May 31, 2012

The Honorable Members of the Senate
State Capitol
Sacramento, CA 95814

RE: $80 MILLION REDIRECTION FROM PROPOSITION 10 PROGRAMS

Dear Senator:

The staff and Commissioners of the First 5 California Children and Families Commission (Commission) are stewards of revenues raised by the voters and dedicated to the specific early childhood education and development programs and outcomes described in Proposition 10, the voter-approved initiative. We recognize that during a time of such dire State budget constraints it is especially important to strategically partner with sister agencies as long as we can do so within our statutory mandate. As outlined below, the Commission has not been hesitant to agree to these partnerships, especially where it does not damage the Commission’s primary duties nor run afoul of specific prohibitions on the use of the money. We invite you and your staff to work with us to identify future opportunities for collaboration consistent with Proposition 10. In this context, I urge your reconsideration and further discussion of two line items in the May Revise Budget Proposal which will present significant programmatic, legal and policy decisions for First 5 California.

The work of the First 5 California and County Commissions was established in a voter-approved initiative. The Commission’s funding for First 5 California was established in 1998 by Proposition 10, an initiative which directs the 7-member Commission to create and implement integrated and comprehensive services to enhance early childhood development to ensure that California’s children are ready to enter school. As recently as November 2009, the voters reconfirmed at the ballot box their support of First 5 California and rejected Proposition 1D which would have redirected over sixty percent of the Proposition 10 revenues over the next five years to offset General Fund expenditures. The only process by which the initiative may be amended is either by the voters themselves, or by two-thirds of the membership of both houses of the Legislature as long as such amendment is consistent with the purposes of Proposition 10.
The May Revise proposes an $80 million transfer from Proposition 10 commissions.
The Governor's revised budget for State FY2012-13 proposes that $80 million be redirected from the California Children and Families Trust Fund—administered by the Commission—to cover General Fund reductions in early childhood programs under Medi-Cal and Developmental Services. The language from the May Revise Summary is:

- Proposition 10 Funding – This proposal reflects $40 million to be provided by the First 5 California Children and Families Commission for programs serving children ages birth through five. This would decrease Medi-Cal General Fund by $40 million.
- Proposition 10 Funding – This proposal reflects $40 million to be provided by the First 5 California Children and Families Commission for programs serving children ages birth through five. This funding would support the [Department of Developmental Services] Early Start Program, decreasing General Fund costs by $40 million.

The May Revise rests on the assumption that the Commission will agree to transfer the funds. As of this writing, the Commission’s staff has not been contacted by the Department of Finance or any representative of the Administration.

The Commission has a strong track record of participating in joint budget solutions. Over the past four years, the Commission has cooperated by contributing over $329 million to the Early Start Program, and the Healthy Families Program administered by the Managed Risk Medical Insurance Board. The Commission drew these contributions from its unallocated funding, relying instead on the annual cigarette and tobacco tax revenue to support First 5 California’s statewide signature programs for children, parents and teachers. Additionally, these voluntary contributions were made to our sister agencies upon assurance that there would be no conflicts with the language in Proposition 10 which provides: “No moneys in the California Children and Families Trust Fund shall be sued to supplant state or local General Fund money for any purpose.”

The most recent budget proposal, however, presents a distinctly different context—and one with a potentially serious program, legal and policy ramifications.

The transfer will cause major rollbacks to First 5 state and county direct service programs.
The past four years of contributions to other State health programs have substantially reduced the Commission’s statewide reserve. While our projected expenditures in FY2012-2013 are within the projected annual revenue of $86 million; the reserve no longer covers those projected expenditures. Thus, an $80 million transfer in FY2012-2013 will require the Commission to revisit its previous approvals to fund multi-year programs and grants supporting our signature programs for children, parents and teachers in furtherance of the First 5 California strategic plan.
The Honorable Members of the Senate
May 31, 2012
Page 3

The transfer will eliminate up to $80 million in matching grant funds for First 5 county programs.
Adjustments to the financial commitments made by First 5 California could result in work stoppage of the Commission’s critical programs and services. Additionally, the County First 5 Commissions depend on and leverage state dollars in support of local early childhood development programs including teacher salaries and daily education services to vulnerable children. Small population counties may also lose funds.

The transfer may run afoul of Proposition 10’s prohibition on supplantation.
Unlike the Commission’s previous contributions to joint budget solutions, this transfer will not supplement or add to existing programs; rather it is facially proposed to decrease the General Fund contributions to the Early Start Program and Medi-Cal. To the extent that Medi-Cal and Early Start are entitlement programs, the State would be required to pay for those services even if First 5 California did not fund them. As the Fresno Superior Court noted in Children and Families Commission of Fresno County v. Brown, its ruling striking down last year’s proposed redirection of $1 billion from the First 5 California and County Commissions, the State Commission’s discretion on the use of its funds is limited, and is not immune from the anti-supplantation provision in Proposition 10. It appears that if this provision has any meaning at all, the prohibition on the use of revenue to supplant General Fund expenditures would block the proposal to shift funds from the Proposition 10 trust fund to offset expected General Fund program expenditures for existing programs or entitlements under Early Start and Medi-Cal.

The transfer would harm Proposition 10’s specific purposes.
At a policy level, the proposed transfer of $80 million would contradict several policy mandates included in Proposition 10 as approved by the voters. By shifting virtually an entire year’s revenue to these two health programs, the Commission would not be able to fulfill its statutory responsibility to promote, support and improve early childhood development through “integrated and comprehensive programs emphasizing community awareness, education, nurturing, child care, social services health care and research.” (Health & Safety Code, section 130100.) The initiative dictates the formula for the allocation of First 5 California’s annual revenues into specific accounts supporting the statutory purposes, and only permits transfer from those accounts if those funds are “not needed.” Reductions to those First 5 accounts this year would impact its three signature programs:

- **Teacher** – CARES Plus program supporting the professional development of more than 5,000 participants in the early learning workforce in 34 counties,
- **Child** Signature Program providing quality pre-school education and early learning programs for 25,000 children in over 500 county facilities especially in at-risk communities, and
- **Parent** – reaching 1.5 million parents with children ages 0-5 through targeted online and other messaging, including the Kit for New Parents.
The Commission has previously approved multi-year contracts and grants to implement these programs to meet the statutory goals of Proposition 10. Any call for the Commission to revisit those commitments, and to fund two existing health programs to the exclusion of the array of child, parent and teacher education initiatives contemplated by Proposition 10, could place the Commissioners in a position to act contrary to the will of the voters.

Please feel free to contact me at (916) 263-1050 if you have any questions or would like to discuss this further.

Sincerely,

Kris Perry
Executive Director

cc: The Honorable Members of the Assembly
Analysts at Department of Finance and the Legislative Analyst’s Office
Commissioners, First 5 California
First 5 County Commissions