

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 1085 (McCarty) – As Introduced February 21, 2019

**SUBJECT:** After school programs: substance use prevention: funding: cannabis revenue

**SUMMARY:** Encourages specified after school programs to establish programs that are designed to educate about and prevent substance use disorders or to prevent harm from substance abuse. Also authorizes the Department of Health Care Services (DHCS) to consider selecting those programs for funding from the Youth Education, Prevention, Early Intervention, and Treatment Account (YEPEIT), established by the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). Specifically, **this bill:**

- 1) Authorizes DHCS, in determining which programs to fund through the YEPEIT, to consider selecting, among other programs, programs established pursuant to After School Education and Safety Program (ASES), 21<sup>st</sup> Century Community Learning Centers (21st CCLC), and the 21<sup>st</sup> Century ASSETs program (ASSETs), that meet the requirements specified by the YEPEIT and as otherwise determined by DHCS. Adds expanded learning programs as a component of student assistance programs funded through grants received from the YEPEIT in existing law.
- 2) Requires DHCS to enter into interagency agreements with the California Department of Education (CDE), pursuant to AUMA, to implement and administer programs under ASES, 21st CCLC, and ASSETs, and to allocate funds to schools from the YEPEIT in accordance with conditions and requirements as may be established by DHCS. States that the Legislature encourages schools to establish programs pursuant to ASES, 21st CCLC, and ASSETs to educate about and prevent substance use disorders (SUDs), as specified.
- 3) Requires the ASES and ASSETs programs to include in the enrichment element components, required in existing law, and youth development activities that promote healthy choices and behaviors in order to prevent and reduce substance use and improve school retention and performance.
- 4) Makes legislative findings and declarations related to dynamics that interfere with a pupil's ability to achieve academically, which include exposure to substance abuse in the home and the community; the effect of after school programs on reducing substance abuse; and, the high priority identified by voters in passing AUMA for substance abuse pupil assistance programs funded by tax revenue from the sale and cultivation of cannabis and cannabis products.
- 5) Makes technical, non-substantive changes.

**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 (EC 8482).

- 2) Establishes the 21<sup>st</sup> CCLC contained within the federal No Child Left Behind Act of 2001 to complement the ASES program. Specifies that the requirements of the ASES program apply to the 21<sup>st</sup> CCLC program with specified exceptions (EC 8484.7).
- 3) Establishes the 21<sup>st</sup> 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 8421).
- 4) Establishes, effective January 1, 2018, a cannabis excise tax to be imposed upon purchasers of cannabis or cannabis products sold in the state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer (Revenue & Taxation Code (RTC) 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 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 to a number of purposes, including (RTC 34019):
  - a) By July 15 of each year, beginning in 2018-19 the Controller will, after disbursing funds for specified purposes, disburse 60 percent of the remaining funds into the YEPEIT to 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 (CDPH) and the CDE 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.
- b) Specifies that the funds identified 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.
- c) Specifies that the DHCS may contract with each county behavioral health program for the provision of services and that the funds identified 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.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*Need for the bill.* According to the author, “AB 1085 will uphold a campaign promise made by the proponents of Prop. 64 by allowing the DHCS to consider crucial afterschool programs for funding from regulated cannabis sales taxes. Afterschool programs provide a safe space for enrichment and growth for all students, particularly low-income students of color. Many ASES programs offer skills-based learning that focus on STEM, arts, and physical activity.”

*Background.* The CDE currently administers three expanded learning programs:

- 1) *The After School Education and Safety (ASES) Program* is the result of the 2002 voter-approved initiative, Proposition 49. The ASES Program funds the establishment of local after school education and enrichment programs. These 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. The current funding level for the ASES program is \$550 million or \$8.16 per student per day.

The ASES program involves collaboration among parents, youth, representatives from schools and governmental agencies, such as local law enforcement and local parks and recreation departments, and individuals from community-based organizations and the private sector. Programs are created through partnerships between schools and local community resources to provide literacy, academic enrichment, and safe, constructive alternatives for students in grades K-9.

After school programs must consist of the two elements below and ASES program leaders work closely with school site principals and staff to integrate both elements with the school's curriculum, instruction, and learning support activities.

- An educational and literacy element must provide tutoring and/or homework assistance designed to help students meet state standards in one or more of the following core academic subjects: reading/language arts, mathematics, history and social studies, or science. A broad range of activities may be implemented based on local student needs and interests.
  - The educational 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.
- 2) ***21<sup>st</sup> Century Community Learning Centers (21<sup>st</sup> CCLC)*** This state-administered, federally funded program provides five-year grant 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 Program, 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.

- 3) ***21<sup>st</sup> Century High School After School Safety and Enrichment for Teens Program (ASSETs)***. The Every Student Succeeds Act (ESSA) was signed into law on December 10, 2015, taking effect in school year 2016–17 and providing funding for the ASSETs program. The ASSETs grant 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. Any public or private organization is eligible to apply for an ASSETs grant including the following entities: LEAs; community-based organizations; Indian Tribes or Tribal Organizations; or consortia.

This state-administered, federally funded program provides five-year grant funding to establish or expand before school, after-school and summer programs that provide disadvantaged students academic enrichment opportunities and supportive services to help the students meet state and local standards in core content areas. The programs are created through partnerships between schools and local community resources, and must meet program compliance requirements. Under ESSA, priority will be given to applicants who intend to:

- Serve students who attend school-wide Title I schools implementing comprehensive support and improvement activities.

- Enroll students who may be at risk for academic failure, drop out, criminal or delinquent activities, or who may need positive role models, as well as their families.
- Submit a joint application from an LEA and a community-based organization or another public or private entity.
- Add or expand accessibility to high quality after school programs.

***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. These programs offer a range of supports and resources for underserved communities, which include year-round learning opportunities, STEM learning, nutrition education, increased physical activity, and social and emotional learning.

Over 2,900 low income schools, including over 1,000 elementary and middle schools, do not currently benefit from a state ASES or federally funded 21st CCLC after school program. In addition, more than a quarter of the state’s English Learners attend schools that do not benefit from an ASES or 21st CCLC after school program.

This report by the After School Network notes that California’s expanded learning system is at risk as a result of stagnant funding and increased operating costs due to rising costs of living and the increased state minimum wage. The federal CCLC program is limited to \$7.50 per student per day, while the ASES grant was increased to \$8.19 per student per day in 2017.

In 2016-17 approximately \$541 million in state ASES grants were allocated to 4,200 elementary and middle school sites and approximately \$130 million in federal 21<sup>st</sup> Century CCLC grants, including ASSETS grants, were provided to 745 school sites, including 288 high schools. Some programs receive both state and federal funding. Many more applicants requested funding than could be filled with the available funds.

***Expanded learning programs serve high need students.*** Expanded learning programs in California are concentrated in high need schools as 81% of the students enrolled are eligible for free or reduced price meals, 31% are English learners, 2% are migrant students, 11% are special education students, 5% are homeless students, and 3% are students in foster care.

***Research supports positive outcomes for high quality expanded learning programs, including reductions in drug use.*** Research suggests that regular attendance in expanded learning programs increases student achievement, attendance, and positive behaviors as well as closing of achievement gaps. A review of 68 studies on after school participation across the country found that high quality programs are associated with significant increases in academic performance, school attendance, as well as positive social behaviors and significant reductions in conduct problems and drug use. A 2012 study by The National Youth Violence Prevention Resource Center found that children who do not spend any time in after-school activities are 49 percent more likely to have used drugs.

***Proposition 64, the marijuana legalization initiative statute establishes funding for youth education, prevention, early intervention and treatment.*** Proposition 64, as passed by voters in

November of 2016, legalizes marijuana and imposes a 15% excise tax on the retail sale of cannabis and cannabis products. The initiative identifies specified uses of the funds generated, including programs for youth education, prevention, early intervention and treatment of substance use disorders. The Legislative Analyst's Office estimated that this measure could generate additional state and local tax revenues in the range of high hundreds of millions of dollars to over \$1 billion annually. A portion of this is designated to go to the YEPEIT account.

The Yes on Proposition 64 ballot argument in the official Secretary of State voter guide identified after-school programs as an example of programs the initiative would fund:

“Proposition 64 creates a safe, legal system for adult use of marijuana. It controls, regulates and taxes marijuana use, and has the nation's strictest protections for children. It provides billions for afterschool programs, job training, drug treatment, and cracking down on impaired driving. Fix our approach to marijuana.”

After-school programs were also prominently featured in campaign commercials. The ad “Revenue” stated “Proposition 64 generates a billion in new tax revenues for California to fund after-school programs and job training and placement initiatives, and the ad “Sense” states “64 taxes marijuana to fund priorities like after-school programs.”

***Recommended amendments. Committee staff recommend that the bill be amended as follows:***

- 1) Require that programs funded pursuant to this article be programs demonstrated to be effective and evidence-based or evidence-informed.
- 2) Require that CDE, in cooperation with DHCS, identify measureable goals to be achieved by programs funded, including, but not limited to, reductions in substance abuse disorders among youth, and improvements in measureable school outcomes, such as increased graduation rates, decreased rates of suspensions and expulsions, and increased school retention.
- 3) Require each program recipient to report to CDE annually on expenditures and outcomes for each relevant targeted goal, and for CDE to report to the Legislature on the allocation of funds, goal areas targeted, and outcomes reported.

***Prior and related legislation.*** AB 1098 (O'Donnell & Wood) of this Session provides a framework for accountability and legislative oversight of funds allocated to the YEPEIT created by the legalization of recreational cannabis in California. This bill is pending before this Committee.

AB 258 (Jones-Sawyer) of this Session, establishes the School-Based Pupil Support Services Program to increase in-school support services to pupils in order to break down barriers to academic success. The bill appropriates funding from the YEPEIT to the DHCS, for purposes of awarding grants as established in this bill. This bill is pending before this Committee.

AB 1725 (Carrillo) of this Session, would appropriate an additional \$112 million in the 2019–20 fiscal year, for the After School Education and Safety Program, and would thereafter continuously appropriate an amount necessary to fund an increase in the daily per-pupil rate

equal to the higher of either 50% of increases to the minimum wage or the percentage increase to the California Consumer Price Index. This bill is pending before this Committee.

AB 1744 (McCarty) of the 2016-17 Session, was virtually identical to this bill, 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 2471 (Thurmond) of the 2017-18 Session, requires the transfer of funds from the YEPEIT Account 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. This bill was held in the Assembly Appropriations Committee.

AB 2622 (Dahle) Chapter 265, Statutes of 2018, amends operating and funding requirements for ASES programs operating at schoolsites in areas that have a population density of less than 11 persons per square mile.

AB 2615 (Wood), Chapter 470, Statutes of 2016, makes a number of revisions to the ASSETs, ASES, and the 21st CCLC after school programs.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

A World Fit For Kids

ARC

Berkeley PTA Council

Boys & Girls Clubs Of Carson

California Afterschool Network

California Alliance Of Boys & Girls Clubs Inc.

California State Alliance Of YMCAs

California State PTA

Citizen Schools

Educare Foundation

Escuela Popular

Fight Crime: Invest In Kids

Give Every Child A Chance

Glendale Unified School District

LA's Best After School Enrichment Program

Moreno Valley; City Of

Newport Mesa USD Project Kidz Connect

North Monterey County Unified School District

Partnership For Children & Youth

Pasadena Learns After School Program

Sacramento Chinese Community Service Center

Sierra Sands Unified School District

Student Success Institute, Inc.

Super Stars Literacy

The Children's Initiative

Think Together  
Woodcraft Rangers  
Youth Alliance

**Opposition**

None on file

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