safe, constructive alternatives for high school students; and assistance in meeting graduation requirements. Programs may operate after school, before school, weekends, summer, intersession, and

vacation. Each program must consist of three elements: academic assistance, educational enrichment, and family literacy services.

- 4) ***Unmet need for expanded learning opportunities in California.*** According to a 2016-17 report, “State of the State of Expanded Learning in California” by the California After School Network, California has the largest expanded learning infrastructure in the nation. These programs support after school, summer, inter-session and before school programs at over 4,500 sites serving nearly 860,000 children annually with a daily capacity of 485,000. However, as noted by the author, “Over 2,900 low income schools, including over 1,000 elementary and middle schools, do not benefit from a state ASES or federally funded 21st CCLC after school program. In addition, more than a quarter (29 percent) of the state’s over 1.3 million English Learners attend schools that do not benefit from an ASES or 21st CCLC after school program. The most recent cohorts of ASES and 21st CCLC (including ASSETs – high school programs) funding illustrate a significant unmet need for Expanded Learning in California. In the most recent cohorts of ASES and 21st CCLC funding applicants requested over \$143 million more funding than was available, leaving hundreds of thousands of students without the benefit of a quality expanded learning program.”
- 5) ***Related and previous legislation.*** AB 1098 (O’Donnell & Wood, 2019) establishes procedures for the implementation, evaluation and oversight of programs funded by Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) through the YEPEITA. AB 1098 is scheduled to be heard in the Senate Health Committee on June 26, 2019.

AB 258 (Jones-Sawyer, 2019) establishes the School-Based Pupil Support Services Program and appropriates funds from the YEPEITA to increase in-school support services to pupils. AB 258 is scheduled to be heard in this committee on July 3, 2019.

AB 1725 (Carrillo, 2019) requires funding for ASES programs to be increased to reflect increases in the minimum wage and the Consumer Price Index, subject to an appropriation, beginning in the 2019-20 fiscal year, and specifies conditions for ongoing increases. AB 1725 is pending in this committee.

AB 1744 (McCarty, 2018) was substantially similar to this bill and would have authorized DHCS to consider after school programs in allocating funds generated from an excise tax on the retail sale of cannabis for youth education, prevention and treatment efforts. This bill was held in the Senate Appropriations Committee.

AB 2328 (Nazarian, 2018) would have enacted the Youth Substance Use Disorder Treatment and Recovery Program Act of 2018 with funding to be provided by the YEPEITA. AB 2328 died in the Assembly Appropriations Committee.

AB 2471 (Thurmond, 2018) would have required the transfer of funds from the YEPEITA. established through the passage of the Control, Regulate and Tax Adult Use of Marijuana Act to the CDE to establish a grant program which would

allow schools to provide in-school support services to pupils. AB 2471 died in the Assembly Appropriations Committee.

SUPPORT

California Alliance of Boys & Girls Clubs
California Council of Community Behavioral Health Agencies
California Federation of Teachers
California State Alliance of YMCAs
Los Angeles Unified School District
Oakland Unified School District

OPPOSITION

None received

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