



August 19, 2020

INFORMATION ITEM

SUBJECT: STATE AND FEDERAL BUDGET AND LEGISLATIVE UPDATE

Strategic Plan Priority Area: Child Health

Goal: All children thrive by achieving optimal health prenatal through age 5.

Strategic Plan Priority Area: Child Development

Goal: All children birth through age 5 have high-quality, nurturing environments that ensure their learning readiness.

Strategic Plan Priority Area: Family Functioning

Goal: All families have the knowledge, skills, and resources to support their children's optimal development.

SUMMARY OF THE ISSUE

First 5 California (F5CA) staff will provide an update on the status of the 2019–20 State Legislative Session, including F5CA “Level 1” priority bills. Staff also will provide a summary of outcomes from the 2020–21 state budget, and will supply a federal policy update.

BACKGROUND OF KEY ISSUES

2020 California State Legislative Session

Since the April 2020 Commission meeting, the Commission's Legislative Advisory Committee (LAC) has recommended positions for the following state legislation, consistent with F5CA's 2020 Children's Policy Agenda, which is used to analyze all state legislation introduced to date.

Attachment A is a list of all state legislation, introduced and amended by August 12, 2020, that is consistent with the policy agenda. All legislation and budget positions recommended by the LAC were adopted by the Executive Director, and will be tracked

by F5CA staff for public letters and public testimony in legislative hearings consistent with the Commission position.

Child Health

AB 2164 (Rivas and Salas) would revise the definition of a Federally-Qualified Health Center and Rural Health Clinic “visit” to include an encounter between a patient and provider using telehealth for purposes of receiving reimbursement from the Department of Health Care Services.

Resilient Families and Communities

AB 2360 (Maienschein) would require a health plan or health insurer to establish or provide access to a telehealth consultation program by July 1, 2021 that provides providers who treat children and pregnant and postpartum persons with access to a psychiatrist during standard provider hours, which may include evenings and weekends.

SB 29 (Durazo) would extend eligibility for full-scope Medi-Cal benefits to individuals who are 65 years of age or older, and who are otherwise eligible for those benefits but for their immigration status.

Early Learning

AB 2883 (Quirk-Silva) would eliminate the current requirement that Alternative Payment (AP) providers be reimbursed based on the days and hours of attendance to families with variable schedules, and instead base provider reimbursement on the maximum certified hours of care. AB 2883 also would allow agencies to retain up to 15 percent of all their contracts in their reserve accounts, eliminate the 14-day notice agencies must give providers of any changes in care, delete existing language that prevents providers from adjusting their rates more than once per year, and require contractors to receive payment via direct deposit. **Note: The majority of the provisions of AB 2883 were addressed in the budget, therefore the bill has been parked and will not be moving this year.*

First 5 California Sponsored Legislation

SB 1383 (Jackson) would provide job-protected leave for all employees of employers with five or more employees to bond with a newborn, adopted, or foster child, care for a seriously ill family member, address a military exigency, or care for their own serious illness under the California Family Rights Act. SB 1383 also would align the California Family Rights Act’s definition of family with the more inclusive definition under California’s Paid Family Leave law.

While not an official sponsor, F5CA has been actively engaged in this legislation alongside our partners, including Legal Aid at Work and the California Work and

Families Coalition, as well as the other members of the Governor's Paid Family Leave Task Force. SB 1383 is the legislative vehicle for the paid family leave job protection proposal that was born out of the Governor's Paid Family Leave Task Force recommendations and included as part of the 2020–21 budget deal.

AB 125 (McCarty) and SB 174 (Leyva), co-sponsored by the Child Care Resource Center and EveryChild California, would establish a single regionalized state reimbursement rate system—called The Child Care Stabilization Formula—for childcare, preschool, and early learning services. The methodology for this formula is based on the recommendations of the rate reform workgroup convened by F5CA last year.

AB 125 and SB 174 remain alive as two-year bills in their second houses, however it is unclear if the bills will be signed this year given the Master Plan for Early Learning and Care process underway which may or may not address the issue of rate reform directly. F5CA and the co-sponsors will continue to work with the Administration and the authors to determine the need for this legislation moving forward.

State Budget Action

On June 29, 2020, Governor Gavin Newsom signed a \$202.1 billion Budget Act for the 2020–21 year. Overall, the budget avoids many deep cuts proposed in the May Revision through revenue deferrals, lower caseload projections, and use of reserve funding. The final budget includes \$130.9 billion in general funds and draws down \$7.1 billion from the state's reserves (rainy-day fund) to fill a \$54.3 billion budget gap. COVID-19 dramatically altered California's economic landscape and outlook, and as such, how the state prioritizes investments in publicly funded systems of support. However, the Legislature reconsidered many of the budget reductions aligned with early childhood development priorities proposed by the May Revise, and through negotiations, were able to limit harmful cuts.

Governor Newsom and legislative leaders are continuing to call for Congressional action on additional funding for state and local governments to support this budget. The Coronavirus Aid, Relief and Economic Security Act (CARES Act), passed by Congress and signed into law in early April, provided states with \$150 billion dollars in direct support. However, the funding that California received for state and local funding did not prove sufficient to cover the COVID-19-related budgetary shortfalls facing California and states throughout the country. Despite this, Congress has not passed any further relief measures. Due to the uncertainty of receiving additional funds, leaders in California agreed to include certain "trigger cuts" in the approved budget, which will occur if more federal money does not materialize. Depending on the total amount provided, receiving further stimulus from Congress would avert some or all trigger cuts. The final California budget determined an October 15, 2020 deadline for federal funds to avert the proposed trigger cuts.

Below is a summary of the key elements of the budget pertaining to F5CA's policy agenda.

Early Learning

Universal Preschool

- Rejects proposed May Revise cuts to the California State Preschool Program for negative growth.
- Reduces planned California State Preschool Program full-day/full-year investments in 2020 and 2021 by \$159.4 million, reducing planned preschool expansion by 20,000 service spaces.
- Reduces the school-based California State Preschool Program by an additional \$130 million in on-going Proposition 98 funds.

Child Care

- Rejects proposed May Revise 10 percent trigger cuts to all child care programs and proposed reductions to Alternative Payment (AP) programs and General Child Care.
- Provides \$53.3 million in new federal Child Care and Development Block Grant (CCDBG) funds in 2020–21 to the AP programs for approximately 5,600 new ongoing childcare service spaces.
- Allows rollover of \$50 million SB 89 Essential Worker Child Care vouchers into 2020–21.
- Provides an additional \$73 million in CARES funding for one-time essential worker child care vouchers via the AP program. Prioritizes vouchers for SB 89 children.
- Provides \$62.5 million in CARES funding for one-time child care provider stipends for AP and CalWORKs providers.
- Provides a hold harmless to direct-contract childcare providers for attendance if open in 2020–21, and if closed due to short-time staff quarantine or school site closure; provides a hold harmless for AP and CalWORKS providers through fiscal year 2020–21 at certificated need.
- Provides \$8 million in CARES funding to extend family fee waivers through June 30, 2020.
- Adopts a “Child Care Trigger” for up to \$300 million in anticipated federal CCDBG aid, to fund additional child care access, re-opening grants for centers and family child care homes, and provider stipends.

CalWORKs Stages 2 & 3 Caseloads Estimates

- Reduces CalWORKs Stages 2 & 3 caseloads estimates by \$35.9 million

Elimination of 2019–20 Budget Act Child Care Investments

- \$300 million in unspent full-day Kindergarten facility grants
- \$195 million provided for workforce development
- \$10 million provided to improve the California Department of Education’s early education data system

Early Childhood Policy Council

Reduces \$2.2 million for the Early Childhood Policy Council.

Additionally, the budget appropriates one-time \$13.4 million federal funds through the Health and Human Services Agency to reflect the state’s 2020 Preschool Development Grant award.

Early Childhood Education Data System

Allows \$9.259 million in one-time CCDBG quality set-aside funds for an early childhood education data system, as part of the Cradle to Career data system.

Department of Early Childhood Development

Transfers all child development programs, except the California State Preschool Program, to the Department of Social Services, beginning July 2021, with the appointment of a Deputy Director for Child Development, and appropriates \$2.278 million for this transition, one-time.

Local Child Support Agencies

Reverts the funding levels for local child support agencies to the 2018 funding level, resulting in a cut of \$38.2 million General Fund in 2020–21. This reduction is included in the federal funds trigger, so if those funds materialize, this cut can be backfilled.

Child Support Disregard Pass-through

Rejects the withdrawal of the child support disregard pass-through statutory change proposal that was part of the Governor’s January Budget and adopts the change to increase the pass-through payment to families in the CalWORKs program, effective January 1, 2022, with trailer bill language to effectuate this change.

Resilient Families and Communities

Paid Family Leave

Adopts January budget proposal to extend job protections for any worker eligible for paid family leave benefits and resources and extend pregnancy/birth disability job protections to all workers currently eligible, effective January 1, 2021. **Note: while included in the budget, the job-protection proposal is currently moving through the budget process as a legislative vehicle, SB 1383 (Jackson), and has been amended to raise the employee threshold from 1 to 5 employees. The bill will require a vote of the full Legislature to pass. See previous section, First 5 California Sponsored Legislation, for additional details.*

CalWORKs Home Visiting

Approves a one-time \$30 million General Fund cut in 2020–21 for the CalWORKs Home Visiting program, restoring the funding in 2021–22. This one-time reduction is not expected to impact families currently receiving these services in the program.

Department of Public Health Home Visiting and Black Infant Health

Rejects the May Revise proposal to reduce \$4.5 million General Fund from the Black Infant Health Program.

EITC Expansion to ITIN Filers with Children Under Age 6

Allows tax filers using an Individual Taxpayer Identification Number (ITIN), rather than a social security number, with children under age 6 to qualify for the Earned Income Tax Credit (EITC) and Young Child Tax Credit (YCTC).

Maternal Mental Health

Restores \$34.3 million to implement the extension of pregnancy-only Medi-Cal coverage for up to 12 months after delivery for patients diagnosed with a maternal mental health condition.

Child Health

Proposition 56 Supplemental Payments

Rejects the May Revise proposal to eliminate \$1.2 billion in Proposition 56-funded supplemental payments to various Medi-Cal providers, but suspends these payments (with the exception of women's health services) on July 1, 2021 unless specified state fiscal conditions exist. These providers include:

- Physician services – \$389 million

- Dental services – \$183.8 million
- Women’s health services – \$18.7 million
- Family planning – \$35.9 million
- Developmental screenings – \$20.8 million
- Community-Based Adult Services/Adult Day Health Care – \$6.7 million
- Non-emergency medical transportation – \$2.7 million
- Intermediate Care Facilities - Developmental Disabilities – \$12.4 million
- Hospital-based pediatric physicians – \$2 million
- Adverse childhood experiences (ACEs) screening – \$7.6 million
- ACEs provider training – \$21 million
- Physician and dentist loan repayment program – \$297.8 million
- Value-Based Payment Program – \$147 million

Supports for Children with Special Needs

- Preserves supplemental rate increases for developmental services providers, inclusive of the Early Start program.
- Regional Centers will remain whole and avoid a \$55 million ongoing budget cut as proposed in the May Revise.
- Preserves budget expansion to support special education services to the tune of \$645 million increase in Proposition 98 funding.

Community Health Navigators

Preserves a total of \$60 million in funding, to be spent over two-years and approved in last year’s budget, for a community health navigator program that launched in March. This program assists Medi-Cal beneficiaries in finding adequate and high-quality health care resources.

California Advancing and Innovating in Medi-Cal (CalAIM)

Withdraws many of the expansion and innovation efforts around Medi-Cal, and a few efforts that were part of the larger CalAIM initiative. Specifically, the budget includes delayed implementation of the Behavioral Health Quality Improvement Program and withdrawal of \$347 million for enhanced care management benefits and incentives as part of the in-lieu-of services provisions of CalAIM.

Value-Based Payment Program

Provides \$180 million for the statewide Value-Based Payment program. This program intends to support improved health outcomes by incentivizing quality and supportive care.

Miscellaneous

Child Savings Account

Reduces 2019–20 support for the college savings program, from \$25 million one-time General Fund to \$10 million one-time General Fund.

E-Cigarette Tax

Defers action without prejudice on resources to levy an additional, nicotine-based tax of \$1 per 20mg of nicotine tax on e-cigarettes effective January 1, 2021. The budget resource request is associated with the e-cigarette (vaping) tax trailer bill proposal, which is also deferred without prejudice. **Note: F5CA has been working with the First 5 Association and First 5 LA to advocate for First 5's Proposition 10 equivalency share (14.8 percent) of the Vape Tax, regardless of how funding from the tax is generated. The deferral of the proposal gives us more time to do so.*

Federal Triggers

If the state receives an additional \$14 billion of flexible federal funding by October 15, 2020, the following restorations and funding actions would occur with one-time federal funds:

- \$150 million restoration for the judicial branch budget
- \$45 million restoration for moderate-income housing production funding
- \$203 million restoration of the infill infrastructure grant program at the Department of Housing and Community Development
- \$46 million restoration to child support administration funding

- \$5.8 billion reduction in payment deferrals to K–12 schools
- \$791 million reduction in payment deferrals to community colleges
- \$472 million restoration for the University of California budget
- \$500 million restoration for the California State University budget
- \$88 million restoration for the Golden State Teacher Grant Program at the Student Aid Commission
- \$250 million addition to the budget’s \$750 million General Fund “backfill” to offset counties’ recent loss of realignment sales tax funding
- \$2.8 billion deposit to the newly created Employee Compensation Reduction Offset Fund to be used to offset employee compensation reductions in this budget package

If the federal funding is more than \$2 billion but less than \$14 billion, the amount above \$2 billion shall be proportionally allocated among the items listed above.

Federal Policy Update

The COVID-19 health crisis and resulting economic crisis presents an unprecedented challenge for child care providers and other early childhood programs. While many federal lawmakers have responded to the crisis by developing policy solutions that would fill gaps in our child care infrastructure and provide direct support to children and families, additional federal support is greatly needed.

Below are federal updates that highlight the federal response to the COVID-19 health and economic crisis.

COVID-19 Response Overview

Congressional Democratic leadership, U.S. Secretary of the Treasury Steven Mnuchin, and White House Chief of Staff Mark Meadows, are currently negotiating the next round of federal COVID-19 relief. After weeks of discussion between both parties, wide gaps in funding levels and priorities remain.

On August 8, 2020, President Trump signed four executive orders aimed at addressing the impact of the COVID-19 pandemic. For a variety of reasons described below, it is not yet clear what, if any, impact these actions will have. The actions could: 1) defer payroll taxes through the end of the year for certain workers; 2) extend unemployment benefits by \$400 a week provided states pay 25 percent of that additional cost; 3) renew a moratorium on evictions during the pandemic; and 4) defer student loan payments and interest until the end of the year.

The President's executive actions are likely to face legal scrutiny and do not necessarily execute against the stated goals. Regardless of the legality and efficacy of the executive orders, the President's actions will impact Congressional negotiations.

House Democrats outlined their priorities in the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, while Senate Republicans outlined their priorities in the Health, Economic Assistance, Liability Protection and Schools (HEALS) Act.

- **The HEROES Act:** House Democrats passed the HEROES Act in May which would allocate \$3 trillion to COVID-19 relief. HEROES Act priorities include adding state and local funding, distributing a second round of direct payments to individuals, funding COVID-19 testing and treatment, increasing SNAP benefits by 15 percent, and extending pandemic unemployment insurance and the Paycheck Protection Program. The bill would also provide \$7 billion for Child Care and Development Block Grants. While the HEROES Act passed in the House, it is stalled in the Senate and is not likely to become law.
- **The HEALS Act:** Senate Republicans responded to the HEROES Act by introducing the HEALS Act in July. The \$1 trillion proposal would cut expanded unemployment benefits, provide a second round of direct payments to individuals, and extend the Paycheck Protection Program. The bill would also provide \$5 billion for Child Care and Development Block Grants.

The Child Care Is Essential Act & The Child Care For Economic Recovery Act

While both the HEROES Act and the HEALS Act proposed a portion of response funds be allocated to child care, the proposed funds do not come close to matching the needs of providers who require resources to keep their doors open. In response to this need, lawmakers introduced the Child Care is Essential Act (H.R.7027/ S.3874) and the Child Care for Economic Recovery Act (H.R.7327).

The Child Care is Essential Act would establish a \$50 billion Child Care Stabilization Fund to provide grants to child care providers. The Child Care for Economic Recovery Act would enhance the child and dependent care tax credit and invest in child care infrastructure.

Both bills passed in the U.S. House of Representatives with bipartisan support. The legislation strengthens the Democrats' negotiating position to secure additional child care funds in the next COVID-19 response package.

Fiscal Year 2021 Appropriations

The House passed a package of six fiscal year (FY) 2021 appropriations bills on July 31. The package included funding for child care and other early childhood programs in the Labor-HHS-Education appropriations bill.

The Senate is unlikely to take action on these bills before the end of the current FY, September 30, 2020. Because of this, Congress likely will pass a continuing resolution before September 30 to keep the government open and then negotiate the funding bills after the November 2020 election. This bill serves as a high water mark for negotiations.

Funding highlights include:

- **Administration for Children and Families (ACF)** – The bill provides \$24.8 billion in discretionary funding for ACF, an increase of \$317 million above the FY 2020 enacted level and \$4.6 billion above the President’s budget request
 - Early childhood programs receive an increase of \$287.5 million above the FY 2020 enacted level:
 - **Child Care and Development Block Grant:** \$5.9 billion, an increase of \$100 million above the FY 2020 enacted level
 - **Head Start:** \$10.8 billion, an increase of \$150 million above the FY 2020 enacted level
 - **Preschool Development Grant:** \$300 million, an increase of \$25 million above the FY 2020 enacted level
 - **Child Abuse Prevention and Treatment Act:** \$193 million, an increase of \$12.5 million above the FY 2020 enacted level
- **Individuals with Disabilities Education Act (IDEA) preschool grants** – \$398 million, an increase of \$3 million above the FY 2020 enacted level
- **IDEA Part C Infants and Toddlers program** – \$482 million, an increase of \$5 million above the FY 2020 enacted level
- **Maternal and Child Health Block Grant** – \$981 million, an increase of \$37 million above the FY 2020 enacted level, for programs to improve maternal and child health, including an additional \$25 million for the Maternal and Child Health Block Grant

SUMMARY OF PREVIOUS COMMISSION DISCUSSION AND ACTION

The Legislative Update is a standing item for Commission discussion.

ATTACHMENTS

A. Priority Level 1 Bills of Interest