Recommendations for the Legislature From Audits Issued During 2018 and 2019

January 2020

REPORT 2019-701

CALIFORNIA STATE AUDITOR
621 Capitol Mall, Suite 1200 | Sacramento | CA | 95814

916.445.0255 | TTY **916.445.0033**

For complaints of state employee misconduct,
contact us through the **Whistleblower Hotline**:
1.800.952.5665

Don't want to miss any of our reports? Subscribe to our email list at **auditor.ca.gov**

For questions regarding the contents of this report, please contact Paul Navarro, Chief Deputy State Auditor, Operations, *at* 916.445.0255

January 23, 2020
2019-701

Dear Governor and Legislative Leaders:

In calendar years 2018 and 2019, the California State Auditor's Office issued reports on various topics as mandated by the Legislature through statute, the budget process, or requests approved by the Joint Legislative Audit Committee. While our recommendations are typically directed to the agencies we audit, we also make recommendations for the Legislature to consider in the interest of more efficient and effective government operations. This special report summarizes the recommendations we made to the Legislature during calendar years 2018 and 2019.

In this special report, we include recommendations intended to address the issue of access to health care services in California. In one report we evaluated the ability of children in the Medi-Cal system to obtain preventative health services. We found that an average of 2.4 million children in Medi-Cal per year did not receive all required preventive services during fiscal years 2013–14 through 2017–18, and that California's utilization rate for preventive services has remained below 50 percent and ranked 40th for all states. One of our recommendations is that the Legislature direct the Department of Health Care Services to implement financial incentives, such as pay for performance, designed to help ensure that managed care plans are more consistently providing preventive services to children in Medi-Cal.

We also made recommendations intended to protect vulnerable populations before, during, and after a natural disaster. For example, our audit to assess counties' emergency preparedness regarding vulnerable populations found that the California Office of Emergency Services (Cal OES) has not complied with state law requiring it to provide guidance to local jurisdictions related to strategies for identifying people with access and functional needs and for evacuating people with disabilities. We recommended that the Legislature require Cal OES to review all counties' emergency plans to determine if they are consistent with best practices and provide necessary technical assistance to counties.

The Appendix that starts on page 51 includes a list of legislation chaptered or vetoed during the first year of the 2019–20 Regular Legislative Session that was related to the subject matter discussed in our audit reports.

If you would like more information or assistance regarding any of the recommendations or the background provided in this report, please contact Paul Navarro, Chief Deputy State Auditor, Operations, at (916) 445-0255.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
California State Auditor

Blank page inserted for reproduction purposes only.

CONTENTS—Report/Title/Recommendation Summary

EDUCATION

ENVIRONMENTAL QUALITY

GOVERNMENTAL ORGANIZATION

HEALTH & HUMAN SERVICES

HIGHER EDUCATION

HOUSING & COMMUNITY DEVELOPMENT

INSURANCE

JUDICIARY

LOCAL GOVERNMENT

NATURAL RESOURCES

PRIVACY & CONSUMER PROTECTION

PUBLIC SAFETY

REVENUE & TAXATION

TRANSPORTATION

VETERANS AFFAIRS

APPENDIX

Blank page inserted for reproduction purposes only.

EDUCATION

California Department of Education and Local Educational Agencies

2019-101 *K–12 Local Control Funding: The State's Approach Has Not Ensured That Significant Funding is Benefiting Students as Intended to Close Achievement Gaps* (November 2019)

Finding: State law does not require school districts (districts) to spend their supplemental and concentration funds to benefit English learners, youth in foster care, and those from households with low incomes (intended student groups), nor does it require that they track their spending of these funds.

Recommendation: To increase the transparency of Local Control and Accountability Plans (LCAPs) and ensure that stakeholders can provide an adequate level of oversight, the Legislature should amend state law to require districts and other local educational agencies (LEAs) to specify in their LCAPs the specific amounts of budgeted and estimated actual supplemental and concentration expenditures for each service that involves those funds.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: LCAPs do not consistently provide transparency for stakeholders or clearly communicate how effectively districts meet their students' needs.

Recommendation: To ensure that intended student groups receive the maximum benefit from supplemental and concentration funds, the Legislature should take the following actions:

- Amend state law to require districts and other LEAs to identify any unspent supplemental and concentration funds by annually reconciling the estimated amounts of these funds included in their LCAPs with the actual amounts of these funds the California Department of Education (Education) reports having apportioned to them.

- Amend state law to specify that unspent supplemental and concentration funds at year-end must retain its designation to increase and improve services for intended student groups and be spent in a following year. The Legislature should also require districts and other LEAs to identify in their LCAPs for the following year the total amounts of any unspent supplemental and concentration funds. In addition, it should direct the State Board of Education to update the LCAP template to require districts and other LEAs to report in their LCAPs how they intend to use any previously unspent supplemental and concentration funds to provide services that benefit intended student groups.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: Policymakers and other stakeholders lack adequate information to assess the impact of supplemental and concentration funds on the educational outcomes of intended student groups and closing achievement gaps.

Recommendation: To provide additional data for the State and other stakeholders and to align spending information with the dashboard indicators or other student outcomes, the Legislature should take the following actions:

- Require Education to update its accounting manual to direct districts and other LEAs to track and report to it the total amount of supplemental and concentration funds they receive and spend each year.

- Require Education to develop and implement a tracking mechanism that districts and other LEAs must use to report to it the types of services on which they spend their supplemental and concentration funds.

Status: Not implemented. (Note: Report issued in November 2019)

California Department of Education and Local Educational Agencies

2019-104 *Youth Experiencing Homelessness: California's Education System for K–12 Inadequately Identifies and Supports These Youth* (November 2019)

Finding: Available data suggest that California LEAs are not doing enough to identify youth who are experiencing homelessness, even though identification is the critical first step to providing these youth with necessary services and support. Two of the six LEAs we reviewed do not provide annual housing questionnaires to all enrolled students to identify whether they are experiencing homelessness.

Recommendation: Require LEAs to distribute to all families and youth, at least annually, a housing questionnaire that includes the educational rights and protections afforded to youth experiencing homelessness, and request all families or youth to complete and return the housing questionnaire.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: None of the six LEAs we reviewed sufficiently trained staff to ensure they were aware of information that would help them identify youth needing services.

Recommendation: Require LEAs to ensure that all school staff who provide services to youth experiencing homelessness receive training on the homeless education program at least annually. The Legislature should specify that staff who provide services to these youth include enrollment staff, cafeteria staff, bus drivers, social workers and counselors, teachers, and administrators.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: LEAs have not always been effective in ensuring that youth experiencing homelessness have access to the education and other services that they need to succeed academically.

Recommendation: Require LEAs to collaborate with other organizations that provide services to those experiencing homelessness to enhance identification and provision of the services available to such youth. The Legislature should specify that these collaborations must include working with organizations that provide counseling services, social welfare services, meal services, health care services, and housing services.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: Education has not adequately monitored LEAs' policies and processes for identifying and supporting youth experiencing homelessness. Of the nearly 2,300 LEAs in California, the Office of the Coordinator for Education of Homeless Children and Youth (state coordinator) only reviewed between 12 and 21 LEAs for compliance with homeless education program requirements each year between academic years 2015–16 and 2017–18.

Recommendation: Require Education to develop and implement an LEA monitoring plan that is risk-based and focuses its reviews, both onsite and desk reviews, on those LEAs that Education determines are at the greatest risk of underidentifying youth experiencing homelessness and those LEAs whose homeless education program policies may be outdated.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: Education does not verify the accuracy of the data submitted by LEAs on topics such as their training of LEA staff and their policies related to their homeless education programs; therefore, the information in the Consolidated Application and Reporting System (CARS) may not always be accurate. Further, when reviewing CARS data for all LEAs, the state coordinator only ensured that the LEAs had a policy in place and did not follow up with any LEA that indicated that its policies might be out of date.

Recommendation: Require Education to develop and implement procedures for verifying key information that LEAs submit through the CARS. Further, require Education to review LEAs' information in CARS about when they last updated their homeless education policies and remind those LEAs that indicate that their board policies may be outdated to update their policies to reflect current requirements.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: Although Education provides some guidance to LEAs by making resources available on its website and providing in-person training to a limited number of LEAs, these resources and trainings are largely inadequate and do not always align with best practices.

Recommendation: Require Education to develop alternative interactive training, such as webinars in which participants can ask questions, to reach a greater number of LEAs. It should place recordings of these webinars on its website for all LEAs to review.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: The state coordinator's infrequent training of local liaisons is of special concern considering the high turnover rate in these positions; for academic year 2017–18, more than half of local liaisons had two years or less of experience in the position. Further, Education does not require county offices of education to report to the state coordinator on the trainings they provided to LEAs. As a result, the state coordinator lacks assurance that all liaisons received adequate and regular training.

Recommendation: Require Education to provide guidance to local liaisons regarding their responsibilities under the federal McKinney-Vento Education Assistance Improvement Act, including that they must ensure that school personnel who provide services to youth experiencing homelessness receive training on the proper identification and reporting procedures. Also, it should require Education to develop procedures for its staff to use to verify that all LEA staff who provide services to these youth receive such training at least annually, as best practices recommend.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: Education uses some data to monitor and provide assistance to improve LEAs' homeless education programs; however, these efforts are limited. Education could better analyze available data to assess whether LEAs may be inadequately identifying youth experiencing homelessness.

Recommendation: Require Education to use existing LEA data, including data on the number of youth identified as experiencing homelessness and performance outcomes of those youth, to identify LEAs that may be underidentifying such youth and that may not have effective homeless education programs. It should also require Education to assist these LEAs through appropriate means.

Status: Not implemented. (Note: Report issued in November 2019)

Sacramento City Unified School District

2019-108 *Sacramento City Unified School District: Because It Has Failed to Proactively Address Its Financial Challenges, It May Soon Face Insolvency* (December 2019)

Finding: In 2017 the Sacramento City Unified School District board (district board) approved a new labor contract that increased teacher salaries by 15 percent, costing an additional $31 million per year. Despite warnings from the Sacramento County Office of Education that it could not afford the labor agreement, the district board approved the agreement without a plan to pay for it.

Recommendation. To help ensure that county office superintendents can prevent school districts under their oversight from becoming insolvent, the Legislature should consider amending state law to require school district boards to obtain approval from their county office superintendents before considering actions that would result in expenditures that exceed 200 percent of their required reserve amount. County office superintendents should disapprove any district action that they determine would cause school districts to do either of the following:

- Project insolvency within the current fiscal year or two subsequent fiscal years.
- Rely on reserves or other one-time resources, such as one-time funds from the State, to remain solvent within the current fiscal year or two subsequent fiscal years.

Status: Not implemented. (Note: Report issued in December 2019)

Finding: Although state law requires a school district's superintendent and chief business officer to publicly disclose the costs associated with labor contracts and certify that the school district can afford the cost of the contracts, it does not require its board to certify that the district can afford the costs of the agreement.

Recommendation. To help ensure that school district boards are accountable for the costs they approve, the Legislature should consider amending state law to require those boards to certify the accuracy of the costs disclosed by its school district for each collective bargaining agreement.

Status: Not implemented. (Note: Report issued in December 2019)

Alum Rock Union Elementary School District

2018-131 *Alum Rock Union Elementary School District: The District and Its Board Must Improve Governance and Operations to Effectively Serve the Community* (May 2019)

Finding: The Alum Rock Union Elementary School District board of trustees (board) did not consistently attend meetings yet the district paid these officials for meetings they did not attend. Additionally, board members did not always comply with state law. For example, in one instance a board member voted to approve a group of hires that included his son, and in another instance, they made several decisions even though they did not have a sufficient number of members present to establish a quorum. The board's actions have raised concerns about its transparency and accountability to the community, and it is not subject to state law requiring biennial ethics training for government officials.

Recommendation: To ensure that school district boards are knowledgeable about the ethical principles and laws that public officials must follow, the Legislature should amend state law to require members of school district boards who are compensated for their services to receive ethics training once every two years.

Status: Not implemented.

Blank page inserted for reproduction purposes only.

ENVIRONMENTAL QUALITY

California Department of Resources Recycling and Recovery

2018-107 *California Department of Resources Recycling and Recovery: It Has Not Provided the Oversight Necessary to Ensure That the Mattress Recycling Program Fulfills Its Purpose* (August 2018)

Finding: The California Department of Resources Recycling and Recovery (CalRecycle) did not establish goals for the mattress recycling program (mattress program) in three critical areas: increasing convenience for consumers, reducing illegal dumping of mattresses, and ensuring consistency with the State's overall approach to waste management, which prioritizes source reduction. By not setting these goals, CalRecycle missed a critical opportunity to ensure that the implementation of the mattress program aligns with the legislative intent behind the Used Mattress Recovery and Recycling Act (recycling act).

Recommendation: The Legislature should amend the recycling act to require CalRecycle to establish goals for the mattress program that relate to increasing consumer convenience, encouraging source reduction, and reducing illegal mattress dumping, as well as for any other areas that CalRecycle identifies as critical to the mattress program achieving the intent of the recycling act. It should require CalRecycle to establish goals in the first three specified areas by July 2020.

> **Status:** Partially implemented. AB 187 (Chapter 673, Statutes of 2019) requires CalRecycle, in consultation with the mattress recycling organization (organization) and based on methodology contained in the plan, to develop and make public, on or before July 1, 2020, metrics and goals for increasing consumer convenience for used mattress drop-off, disposal, and recycling in a way that applies to the entire state regardless of socioeconomic conditions.

Finding: CalRecycle approved a recycling plan that does not ensure that the Mattress Recycling Council (Mattress Council) will operate the mattress program in a manner consistent with the State's waste management hierarchy, which prioritizes source reduction. Further, the recycling act required the Mattress Council to submit a recycling plan to CalRecycle, but does not specify an expiration date for the recycling plan.

Recommendation: The Legislature should amend the recycling act to limit the time period for which the recycling plan is valid and to require the Mattress Council to regularly submit new plans to CalRecycle that are subject to its review and approval.

> **Status:** Partially implemented. AB 187 requires the organization, during calendar year 2020 and at least once every five years thereafter, to review the recycling plan and determine whether amendments to the recycling plan are necessary. If the organization determines that no amendments to the recycling plan are necessary, it is required to send a letter to CalRecycle explaining that the organization has reviewed the recycling plan and determined no revisions are needed.

Finding: The recycling act requires CalRecycle to approve or disapprove the Mattress Council's mattress program budget, but our review of the recycling act found that it does not explicitly address how much detail the Mattress Council is required to provide when describing its costs. Additionally, the section of the act that addresses the content in the Mattress Council's budget does not require the Mattress Council to submit additional information that CalRecycle requests. Moreover, the recycling

act does not address what would happen to the mattress program if CalRecycle were to disapprove the Mattress Council's annual budget. Specifically, the recycling act does not indicate whether the Mattress Council could continue to spend funding to operate the mattress program.

Recommendation: The Legislature should amend the recycling act to require the Mattress Council to submit with its annual budget any additional details that CalRecycle determines are reasonable for its effective oversight of the mattress program. The Legislature should amend the recycling act to prohibit the Mattress Council from spending the recycling charges it collects in a year for which CalRecycle has not approved the mattress program's budget. Further, the Legislature should clarify that the Mattress Council's operating without an approved budget is a violation of the recycling act.

> **Status:** Implemented. AB 187 requires the proposed used mattress recycling program budget to include additional information that CalRecycle deems necessary to determine whether the budget meets statutory requirements. Until a budget has been approved or deemed approved, the organization shall make expenditures consistent with the most recent budget approved by CalRecycle until a new budget has been approved or deemed approved by the department.

Finding: Although the Mattress Council has collected millions of dollars in revenue from California consumers to operate the mattress program, it has used a significant portion of this revenue to amass a reserve rather than spending the funds to ensure that the mattress program achieves the program goals.

Recommendation: The Legislature should amend the recycling act to require the Mattress Council to maintain a reserve equal to no more than six months of the mattress program's budgeted expenses. Further, the Legislature should amend the recycling act to provide CalRecycle the ability through its budget approval process to direct the spending of any amount of funding that the Mattress Council accumulates in excess of this amount or to adjust the mattress recycling charge.

> **Status:** Implemented. AB 187 requires the organization, commencing January 1, 2027, to maintain total reserves that do not exceed 60 percent of its annual operating expenses, and authorizes CalRecycle to approve a reserve up to 75 percent. If the organization's reserves exceed the specified amount, CalRecycle may require the organization to increase spending on implementing statutory requirements in order to reduce the excess amount of reserves.

Finding: The Mattress Council has not established measures of success to determine the effectiveness of its implementation of key program activities in the areas of research and outreach to consumers, manufacturers, and retailers.

Recommendation: The Legislature should amend the recycling act to require the Mattress Council to include in its recycling plan measurable goals in the areas of consumer awareness and research on new technology. Further, the Legislature should require that the Mattress Council's annual report include information about the mattress program's progress toward meeting those goals.

> **Status:** Partially Implemented. AB 187, in part, requires the organization, by July 1 of each year, to submit to CalRecycle and make publicly available on its website examples of educational materials that were provided to consumers the first year and any changes to those materials in subsequent years as well as other mechanisms, including advertising of the program, to increase consumer awareness. This statute also requires the organization, for reports submitted on and after July 1, 2021, to report on research activities to improve used mattress collection, dismantling, recycling operations, source reduction, and green product design.

GOVERNMENTAL ORGANIZATION

Financial Information System for California

2019-039 *FI$Cal Status Letter: The FI$Cal Project's Planned End in 2020 Will Result in an Incomplete System That Lacks Budgetary Transparency* (December 2019)

Finding: Our review of the Financial Information System for California (FI$Cal) project found that it continues the trend of removing key features from the project's scope, increasing the budget, and developing unrealistic schedules, resulting in a product that will lack crucial system functions, such as bond and loan accounting tools and the transition of the State's book of record, the central accounting log for the State. The 2019 project plan does not guarantee that oversight will continue until the delivery of those key functions and requires an aggressive schedule that is already proving unrealistic. Finally, the project's financial reporting understates the true cost of FI$Cal.

Recommendation: To ensure delivery of key functionality and greater transparency of projects costs, the Legislature should direct California Department of Technology (technology department) and the FI$Cal project office (project office) to create a new, ninth project update. The update should include, at a minimum:

- A budget detailing additional time and costs for the remaining development of key functionality currently classified in project documentation as "maintenance and operations" costs.
- A project timeline allowing sufficient time to stabilize current system functions and complete the transition from existing business processes.
- A budget that includes ongoing funding for oversight until the State Controller produces the State's annual financial statements exclusively using the FI$Cal system.
- A report to the Legislature detailing costs to entities that have transitioned or will transition to FI$Cal.

Status: Not implemented. (Note: Report issued in December 2019)

Bureau of Gambling Control and California Gambling Control Commission

2018-132 *Bureau of Gambling Control and California Gambling Control Commission: Their Licensing Processes Are Inefficient and Foster Unequal Treatment of Applicants* (May 2019)

Finding: Since July 2015, the Bureau of Gambling Control (bureau) has more than doubled its staffing to address its backlog of license applications. Starting in fiscal year 2015–16, the Department of Finance and the Legislature approved the bureau's request for three years of funding for 12 additional positions. The bureau initially projected that with this increase in staff, it would be able to complete its review of the pending applications by June 2018. The Legislature then approved three years of temporary funding for an additional 20 positions starting in fiscal year 2016–17. Nevertheless, as of December 2018, the bureau still had a backlog of nearly 1,000 applications. The bureau's productivity has diminished since it hired additional staff, raising questions about the level of staffing it needs to process applications.

Recommendation: Given that the bureau has not achieved the expected benefits from adding 32 additional positions, the Legislature should not approve any requests to make funding for these positions permanent. Instead, the Legislature should extend funding for an additional two years, during which time the bureau should be able to clear its existing number of pending applications. At that point, the Legislature should reevaluate the bureau's long-term staffing needs, taking into consideration the extent to which it has implemented the recommendations in this report.

Status: Implemented. The Budget Act of 2019 includes $4.4 million from the Gambling Control Fund (Gambling Fund) in 2019–20 and 2020–21 to continue funding 32 positions that process license applications, renewals, and background investigations for cardrooms and third-party providers to reduce the current backlog of license applications. Further, the Supplemental Report of the 2019–20 Budget Act requires the Department of Justice (Justice) to submit separate reports to the budget committees of the Legislature and the Legislative Analyst's Office on how it has addressed specific recommendations identified by the California State Auditor (State Auditor) in a May 2019 report evaluating the revenues and expenditures from the Gambling Control Fund. No later than January 10, 2020, Justice must submit a report providing its formal plan for completing its review of its remaining backlogged applications, as well as an update on its progress on executing the plan. No later than August 2019 Justice must submit a report on its new policies to ensure that it fairly charges applicants for the cost of licensing activities.

Finding: As a result of its referral of an increasing number of applicants to evidentiary hearings and of conflicting regulations, the California Gambling Control Commission (commission) has repeatedly failed to meet the requirement that it approve or deny most applications within 120 days of receiving the bureau's recommendations.

Recommendation: To prevent delays and the unnecessary use of resources from requiring the commission to hold evidentiary hearings in all cases in order to deny applicants, the Legislature should amend the Gambling Control Act to allow the commission to take action at its regular licensing meetings rather than require it to hold evidentiary hearings.

Status: Not implemented.

Finding: In possible violation of state law, the regulatory fees that the commission and bureau charge applicants, card room owners, and third-party company owners do not align with the costs of providing the related services. Specifically, the licensing revenue that the Gambling Fund receives from such fees covers less than half of the cost of processing license applications. In contrast, the other non-licensing regulatory fees that card room owners and third-party company owners pay far exceed the costs of the related oversight.

Recommendation: To ensure that all fees that generate revenue for the Gambling Fund have clear, stated purposes limiting their use, the Legislature should require that when updating fee amounts, the commission and the bureau must also update their regulations to include clear statements about the need for and appropriate use of each fee type.

Status: Not implemented.

Information Security

2018-611 *Gaps in Oversight Contribute to Weaknesses in the State's Information Security* (July 2019)

Finding: State law generally requires state entities within the executive branch under the Governor's direct authority (reporting entities) to comply with information security and privacy policies that the technology department prescribes. However, state law does not apply the technology department's policies and procedures to entities that fall outside of that authority (nonreporting entities).

Recommendation: The Legislature should require all nonreporting entities to adopt information security standards comparable to those in Chapter 5300 of the State Administrative Manual, which provides the security and privacy policy standards with which reporting entities must comply.

Status: Not implemented.

Finding: The majority of nonreporting entities we reviewed have not taken steps to develop and document a comprehensive understanding of their information security status. This lack of understanding limits their assurance that they are properly protecting their information assets against unauthorized access, use, disclosure, disruption, modification, or destruction.

Recommendation: The Legislature should require all nonreporting entities to obtain or perform comprehensive information security assessments no less frequently than every three years to determine compliance with the entirety of their adopted information security standards.

Status: Not implemented.

Finding: Most of the nonreporting entities we reviewed asserted that they did not have an external oversight framework that would require them to assess their information security regularly.

Recommendation: The Legislature should require all nonreporting entities to confidentially submit certifications of their compliance with their adopted standards to the Assembly Privacy and Consumer Protection Committee and, if applicable, to confidentially submit corrective action plans to address any outstanding deficiencies.

Status: Not implemented.

Financial Information System for California

2017-039.1 *FI$Cal Status Letter* (August 2018)

Finding: We surveyed select state entities and found that many entities that have implemented FI$Cal struggle with producing financial statements on time and are unsatisfied with system performance, training and documentation, and technical support. We also found from our survey that some of the 64 entities scheduled to begin using FI$Cal in fiscal year 2018–19 may face similar challenges.

Recommendation: To ensure successful implementation of FI$Cal, the Legislature should require the project office to include the following metrics in its annual reports to the Legislature:

- Status of month-end close for all entities, indicating whether each entity produced its monthly financial statements for the preceding six months, and a description of the project office's corrective actions for each entity with delays exceeding 30 days after month-end.
- The identities of any entities that did not prepare year-end financial statements using FI$Cal by the State Controller's deadline.
- Total number of users' service requests by priority level, the number of service requests successfully resolved, and the number of resolutions that took longer than the service level objectives defined by the project.
- Number and length of unplanned outages that occurred during normal business hours since the July 2018 release.
- Number of entities that reported concerns with using FI$Cal to meet federal requirements and descriptions of the project office's efforts to resolve those concerns.
- Project office's vacancy rate for staff positions, including technical support center positions, and a description of the project office's efforts to fill vacancies since the July 2018 release.
- Number of entities that are operating their legacy systems, including each entity's projected date to retire its legacy system, and the volume of backlog transactions that entities still need to input into FI$Cal.

Status: Not implemented. AB 1587 (Obernolte, 2019) would require the project office to include the specified metrics in its annual legislative reports. This bill is pending in the Senate.

HEALTH & HUMAN SERVICES

California Department of Health Care Services

2018-111 *Department of Health Care Services: Millions of Children in Medi-Cal Are Not Receiving Preventive Health Services* (March 2019)

Finding: Millions of children in Medi-Cal each year are not receiving the preventive services to which they are entitled, which is partly due to children not having adequate access to health care providers who accept Medi-Cal. Many Medi-Cal managed care plans (plans) that contract with the Department of Health Care Services (Health Care Services) to provide Medi-Cal services struggle to meet the time and distance standards established by state law which became effective in 2018.

In many cases, Health Care Services has approved alternative access time and distance standards for a plan in an area where Medi-Cal providers are present but not part of that plan's network. In other cases, however, Health Care Services required plans to allow beneficiaries to obtain care from out-of-network providers. Even so, in these instances Health Care Services did not require the plans to inform their beneficiaries that they are eligible to obtain care in this fashion or to inform them of the process for obtaining out-of-network authorizations.

Recommendation: To improve children's access to preventive health services, the Legislature should amend state law to do the following:

- Direct Health Care Services to modify its criteria for evaluating plans' alternative access standards requests to include not only whether plans' efforts were reasonable but also whether the resulting times and distances are reasonable to expect a Medi-Cal beneficiary to travel.
- Require any plan unable to meet those criteria to allow its affected members to obtain services outside of the plan's network.
- Direct Health Care Services to require such a plan to inform its affected members that they may obtain those services outside of the plan's network.
- Require the plan to assist members in locating a suitable out-of-network provider.

> **Status:** Partially implemented. AB 1642 (Chapter 465, Statutes of 2019), in part, requires Health Care Services to evaluate, as part of its review and approval of an alternative access standard, if the resulting time and distance is reasonable to expect a beneficiary to travel to receive care. This statute also requires a Medi-Cal managed care plan that has received approval from Health Care Services to utilize an alternative access standard to assist an enrollee who would travel farther than the established time and distance standards in obtaining an appointment with an appropriate out-of-network provider within established appointment time standards, to arrange for Medi-Cal covered transportation for the enrollee, as necessary, and to inform all members of approved alternative time and distance standards.

Finding: Health Care Services could improve access and usage by imposing financial sanctions, if necessary, and by paying plans based on their performance. A pay-for-performance program would require that plans meet specified performance targets in order to receive portions of their Medi-Cal funding.

Recommendation: To improve the health of California's children, the Legislature should direct Health Care Services to implement financial incentives, such as a pay-for-performance program, designed to help ensure that plans are more consistently providing preventive services to children in Medi-Cal. To the extent Health Care Services can demonstrate that additional funding is necessary to operate such a program, the Legislature should increase funding specifically for that purpose.

> **Status:** Not implemented. AB 537 (Wood, 2019) would, in part, require Health Care Services to establish a quality assessment and performance improvement program which requires plans to meet a minimum performance level that improves quality of care and reduces health disparities for beneficiaries. This bill would also require Health Care Services, commencing July 1, 2022, to establish quality improvement performance targets, and develop a plan for a value-based financial incentive program to reward a high-performing plans that meets performance targets that demonstrate health care quality improvement and health disparities reduction. This bill is pending in the Assembly Appropriations Committee.

County and City of San Diego

2018-116 *San Diego's Hepatitis A Outbreak: By Acting More Quickly, the County and City of San Diego Might Have Reduced the Spread of the Disease* (December 2018)

Finding: The county of San Diego (county) did not do enough to inform and involve the city of San Diego (city), and, therefore, the city lacked information that would have enabled it to understand the severity of the outbreak and the need to implement sanitation measures. State law requires the governing bodies of cities to protect the public health of their residents, which the city does in part by contracting with the county to address specified public health matters within the city.

Recommendations:

1. To better ensure that local health officers can promptly respond to disease outbreaks, the Legislature should clarify existing state law to specify that the local health officer for each geographic jurisdiction may issue directives to other governmental entities within that jurisdiction to take action as the officer deems necessary to control the spread of communicable diseases.

   > **Status:** Implemented. AB 262 (Chapter 798, Statutes of 2019) authorizes the local health officer to issue orders to other governmental entities within the local health officer's jurisdiction to take any action the local health officer deems necessary to control the spread of the communicable disease.

2. To ensure that each local public entity has the information necessary to adequately respond and protect the public health of its residents during disease outbreaks, the Legislature should enact legislation requiring local health officers to promptly notify and update local public entities within the health officers' jurisdictions about communicable disease outbreaks that affect them. The legislation should also require health officers to make available relevant information to these local public entities, including the locations of concentrations of cases, the number of residents affected, and the measures that the local public entities should take to assist with outbreak response efforts.

Status: Implemented. AB 262 requires a local health officer, during an outbreak of a communicable disease, or upon the imminent and proximate threat of a communicable disease outbreak or epidemic that threatens the public's health, to notify and update governmental entities within the health officer's jurisdiction if, in the opinion of the local health officer, action or inaction on the part of the governmental entity might affect outbreak response efforts. This statute also requires a local health officer to make any relevant information available to governmental entities within their jurisdiction.

California Department of Health Care Services

2018-603 *Department of Health Care Services: It Paid Billions in Questionable Medi-Cal Premiums and Claims Because It Failed to Follow Up on Eligibility Discrepancies* (October 2018)

Findings: Health Care Services paid at least $4 billion in questionable Medi-Cal payments from 2014 through 2017 because it failed to ensure that it provided benefits only to eligible beneficiaries. The key reason for these questionable payments is that Health Care Services failed to ensure that counties resolved discrepancies between the state and county Medi-Cal eligibility systems.

Recommendation: To ensure that Health Care Services adequately monitors the counties' resolution of system discrepancies, the Legislature should require Health Care Services to report publicly on counties' compliance with the performance standards set forth in state law, as well as Health Care Services' actions taken in response to counties not complying with the standards.

Status: Not implemented.

Department of Rehabilitation

2017-129 *Department of Rehabilitation: Its Inadequate Guidance and Oversight of the Grant Process Led to Inconsistencies and Perceived Bias in Its Evaluations and Awards of Some Grants* (July 2018)

Finding: Our review of the Department of Rehabilitation's (Rehabilitation) grant process found that Rehabilitation limited its pool of prospective evaluators and did not always ensure that they were free from conflicts of interest or bias before selecting them. For one of the grants we reviewed, it selected two evaluators with previous ties to one of the applicants, creating at least the appearance of potential bias.

Recommendation: To avoid bias or the perception of bias, the Legislature should enact legislation that prohibits state agencies from selecting as an evaluator of grant applications a representative, former member, or former staff of any organization or person that is applying to receive grant funding from the state agency.

Status: Implemented. AB 1013 (Chapter 498, Statutes of 2019) prohibits a state agency from permitting an evaluator to review a discretionary grant application submitted by an organization or a person for which the evaluator was a representative, voting member, or staff member within the two-year period preceding receipt of that application.

Skilled Nursing Facilities

2017-109 *Skilled Nursing Facilities: Absent Effective State Oversight, Substandard Quality of Care Has Continued* (May 2018)

Finding: The California Department of Public Health (Public Health) has not fulfilled many of its oversight responsibilities, which are meant to ensure that nursing facilities meet quality-of-care standards, and its licensing decisions appear inconsistent due to its poorly defined review processes and its failure to document adequately its rationale for approving or denying license applications.

Recommendation: The Legislature should require Public Health to develop by November 2018 a proposal for legislative consideration that outlines the factors it will consider when approving or denying applications from nursing facilities of the same class based on each applicant's ability to provide quality patient care. This proposal should outline the specific criteria—including relevant quality-of-care metrics—that Public Health will consider and the specific thresholds at which higher-level management must approve decisions. Public Health should review its proposal with its stakeholders before forwarding it to the Legislature. The Legislature should codify Public Health's proposal as appropriate.

Status: Not implemented.

Finding: Public Health has not performed all of the state inspections of nursing facilities that it is required to perform and has not issued citations in a timely manner.

Recommendation: The Legislature should require Public Health to conduct state and federal inspections concurrently by aligning federal and state timelines. Specifically, because federal inspections must occur no later than 15 months since the last federal inspection, the Legislature should require that state inspections occur every 30 months.

Status: Not implemented.

Finding: Public Health did not implement our 2010 audit recommendation that it should adjust penalty amounts for inflation, even though doing so could increase its revenue for quality improvement programs.

Recommendation: The Legislature should require that Public Health increase citation penalty amounts annually by—at a minimum—the cost of inflation.

Status: Not implemented.

Finding: Despite the fact that the Legislature intended that the State's quality assurance fee for nursing facilities be used to incentivize quality-of-care improvements, the State currently does not use it for this purpose.

Recommendation: To ensure that the State supports and encourages nursing facilities' efforts to improve their quality of care, the Legislature should modify the quality assurance fee by requiring nursing facilities to demonstrate quality-of-care improvements to receive all or some of their quality assurance fee payments. If nursing facilities do not demonstrate adequate quality-of-care improvements, Health Care Services should redistribute their quality assurance fee payments to those

nursing facilities that have improved. In modifying this program, the Legislature should consider the best practices identified in the report and the feedback that Health Care Services receives from stakeholders.

Status: Not implemented.

Finding: Although Health Care Services is meeting its obligations related to the audits it conducts, Health Care Services' process could be more efficient if nursing facilities that engage related parties in transactions of significant value are required to submit the related parties' profit and loss statements with the nursing facilities' annual cost reports.

Recommendation: The Legislature should require nursing facilities to submit annually their related-parties' profit and loss statements to Health Care Services when total transactions exceed a specified monetary threshold. The purpose of these statements would be to assist Health Care Services in its audits.

Status: Implemented. Assembly Bill 1953 (Chapter 383, Statutes of 2018), effective January 1, 2020, requires an organization that operates, conducts, owns, or maintains a skilled nursing facility (SNF) to report to the Office of Statewide Health Planning and Development (OSHPD) whether the licensee, or a general partner, director, or officer of the licensee, has an ownership or control interest of five percent or more in a related party that provides any service to the SNF. Specifically, the licensee is required to disclose all services provided to the SNF, the number of individuals who provide that service at the SNF and any other information requested by OSHPD. If goods, fees, and services collectively worth $10,000 or more per year are to be delivered to the SNF, the disclosure must include the related party's profit and loss statement and the Payroll-Based Journal public use data for the previous quarter for the SNF's caregivers.

Finding: The three state oversight agencies' processes for collecting, auditing, and reviewing nursing facility information are duplicative and inefficient.

Recommendation: To improve coordination and efficiency among the state agencies that oversee nursing facilities, the Legislature should require that OSHPD, Public Health, and Health Care Services collaborate to assess the information that each collects from nursing facilities and to develop a proposal by May 2019 for any legislative changes that would be necessary to increase the efficiency of their collection and use of the information. The agencies' goals should include the collection of information by only one agency and the development of a method to share that information with each other. By May 2020, the three agencies should report to the Legislature on the results of implementing their proposal, such as the efficiencies gained through their increased coordination.

Status: Not implemented.

Finding: Although Public Health's recently implemented consumer website for researching and comparing nursing facilities is user-friendly, the website does not provide complete and accurate information on nursing facilities' ownership or inspection results, thus impeding consumers' ability to make informed decisions.

Recommendation: To more effectively communicate with consumers about nursing facilities' financial conditions and quality of care, the Legislature should require a state entity—such as OSHPD, Public Health, or Health Care Services—to develop, implement, and maintain for consumers by May 2020 an online dashboard that includes at a minimum information about nursing facilities' net income and quality of care.

Status: Not implemented.

Homelessness Coordinating and Financing Council

2017-112 *Homelessness in California: State Government and the Los Angeles Homeless Services Authority Need to Strengthen Their Efforts to Address Homelessness* (April 2018)

Finding: Until recently, California lacked a single statewide entity for addressing homelessness and had no mechanism for coordinating the many homeless programs that the State funds. Although the State created it in 2016, the Homeless Coordinating and Financing Council (state homeless council) has no permanent staff and no funding for such staff. Additionally, lead agencies for California's Continuum of Care areas (CoCs) mentioned challenges in implementing U.S. Department of Housing and Urban Development (HUD)-recommended activities such as conducting annual counts of unsheltered homeless, raising funds from nonfederal sources, and creating strategic plans to help ensure coordination with other homeless service agencies.

Recommendation: To better serve the needs of homeless Californians, and to provide statewide leadership to agencies at all levels for better coordination of efforts to address homelessness, the Legislature should enact legislation and include funding within the Budget Act of 2018 that will allow for the following actions:

- The state homeless council to hire permanent staff, including the appointment of an executive director.

  Status: Partially implemented. SB 850 (Chapter 48, Statutes of 2018) requires the Business, Consumer Services, and Housing Agency (housing agency) to staff the state homeless council rather than the Department of Housing and Community Development, and provides for an executive director under the direction of the housing agency.

- COC areas to obtain the state funding necessary to better implement HUD recommended activities, including annually counting the unsheltered homeless population, improving efforts to raise nonfederal funding, and improving their coordination with other agencies; and to more fully meet HUD requirements, including implementation and administration of the Homeless Management Information System (HMIS) and coordinated entry system (entry system).

  Status: Partially implemented. SB 850 establishes the Homeless Emergency Aid program for the purpose of providing localities with one-time flexible block grant funds to address their immediate homelessness challenges, and requires the housing agency to administer the program in consultation with the state homeless council.

Finding: State law establishing the state homeless council currently does not require it to develop a statewide strategic plan.

Recommendation: The Legislature should require the state homeless council to take the following actions:

- By April 1, 2019, develop and implement a statewide strategic plan for addressing homelessness in California, including goals and objectives and timelines for achieving them, and metrics for measuring their achievements. Included among the goals and objectives should be the identification of additional funding sources that state and local agencies can use to better address California's homelessness issues.

  Status: Not implemented. SB 333 (Wilk, 2019) would require the state homeless council, by July 1, 2021, to develop and implement a statewide strategic plan for addressing homelessness in the state. The bill would require the state homeless council, by January 1, 2021, to implement strategic plans to assist HUD CoC lead agencies in better implementing HUD-recommended activities and meeting HUD requirements. This bill was held in the Assembly Appropriations Committee.

- By January 1, 2019, implement steps to assist CoC lead agencies in better implementing HUD-recommended activities, including conducting annual counts of the unsheltered homeless population, raising nonfederal funding, and coordinating with other agencies.

  Status: Not implemented. SB 333 would require the state homeless council, by January 1, 2021, to implement strategic plans to assist CoC lead agencies in better implementing HUD-recommended activities and meeting HUD requirements.

- By January 1, 2019, implement steps to assist CoC lead agencies in better meeting HUD requirements, including implementation of the Homeless Management Information System and entry systems. The state homeless council should include among its considerations the establishment of a balance-of-state CoC area to help alleviate the administrative burdens imposed on CoC lead agencies, especially in rural areas.

  Status: Not implemented.

Blank page inserted for reproduction purposes only.

HIGHER EDUCATION

California State University

2018-127 *California State University: It Failed to Fully Disclose Its $1.5 Billion Surplus, and It Has Not Adequately Invested in Alternatives to Costly Parking Facilities* (June 2019)

Finding: The California State University (CSU) has accumulated a discretionary surplus worth more than $1.5 billion from operating fund revenues, primarily from tuition in an investment account held outside the State treasury. The CSU Office of the Chancellor (Chancellor's Office) failed to disclose this significant surplus as a resource when projecting CSU's available resources to the Legislature or when consulting with students about the need to raise tuition. Although the Chancellor's Office has identified a portion of CSU's surplus as a reserve for economic uncertainty, it has not adopted adequate policies to ensure that the amount of money CSU holds as a reserve and the manner in which it uses that money are appropriate.

Recommendation: To ensure transparency about CSU's available financial resources, the Legislature should require the Chancellor's Office to do the following, effective September 1, 2019:

- Beginning in 2019 and no later than November 30 each year, provide relevant parties, including the Department of Finance and the Joint Legislative Budget Committee, with the current balance of the discretionary surplus that CSU has accumulated in its outside investment account that is attributable to its operating fund and to any other funds that are relevant to CSU's budget requests; the balances of the surplus amounts in those funds at the end of the prior fiscal year; the projected balances of the surplus amounts expected to remain in those funds at the end of the current fiscal year; and the amount of, justification for, and safeguards over any funds that CSU deems a reserve for economic uncertainty.

- Include in the capital improvement plans identifying capital improvement projects and funding needs it submits annually to the Legislature information about the current balance of the surplus in CSU's outside investment account that is attributable to its operating fund or other funds that hold operating revenue from tuition, as well as the projected balance of the surplus amounts expected to remain in those funds at the end of the current fiscal year.

- Include in its consultations about tuition increases with the student association the full amount of the discretionary surplus CSU has accumulated to date in its outside investment account that is attributable to its operating fund and any other funds that hold tuition revenue; the rate of growth of these surplus amounts over the last three fiscal years; an estimate of the portion of the surplus amounts that came from tuition; the dollar amount to date that CSU is obligated to spend to pay for goods and services it has already received or expenses that are tied to existing contracts; a projection of the dollar amount of the surplus that will be available for campuses to spend at their discretion at the end of the current fiscal year; and the amount of, justification for, and safeguards over any funds that CSU deems a reserve for economic uncertainty.

    Status: Not implemented.

Finding: The four campuses we reviewed have built costly parking facilities that have had minimal impact on campus parking capacity while committing the campuses to significant long-term debt payments. Although the campuses have raised student permit prices, student parking availability

remains limited at some campuses. Furthermore, the Chancellor's Office has not ensured that campuses consistently implement alternate transportation strategies that could reduce demand for parking and improve access to campuses.

Recommendation: To ensure that students have equitable access to campuses and that campuses provide the most cost-effective mix of parking and alternate transportation options, the Legislature should require the Chancellor's Office to include the following information related to transportation, by campus, in its comprehensive five-year capital improvement plan:

- The number of parking facilities each campus intends to construct over the next five years and the alternate transportation strategies that the campus considered and implemented in determining the need for those parking facilities.
- The total annual cost for each alternate transportation strategy the campuses considered and implemented compared to the annual cost of constructing, operating, and maintaining a new parking facility.
- The cost per student served by those alternate transportation strategies compared to the cost per student of constructing, operating, and maintaining a new parking facility.
- The number of students served by each of those alternate transportation strategies compared to the number of students to be served by a new parking facility.
- Information on whether and to what extent alternate transportation strategies have decreased parking demand in the last three years and whether the campus has demonstrated that the parking demand justifies a new parking facility.
- A cost-benefit analysis showing the appropriate mix of transportation strategies to ensure that the campus provides students with the most cost-effective access.

Status: Not implemented.

HOUSING & COMMUNITY DEVELOPMENT

Department of Housing and Community Development

2018-037 *California Department of Housing and Community Development: Its Oversight of Housing Bond Funds Remains Inconsistent* (September 2018)

Finding: Additional oversight of the California Department of Housing and Community Development (HCD) is necessary because HCD has a long-standing history of inadequate monitoring for some of its programs and the State received authorization for $4 billion in general obligation bonds for existing affordable housing programs for low-income residents, veterans, farmworkers, manufactured and mobile homes, infill, and transit-oriented housing under Proposition 1 in November 2018.

Recommendation: The Legislature should require HCD to disclose information about such monitoring in its annual report, which it should submit to the Assembly Committee on Housing and Community Development and the Senate Committee on Transportation and Housing. The report should identify all of the awards that HCD monitors for the CalHome and Building Equity and Growth in Neighborhoods (BEGIN) programs and should include performance metrics such as the amount of funds awarded but not disbursed to recipients and therefore not issued to potential homeowners. The Legislature should also require HCD to disclose in its annual report—at a minimum—the following information for all awards that HCD is responsible for monitoring in the CalHome and BEGIN programs:

- The amount of the original awards to recipients, the portions not yet disbursed to recipients, and an estimate of how many individuals could benefit from the remaining balance.
- Any extensions HCD granted to the standard agreement and the number of and reason for those extensions.
- The total balance of all recipients' CalHome and BEGIN reuse accounts, detailing the loan repayments recipients are required to reissue for program purposes and an estimate of how many households could benefit from the balance.
- A section describing HCD's monitoring efforts, including the collection of performance reports and the results of the risk assessments and on-site monitoring.

Status: Not implemented. AB 195 (Patterson, 2019) would require HCD to take certain actions by January 1, 2021, with respect to monitoring its housing bond programs, including developing, and begin implementing, a plan for performing onsite visits of CalHome Program recipients. As of June 2019, this bill is pending action in the Senate Housing Committee.

Finding: Since 2007, the State Auditor's Office has performed five required audits of HCD's housing bond program management and made a total of 28 recommendations in the first four reports, which HCD previously asserted that it implemented. However, during this most recent review, we determined that HCD had not followed through on half of these recommendations.

Recommendation: The Legislature should require the Business, Consumer Services and Housing Agency (agency) to monitor HCD's efforts and to submit a report annually to the Legislature demonstrating that HCD is continuing to implement our recommendations.

Status: Not implemented. AB 195 would require the agency to monitor HCD's efforts, including the collection of performance reports, and until January 1, 2024, to annually report to the Legislature.

Blank page inserted for reproduction purposes only.

INSURANCE

Department of Industrial Relations Division of Workers' Compensation

2019-102 *Department of Industrial Relations: Its Failure to Adequately Administer the Qualified Medical Evaluator Process May Delay Injured Workers' Access to Benefits* (November 2019)

Finding: The Department of Industrial Relations' Division of Workers' Compensation (DWC) has not adequately ensured that it has enough Qualified Medical Evaluators (QMEs) to meet demand. One of the reasons is that DWC has not updated the 13-year-old rates on the fee schedule that QMEs use to charge for their services, which could help attract and retain QMEs.

Recommendation. To ensure that DWC maintains a sufficient supply of QMEs and appropriately compensates these individuals, the Legislature should amend state law to specify that DWC review and, if necessary, update the medical-legal fee schedule at least every two years based on inflation.

Status: Not implemented. (Note: Report issued in November 2019)

Finding: Because QMEs have become more frequently unavailable, we believe changes to the panel selection process are also warranted. Injured workers represented by an attorney have a different selection process than unrepresented injured workers. Data show that the rate of replacement panel requests for represented cases is three times higher than the rate of requests for unrepresented cases, partly because unrepresented workers generally can select from among a panel of three QMEs while represented workers generally have to use the remaining QME after each party strikes one from a panel of three.

Recommendation: To reduce the delays that replacement panels cause in resolving workers' compensation claims, the Legislature should revise state law to increase the number of QMEs on the panels DWC provides. Specifically, unrepresented employees should continue to choose from a panel of three QMEs, and represented employees should be provided with a panel of five QMEs, of whom the employee and the employer can each strike one, leaving both parties with the same number of QMEs to choose from as unrepresented employees. The party—the worker or the employer—that did not request the panel would select the final QME. If the selected QME is unavailable, the parties would then select from among the two remaining QMEs until they find one that is available.

Status: Not implemented. (Note: Report issued in November 2019)

Workers' Compensation Insurance

2019-106 *Workers' Compensation Insurance: Some State Agencies Are Paying Millions of Dollars More Than Necessary to Provide Benefits to Their Employees* (November 2019)

Finding: Almost 90 percent of state agencies provide workers' compensation benefits to their employees through a master agreement that the California Department of Human Resources (CalHR) negotiated on their behalf with the State Compensation Insurance Fund (State Fund), a nonprofit entity that also provides workers' compensation insurance to private businesses. Under the master agreement, state agencies reimburse the State Fund for the actual cost of workers'

compensation claims, rather than paying for insurance or maintaining a workers' compensation reserve. Although CalHR and State Fund perform an assessment to determine an agency's ability to pay for its workers' compensation costs if that agency wants to participate in the master agreement, the master agreement does not require CalHR or State Fund to assist agencies in deciding which workers' compensation option is more cost-effective. According to CalHR, its ability to conduct this type of analysis may require additional legislative authority to compel agencies to share the claim data necessary to conduct the analyses.

Recommendation. To ensure CalHR has the data necessary to compare insurance and master agreement costs for agencies using the State Fund insurance policies, the Legislature should give CalHR the authority to obtain that information.

Status: Not implemented. (Note: Report issued in November 2019)

JUDICIARY

State Bar of California

2018-030 *State Bar of California: It Should Balance Fee Increases With Other Actions to Raise Revenue and Decrease Costs* (April 2019)

Finding: The State Bar of California's (State Bar) proposed fee increase for 2020 would more than double the total annual mandatory fees each active licensee currently pays. It planned to hire 58 new staff to perform discipline activities in 2020; however, we believe it should add only 19 new staff in 2020 due to recent changes to its business processes.

Recommendation: To ensure funding of State Bar's operating costs and those costs associated with adding 19 trial counsel staff and increasing retiree health benefits, the Legislature should set the 2020 licensing fee at $379 for active licensees and $88 for inactive licensees.

> **Status:** Partially implemented. SB 176 (Chapter 698, Statutes of 2019), in part requires the State Bar Board of Trustees to fix the fee for 2020 at a sum not exceeding $438 for active licenses and a sum not exceeding $108 for inactive licenses.

Finding: The State Bar proposed a one-time $250 special assessment fee to fund information technology (IT) projects and make capital improvements over a five-year period, but the fee could be spread over five years.

Recommendation: To ensure funding for State Bar's IT projects, capital improvements, and general fund reserve, the Legislature should set a 2020 special assessment fee of $41 for active licensees and $11 for inactive licensees. To align the special assessment fee with State Bar's needs in the future, the Legislature should adopt the fee schedule that we proposed in the audit.

> **Status:** Not implemented.

Finding: The State Bar overestimated the Client Security Fund's (security fund) needs—the increase would fund all the current pending claims it expects to pay, regardless of when it will actually pay them, as opposed to funding only those claims it will likely pay in 2020.

Recommendation: To enable State Bar to pay the security fund claims that it is likely to approve for payment in 2020, the Legislature should set the 2020 security fund fee at $80 for active licensees and $20 for inactive licensees. Should the Legislature decide that it wants to control how much it increases the security fund fee, it can consider State Bar's initiatives to reduce the security fund payout cap and give licensees the option to make voluntary contributions to the security fund.

> **Status:** Not implemented.

Finding: Low demand for Lawyer Assistance Program (assistance program) services—both voluntary and discipline-related—has allowed the program's reserve to grow. Given the assistance program's high reserve and low expenditures, State Bar does not need to charge a fee for it in 2020.

Recommendation: To ensure that State Bar spends down the assistance program's excessive reserve, the Legislature should suspend the 2020 assistance program fee for both active and inactive licensees.

> **Status:** Not implemented.

Finding: An annual fee-approval cycle does not align with best practice guidelines provided by the Government Finance Officers Association and U.S. Government Accountability Office for regulatory entities that are supported by user fees. We determined that State Bar's current annual approval cycle does not meet these guidelines because it does not ensure consistent revenue over time or allow for better planning for long-term revenue needs. A multiyear licensing fee-approval cycle would stabilize State Bar's revenue, allowing it to improve its planning and management practices, while still affording the Legislature necessary oversight.

Recommendation: To provide State Bar with consistent revenue and to enable it to improve its management practices, the Legislature should adopt a multiyear fee-approval cycle for the licensing, security fund, and assistance program fees. This change should take effect before the Legislature determines the licensing fee for 2021, and the cycle should include a multiyear budget, fee justifications, and related performance data submitted by State Bar; a fee cap for the multiyear period set by the Legislature; and, the authority for State Bar to adjust the fee each year up to the maximum amount.

Status: Not implemented.

Finding: The current $25 discipline fee—which provides additional support for State Bar's disciplinary activities—and the licensing fee go into State Bar's general fund, and State Bar uses portions of the licensing fee to support its discipline system. Instead of reviewing and adjusting two fees that provide revenue to the same fund, the Legislature might find it simpler to merge the two.

Recommendation: To simplify the fee-setting process, the Legislature should amend state law to merge the $25 discipline fee with the licensing fee in a single statute and repeal the statute authorizing the discipline fee. This change should take effect before the Legislature determines the licensing fee for 2021.

Status: Not implemented.

NOTE: SB 176 states legislative intent that :

1. State Bar licensing fees for future years are set at a level sufficient to fund its proposed technology and capital improvement projects, at the levels recommended by the State Auditor, over a 5-year period for the technology and over a 10-year period for the capital improvements, less the technology updates that are included in the ongoing funding, as recommended by the Legislative Analyst's Office (LAO).

2. State Bar licensing fees in future years be reduced by the increase in income generated by increasing all real estate leases of State Bar property to market rate as soon as the existing below market rate leases expire, as recommended by the State Auditor in its 2019 audit of the State Bar, and that all leases entered into by the State Bar for lease of State Bar property on and after January 1, 2020, be at or above market rate in order to reduce licensing fees.

3. The State Bar use license fees for active and inactive licensees in a manner that is consistent with the State Auditor's report released on April 30, 2019, and the LAO's report released on June 26, 2019.

4. The State Bar be included as part of California's annual budget process beginning with the 2021–22 fiscal year.

Commission on Judicial Performance

2016-137 *Commission on Judicial Performance: Weaknesses in Its Oversight Have Created Opportunities for Judicial Misconduct to Persist* (April 2019)

Finding: The Commission on Judicial Performance's (CJP) structure and disciplinary proceedings are not aligned with judicial discipline best practices because CJP currently serves as a unitary—or single—body. The unitary structure of CJP allows commissioners who make disciplinary decisions to be privy to allegations of and facts about possible misconduct that should not factor into their decisions about discipline. Best practices recommend a bicameral structure for judicial oversight commissions that would have one body responsible for investigating allegations of judicial misconduct while the other would be responsible for issuing discipline.

Recommendation: The Legislature should propose and submit to voters an amendment to the California Constitution to accomplish the following:

- Establish a bicameral structure for CJP that includes an investigative and a disciplinary body. The proposed amendment should also require that members of the public are the majority in both bodies and that there is an odd number of members in each body.

- Require that the disciplinary body directly hear all cases that go to formal proceedings and that CJP make rules to avoid prejudicial activity when it hears these cases. The amendment should also require that a majority of the commissioners who hear cases be members of the public and should establish that the State will compensate commissioners for their time preparing for and hearing cases.

- Direct CJP to make rules for the implementation of corrective actions. Establish that such actions are discipline that should be authorized by the disciplinary body and that CJP should monitor whether judges complete the corrective actions.

Status: Not implemented.

Recommendation: To make certain CJP has the resources necessary to implement our recommendations and to realize budget efficiencies, the Legislature should make a one-time appropriation to CJP of $419,000 in the Budget Act of 2019. This appropriation should be specifically for CJP to hire a limited-term investigations manager and update its electronic case management system.

Status: Not implemented.

Blank page inserted for reproduction purposes only.

LOCAL GOVERNMENT

Fallen Leaf Lake Community Services District

2018-133 *Fallen Leaf Lake Community Services District: Its Billing Practices and Small Electorate Jeopardize Its Ability to Provide Services* (July 2019)

Finding: The Fallen Leaf Lake Community Services District's (district) small electorate challenges its ability to provide services to its community members. It has difficulty attracting candidates to run for its five-member board because only permanent residents who are registered voters are eligible— only 17 of the 62 registered voters had mailing addresses in South Lake Tahoe. The district has not had a contested election for a board seat since August 2010 and the board had a total of seven vacancies spanning 43 months since then.

Recommendation: To ensure that the district has an electorate of sufficient size from which it can elect members to its board, the Legislature should enact legislation to allow landowners and holders of U.S. Forest Service permits within the district, along with otherwise domiciled registered voters in the district, to vote on district matters and serve on the board.

Status: Not implemented.

Finding: State law does not require local agency formation commissions (LAFCOs) to consider whether a special district's electorate will be large enough to provide an adequate pool of eligible board members. Without a large enough electorate, special districts run the risk of not having enough eligible people to serve on their boards.

Recommendation: To help voters in special districts elect full-size boards of directors and to help special district boards avoid quorum issues and service disruptions, the Legislature should amend state law to require a LAFCO to assess whether an electorate is of sufficient size when it considers creating or modifying a special district.

Status: Not implemented.

Blank page inserted for reproduction purposes only.

NATURAL RESOURCES

San Francisco Bay Conservation and Development Commission

2018-120 *San Francisco Bay Conservation and Development Commission: Its Failure to Perform Key Responsibilities Has Allowed Ongoing Harm to the San Francisco Bay* (May 2019)

Finding: The San Francisco Bay Conservation and Development Commission (commission) has a large backlog of enforcement cases that has been growing steadily. Although the commission has been able to close more cases than it opened in some years, its total cases grew by an average of 14 per year from 2012 through 2017. One of the primary causes of the backlog is the amount of time staff take trying to resolve cases without initiating enforcement action. The commission's failure to resolve cases promptly can result in considerable, ongoing damage to the San Francisco Bay (Bay).

Recommendation: To improve the efficiency of the commission's current enforcement process, the Legislature should require the commission, by fiscal year 2020–21, to create and implement a procedure to ensure that managers perform documented review of staff decisions in enforcement cases, timelines for resolving enforcement cases, and a penalty matrix for applying fines and civil penalties.

Status: Not implemented.

Finding: The commission's approach to identifying individual violations has led to inconsistencies in its imposition of fines. The commission issues fines up to a maximum of $30,000 per violation, but a single case may involve multiple violations and thus incur multiple fines. Consequently, clearly identifying what constitutes a single violation is critical to the enforcement process; however, neither state law nor commission regulations give guidance on this issue.

Recommendation: The Legislature should direct the commission to begin developing regulations by fiscal year 2020–21 to define single violations and create a method of resolving minor violations through fines.

Status: Not implemented.

Finding: The commission has not assessed the implementation of a plan to safeguard the Suisun Marsh, as state law requires, increasing the possibility of harm to the marsh.

Recommendation: To ensure that the commission performs its duties under state law related to the Suisun Marsh, the Legislature should require a report from the commission upon completion of its comprehensive review of the marsh program every five years, beginning with a review in fiscal year 2020–21.

Status: Not implemented.

Finding: The commission has not used the Bay Fill Clean-Up and Abatement Fund (abatement fund) for physical clean-up activities in the Bay. Instead, the commission has used the abatement fund almost exclusively to support staff salaries and operational costs.

Recommendation: To ensure that the commission uses the abatement fund appropriately, the Legislature should clarify that the fund's intended use is for the physical cleanup of the Bay, rather than enforcement staff salaries. The Legislature should consider fully funding enforcement staff through the General Fund to align revenue sources with the commission's responsibilities.

Status: Not implemented.

Finding: To serve the purposes for which it was created, the commission will need to take action in tandem with the Legislature to correct the issues identified in the audit, address past deficiencies, and create a robust enforcement program.

Recommendation: After the commission implements the State Auditor's recommendations, the Legislature should provide the commission with an additional tool to address violations by amending state law to allow the commission to record notices of violations on the titles of properties that have been subject to enforcement action.

Status: Not implemented.

South Orange County Wastewater Authority

2017-113 *South Orange County Wastewater Authority: It Should Continue to Improve Its Accounting of Member Agencies' Funds and Determine Whether Members Are Responsible for Its Unfunded Liabilities* (March 2018)

Finding: Although South Orange County Wastewater Authority (SOCWA) has over $18 million of unfunded obligations for pension and other postemployment benefits, its joint powers authority (JPA) agreement—like many JPAs—does not expressly hold its members liable for the costs of these retirement benefits.

Recommendation: The Legislature should require new JPA agreements to hold the members responsible for the JPA's unfunded pension and other postemployment benefits obligations and to specify the manner of apportioning those liabilities.

Status: Implemented. AB 1912 (Chapter 909, Statutes of 2018), in part, specifies that member agencies of a JPA that participates in or contracts with a public retirement system, are required to mutually agree to the apportionment of the JPA's retirement obligations among themselves prior dissolution of the JPA, provided that the agreement equals 100 percent of the JPA's retirement liability. If the member agencies cannot mutually agree to the apportionment, the JPA board is required to apportion the retirement liability to each member agency based on the share of service received from JPA, or the population of each member agency, and establish procedures allowing a member agency to challenge the board's determination through the arbitration process. If a judgment is rendered against an agency or a party to the agreement for a breach of its obligations to the retirement system, the time within which a claim for injury may be presented or an action commenced against the other party that is subject to the liability determined by the judgment begins to run when the judgment is rendered. These provisions apply retroactively to a current or former member agency that has an agreement with the board on or before January 1, 2019, and to new agreements with the board on or after that date.

Finding: According to a quarterly report prepared by the California Public Employees Retirement System (CalPERS), in December 2017 only 10 of 149 JPAs with CalPERS plans contained provisions in their JPA agreements that would make agency members liable for the JPA's financial liabilities, including unfunded pension obligations.

Recommendation: The Legislature should require all existing JPAs to disclose annually as part of any regularly scheduled communication to their pension and other postemployment benefits plan participants whether the JPA's members are liable for the JPA's unfunded retirement obligations.

Status: Not implemented.

State and Regional Water Boards

2017-118 *State and Regional Water Boards: They Must Do More to Ensure That Local Jurisdictions' Costs to Reduce Storm Water Pollution Are Necessary and Appropriate* (March 2018)

Finding: Water bodies throughout the State are continually contaminated by various pollutants. According to a 2017 report by the State Water Resources Control Board (State Water Board), 1,357 of the 2,623 segments of water bodies in the State contain harmful levels of one or more types of pollutants, such as bacteria, metals, and pesticides. To curb the harmful effects of pollution from storm water runoff, federal law requires states to set restrictions on the pollutants that can be discharged into water bodies. Regional water quality control boards (regional boards) adopt maximum pollutant levels based on regulation and guidance from a variety of sources. Regional boards can also use studies of specific water bodies to justify establishing their own maximum pollutant levels, which can be more or less strict than state and federal guidance. In fact, federal regulation encourages states to use site-specific information when developing maximum pollutant levels.

Recommendation: To promote the establishment of appropriate pollutant limits, the Legislature should amend state law to direct the State Water Board to assess whether a study of a specific water body is justified and, if so, require the appropriate regional board to ensure that the study is conducted by the regional board or the applicable local jurisdictions. For example, a study could be justified if the water body's condition might warrant modifying a maximum pollutant level, if the study could be performed cost-effectively, and if the study's benefits are likely to reduce local jurisdictions' costs or improve protection of the water body's uses. The State Water Board should seek additional funding for local jurisdictions to conduct studies if it believes additional resources are needed.

Status: Not implemented.

Blank page inserted for reproduction purposes only.

PRIVACY & CONSUMER PROTECTION

Employment Development Department

2018-129 *Employment Development Department: Its Practice of Mailing Documents Containing Social Security Numbers Puts Californians at Risk of Identity Theft* (March 2019)

Finding: Identity theft affects millions of Americans and costs billions of dollars each year. For example, identity thieves can use other individuals' Social Security Numbers (SSNs) to fraudulently open financial accounts, obtain tax refunds, and amass medical bills. To combat the risk of identity theft, state agencies have an ongoing responsibility to protect Californians' personal information, such as their SSNs.

Recommendations:

- Because other state agencies may mail full SSNs to Californians, and because this practice—regardless of the agency involved— exposes individuals to the risk of identity theft, the Legislature should amend state law to require all state agencies to develop and implement plans to stop mailing documents that contain full SSNs to individuals by no later than December 2022, unless federal law requires the inclusion of full SSNs. To ensure that state agencies sufficiently prepare to implement this new law, the Legislature should also require that, by September 2019, they submit to it a report that identifies the extent to which their departments mail any documents containing full SSNs to individuals.

- If any agency determines that it cannot reasonably meet the December 2022 deadline to stop including full SSNs on mailings to individuals, the Legislature should require that, starting in January 2023, the agency submit to it and post on the agency's website an annual corrective action plan.

- Finally, if a state agency cannot remove or replace full SSNs that it includes on the documents it mails to individuals by January 2023, the Legislature should require the agency to provide access to and pay for identity theft monitoring for any individual to whom it mails documents containing SSNs.

  Status: Not implemented. AB 499 (Mayes, 2019) would prohibit a state agency from sending any outgoing mail that contains an individual's full SSN unless, under the particular circumstances, federal law requires inclusion of the full SSN. The bill would require each state agency, on or before September 1, 2020, to report to the Legislature when and why it mails documents that contain individuals' full SSNs. The bill would require a state agency that, in its own estimation, is unable to comply with the prohibition to submit an annual corrective action plan to the Legislature until it is in compliance. The bill would require a state agency that is not in compliance with the prohibition to offer to provide appropriate identity theft prevention and mitigation services to any individual, at no cost to the individual, to whom it sent outgoing United States mail that contained the individual's full SSN. This bill is pending in the Assembly Committee on Privacy and Consumer Protection.

Blank page inserted for reproduction purposes only.

PUBLIC SAFETY

California Office of Emergency Services

2019-103 *Emergency Planning: California Is Not Adequately Prepared to Protect Its Most Vulnerable Residents From Natural Disasters* (December 2019)

Finding: The California Governor's Office of Emergency Services (Cal OES) is the State's lead agency for emergency management, and its mission is to protect lives and property, build the State's emergency response capabilities, and support communities. Although Cal OES has issued some guidance and tools for assisting local jurisdictions in developing emergency plans to meet access and functional needs, it has not done enough to fulfill its mission with respect to protecting these vulnerable populations. Additionally, none of the three counties we reviewed—Butte, Sonoma, and Ventura—have implemented best practices from the Federal Emergency Management Agency (FEMA) and other organizations to ensure that their emergency plans fully address the access and functional needs of the people in their communities. FEMA states that the most realistic and complete emergency plans are prepared by a diverse planning team that includes, among others, representatives of people with a variety of access and functional needs. Given the weaknesses identified in the counties' plans and the struggles local jurisdictions have had in assisting people with access and functional needs, the State should take a more active role in ensuring that local jurisdictions maintain effective plans for responding to natural disasters. As the State's leader in emergency management, Cal OES is best positioned to provide the necessary expertise to conduct reviews of local jurisdictions' emergency management plans.

Recommendation. The Legislature should require Cal OES to do the following:

- Review each county's emergency plans to determine whether the plans are consistent with FEMA best practices, including those practices that relate to adequately addressing access and functional needs. The Legislature should require Cal OES to review 10 county plans each year, prioritizing counties that we included as part of this audit and that are at high risk for natural disasters.
- Report the results of its plan reviews to the Legislature and on its website at least once every year.
- Provide technical assistance to counties in developing and revising their emergency plans to address the issues that Cal OES identifies in its review.
- Include representatives of people with a variety of access and functional needs in its review of county emergency plans.

Status: Not implemented. (Note: Report issued in December 2019)

Finding: Cal OES has not involved people with access and functional needs in creating key planning and guidance documents, nor has it created and disseminated timely after-action reports to share lessons learned from recent disasters that would help local jurisdictions' planning efforts.

Recommendation. The Legislature should require Cal OES to do the following:

- Involve representatives of individuals with the full range of access and functional needs in the development of the state emergency plan (state plan), the state emergency management system, and the guidance and training it provides to local jurisdictions.

- Assess local jurisdictions' emergency response and recovery efforts during natural disasters, review their after-action reports to identify lessons learned, and annually disseminate guidance summarizing those lessons.

Status: Not implemented. (Note: Report issued in December 2019)

California Department of Justice

2018-501 *Follow-Up—Sexual Assault Evidence Kits: California Has Not Obtained the Case Outcome Information That Would More Fully Demonstrate the Benefits of Its Rapid DNA Service Program* (March 2019)

Finding: The California Department of Justice (Justice) has failed to provide valuable information through its Rapid DNA Service (RADS) program that the State can use to determine the extent of the benefits of testing all sexual assault evidence kits. If correctly reported, case outcome information could help policymakers identify needs for additional resources to aid the investigation or prosecution of sexual assault cases. Furthermore, Justice has not provided adequate training and guidance to local agencies regarding how to report case outcome information, resulting in reporting inconsistencies.

Recommendation: If it amends state law to require testing of all sexual assault evidence kits, the Legislature should also require that law enforcement agencies and district attorneys report key case outcome data to Justice for all cases associated with hits from DNA profiles obtained through those kits. Additionally, the Legislature should require Justice to provide training and guidance to those entities on how to report that information, and follow up with entities that do not report. Further, it should require Justice to annually publish summary information about case outcomes.

Status: Not implemented

Recommendation: If it does not amend state law to require testing of all sexual assault evidence kits, the Legislature should amend the law to ensure that Justice obtains and reports case outcome information that would demonstrate the benefits of the RADS program. Specifically, the Legislature should require Justice to do the following:

- Periodically train all RADS participants on the requirement to report and update case outcome information, and on how to properly do so.

- Develop guidance to inform RADS participants about how to appropriately and consistently enter case outcome information within Justice's CODIS Hit Outcome Project (CHOP).

- Periodically review the case outcome information within CHOP to identify RADS participants that are not reporting or updating case outcome information, and follow up with them to obtain the information.

- Annually report to the Legislature a summary of the case outcome information it has obtained, as well as its efforts to obtain the case outcome information.

Status: Not implemented

Immigration and Customs Enforcement

2018-117 *City and County Contracts With U.S. Immigration and Customs Enforcement: Local Governments Must Improve Oversight to Address Health and Safety Concerns and Cost Overruns* (February 2019)

Finding: The cities of Adelanto, McFarland, and Holtville have failed to ensure that their private operators are housing detainees in accordance with the detention standards required by the U.S. Immigration and Customs Enforcement (ICE) contracts. Federal inspections found several health and safety deficiencies at three contracted detention facilities.

Recommendation: To ensure that significant health and safety problems are avoided, minimized, or at the very least addressed promptly, the Legislature should consider urgency legislation amending state law to require the cities that contract with ICE to house detainees to implement adequate oversight policies and practices that include the following:

- Review all federal inspection reports and ensure that private operators develop and implement timely corrective actions for any identified noncompliance.
- Obtain and review the quality control plan for the detention facility and ensure that the private operators implement and follow the plan.
- At least quarterly review detainee complaints and any incident reports and follow up with private operators on any pervasive or persistent problems.
- At least quarterly inspect the services provided and conditions at the detention facility as allowed by the detention subcontract.
- Formally approve all invoices and maintain copies of invoices and supporting documentation.

> **Status:** No Longer Necessary. AB 32 (Chapter 739, Statutes of 2019) prohibits within the State the operation of a detention facility that is operated by a private, nongovernmental, for-profit entity, and operating pursuant to a contract or agreement with a governmental entity. This provision does not apply to a private detention facility that is operating pursuant to a valid contract with a governmental entity that was in effect before January 1, 2020, for the duration of that contract. Adelanto, McFarland, and Holtville have ended their contracts with ICE and, under the provisions of AB 32, cannot enter into a new contract. Therefore, this recommendation is no longer needed.

Department of Corrections and Rehabilitation

2018-113 *California Department of Corrections and Rehabilitation: Several Poor Administrative Practices Have Hindered Reductions in Recidivism and Denied Inmates Access to In-Prison Rehabilitation Programs* (January 2019)

Finding: The Department of Corrections and Rehabilitation (Corrections) has neither developed any performance measures for its rehabilitation programs, such as a target reduction in recidivism, nor assessed program cost-effectiveness.

Recommendation: To ensure that Corrections' rehabilitation programs reduce recidivism, the Legislature should require Corrections to do the following:

- Establish performance targets, including ones for reducing recidivism and determining the programs' cost-effectiveness.
- Partner with external researchers to evaluate the effectiveness of its rehabilitation programs and implement the three-year plan described in the report.
- Issue an annual report beginning in fiscal year 2021–22 that shows the percentage reduction in recidivism that can be attributed to the rehabilitation programs.

Status: Not implemented. AB 1688 (Calderon/Jones-Sawyer, 2019) would have required Corrections to contract with an external researcher to analyze the effectiveness of its rehabilitation programs, and to submit a report to the Legislature by July 1, 2024. The bill would have required the report to contain specified information, including a recidivism analysis that includes the number of sanctions or other adverse actions taken against rehabilitation program vendors in the previous calendar year and data on inmates receiving rehabilitation programs in their areas of expressed need, as well as performance targets, a corrective action plan, and the identification of programs that should be modified or eliminated based on their effectiveness. This bill was vetoed by the Governor.

Finding: The California Rehabilitation Oversight Board (C-ROB), has been tasked by the Legislature with conducting reviews of designated rehabilitation programs operated by Corrections, including reviewing "the effectiveness of treatment efforts." However, C-ROB is not structured or staffed adequately to determine whether these programs are effective at reducing recidivism.

Recommendation: To ensure that Corrections and its external researcher conduct a comprehensive analysis of the rehabilitation programs' effect on recidivism, the Legislature should provide authority and funding for C-ROB to monitor the contracting process and provide progress updates to the Legislature in its annual report.

Status: Not implemented.

Finding: We did not identify any law or regulation requiring Corrections to establish performance measures, track how well it meets those goals, or conduct any analysis to determine whether its adult, in-prison rehabilitation programs are effective at reducing recidivism. Further, there is no executive branch oversight entity specifically responsible for ensuring that Corrections performs any of these activities.

Recommendation: To ensure that Corrections remains on track to complete its analysis and develop performance targets, the Legislature should require C-ROB to monitor Corrections' progress in developing appropriate recidivism targets and meeting those targets, and to provide annual updates on Corrections' progress in implementing the three-year plan.

Status: Not implemented.

Finding: Corrections has had difficulty measuring the effectiveness of its vocational education programs in both reducing recidivism and increasing the ability of inmates to find employment because state regulations restrict Corrections' ability to provide inmates' SSNs. Corrections uses an agreement with the California Workforce Development Board and EDD to track employment and the type of employment for former inmates who received vocational education programs. Corrections may provide Social Security numbers only on a need-to-know basis to persons or agencies specifically authorized to receive the information, which, according to Corrections' assistant general counsel, is preventing EDD from getting the data it needs to track inmate employment.

Recommendation: To ensure that Corrections and EDD can collaborate effectively to track whether inmates that received vocational training found work in a related field after release, the Legislature should amend state law to explicitly allow Corrections to provide inmates' Social Security numbers to EDD.

Status: Not implemented.

State and Local Correctional Facilities

2018-106 *Correctional Officer Health and Safety: Some State and County Correctional Facilities Could Better Protect Their Officers From the Health Risks of Certain Inmate Attacks* (September 2018)

Finding: State law requires California's 35 state prisons and the 58 counties' local detention facilities (correctional facilities) to preserve and test a substance that struck a victim during a gassing attack in order to confirm the presence of bodily fluids. The correctional facilities we reviewed have not consistently met their responsibility to ensure that their officers gather sufficient evidence for district attorneys to prosecute gassing attacks.

Recommendation: To shorten the time to submit cases of gassing attacks for prosecution, the Legislature should modify state law to provide correctional facilities the discretion to omit testing the gassing substance for the presence of a bodily fluid when the correctional facility, in consultation with its district attorney, finds that such testing is unnecessary to obtain sufficient evidence of a crime.

Status: Not implemented.

California Department of Justice

2017-131 *Hate Crimes in California: Law Enforcement Has Not Adequately Identified, Reported, or Responded to Hate Crimes* (May 2018)

Finding: Justice's current hate crime reporting process does not capture the geographic location where each hate crime occurred; rather, it identifies only which law enforcement agency reported the hate crime. Capturing data like the geographic locations of crimes is critical to Justice's ability to provide guidance to law enforcement agencies and provide accurate information to the Legislature and the public.

Recommendation: To address the increase in hate crimes reported in California, the Legislature should require Justice to do the following:

- Add region-specific data fields to the hate crime database, including items such as the zip code in which the reported hate crimes took place and other fields that Justice determines will support its outreach efforts.
- Create and disseminate outreach materials so law enforcement agencies can better engage with their communities.
- Analyze reported hate crimes in various regions in the State and send advisory notices to law enforcement agencies when it detects hate crimes happening across multiple jurisdictions.

Status: Not implemented. AB 301 (Chu, 2019) in part would require Justice to add region-specific data fields to its hate crimes data base. Additionally, this bill would require Justice, in consultation with subject matter experts, including civil rights organizations, to create and provide law enforcement agencies with outreach materials to better engage their communities, to provide updates on local trends relating to and statistics regarding hate crimes committed in their communities, and to provide updates regarding threats in the form of hate crimes in their communities. This bill was held in the Assembly Appropriations Committee.

REVENUE & TAXATION

Penalty Assessment Funds

2017-126 *Penalty Assessment Funds: California's Traffic Penalties and Fees Provide Inconsistent Funding for State and County Programs and Have a Significant Financial Impact on Drivers* (April 2018)

Finding: Penalties and fees from criminal and traffic violations intended to help pay for various programs were added to state law in a piecemeal fashion over time, and the resulting revenue has been inconsistent. These penalties and fees also create a financial burden for drivers, particularly low-income individuals who may miss payments and thus may face additional fines.

Recommendation: To ensure consistent funding streams for state and county programs, the Legislature should consider whether, and to what extent, to fund the programs that currently receive penalty and fee revenue from criminal and traffic violations. The Legislature could adjust or eliminate individual penalties and fees by considering the following factors identified in our report:

- Revenue trends and the reliability of penalties and fees as funding sources.
- The significant financial impact of penalties and fees on low-income individuals.
- How well aligned the uses of penalty and fee revenues are with the offenses that give rise to the penalty or fee.
- The seemingly arbitrary amount of the penalty or fee.

To accomplish this, over the next two-year period the Legislature should review the penalties and fees and the programs that receive the penalty and fee revenue to determine the programs' needs. If the Legislature determines that a particular penalty or fee is not appropriate for generating revenue for a particular program, it should consider requiring the affected department to identify other funding sources or reduce the program's scope of services.

Status: Not implemented.

Finding: Many of the penalties are paying for programs that are not directly connected to the offense. While an individual cited for an offense, such as failing to stop at a stop sign, will pay some penalties that support court-related programs, he or she will also pay other penalties that fund emergency medical air transportation and DNA identification services, neither of which is related to the failure to stop except in very specific circumstances.

Recommendation: The Legislature should consider revising state law to redirect all or part of the penalty revenue to the State Penalty Fund and using the budget process to allocate funds to align with legislative priorities.

Status: Not implemented.

Blank page inserted for reproduction purposes only.

TRANSPORTATION

Toll Bridge Seismic Retrofit Program

2018-104 *Toll Bridge Seismic Retrofit Program: The State Could Save Millions of Dollars Annually by Implementing Lessons Learned* (August 2018)

Finding: With more than $600 billion in anticipated infrastructure projects contemplated in the next several decades in just three of the State's largest metropolitan areas, a lack of mandated oversight and risk management could result in project delays and cost escalations.

Recommendation: Ensure appropriate oversight of large transportation infrastructure projects—which federal law defines as a major highway project as one costing over $500 million—by establishing oversight committees.

> **Status:** Not implemented. AB 1277 (Obernolte, 2019) would require a public agency administering a megaproject—defined as a transportation project with total estimated development and construction costs exceeding $1 billion—to establish a project oversight committee composed of specified individuals to review the megaproject and perform other specified duties. This bill is pending in the Assembly Transportation Committee.

Finding: The Toll Bridge Program Oversight Committee's (Oversight Committee) involvement curbed cost overruns on the Toll Bridge Seismic Retrofit Program (seismic program), by resolving project issues, performing risk assessments and monitoring staffing levels, among other duties.

Recommendations:

- Require oversight committees to have duties similar to those of Oversight Committee, such as providing project direction, developing and regularly updating cost and risk estimates and reviewing project status, costs, schedules and staffing levels.
- Ensure both the fiscal and project management elements of large transportation infrastructure projects are addressed through consolidated annual reporting.

> **Status:** Not implemented. AB 1277 would require a public agency to provide quarterly reports to the project oversight committee, and require the project oversight committee to provide annual reports to the California Transportation Commission until the year following the completion of the megaproject. This bill would also require project oversight committees to have duties similar to those of the Oversight Committee.

Finding: Large-scale transportation infrastructure projects have posed challenges for public entities in California, and no state statute generally requires all state and local sponsors of large transportation infrastructure projects to institute oversight and risk management similar to what it requires in seismic program.

Recommendation: Require all publicly funded transportation infrastructure projects with a total estimated cost of $500 million or more to develop risk management plans that use both qualitative and quantitative risk analyses throughout the course of the projects.

Status: Not implemented. AB 1277 would require a public agency administering a megaproject to take specified actions to manage the risks associated with the megaproject, including establishing a comprehensive risk management plan and regularly reassessing its reserves for potential claims and unknown risks.

VETERANS AFFAIRS

Disabled Veteran Business Enterprise Program

2018-114 *Disabled Veteran Business Enterprise Program: The Departments of General Services and Veterans Affairs Have Failed to Maximize Participation and to Accurately Measure Program Success* (February 2019)

Finding: The Disabled Veteran Business Enterprise (DVBE) program requires that state governmental entities that award contracts for goods and services (awarding departments) strive to expend not less than 3 percent of the cumulative value of all their contracts on DVBE firms (3 percent goal). The California Department of Veterans Affairs (CalVet) has not met its statutory responsibility to assist underachieving awarding departments in meeting the required 3 percent goal. The Department of General Services (DGS) is better equipped than CalVet to fulfill this responsibility because it oversees policies and procedures used by all departments in their purchasing and contracting activities.

Recommendation: To ensure that awarding departments that fail to meet the 3 percent goal receive the assistance necessary to achieve the goal, the Legislature should amend state law to transfer the responsibility for monitoring and assisting underachieving departments from CalVet to General Services.

Status: Not implemented.

Finding: Awarding departments do not have procedures in place that require staff to notify a DVBE firm that a business that was awarded a contract has named the DVBE firm as a subcontractor. Without such notification, a DVBE subcontractor may not be aware that it should receive work from the prime contractor.

Recommendation: To minimize the occurrence of program abuse involving DVBE subcontractors, the Legislature should amend state law to require awarding departments to notify those DVBE subcontractors when they are named on an awarded contract.

Status: Not implemented. AB 1365 (Chapter 689, Statutes of 2019) would have required an awarding department to directly inform a DVBE of its inclusion in an awarded contract when the DVBE has been identified as a subcontractor within the awarded contract. This provision was removed from the bill prior to its enactment.

Veterans Home Properties

2018-112 *California Department of Veterans Affairs and Department of General Services: The Departments' Mismanagement of the Veterans Home Properties Has Not Served the Veterans' Best Interests and Has Been Detrimental to the State* (January 2019)

Finding: CalVet and DGS have not ensured that leases of veterans home property are in the best interests of the home. Four leases we reviewed are in effect for longer than state law allows and one lease is void because CalVet entered into it without DGS approval.

Recommendation: To prevent future leases of veterans home property that obligate the property to third parties for unnecessarily extended periods of time, the Legislature should amend state law to clarify that leases of veterans home property may not exceed five years unless a statutory exception applies.

Status: Not implemented. AB 240 (Irwin, 2019) would prohibit a lease from exceeding 5-years, unless the lessee is a local government or a nonprofit organization that provides services exclusively for veterans of the United States Armed Forces and their families, or the contract for the lease was executed before January 1, 2020. The bill would authorize a lease that was executed before January 1, 2020, to be renegotiated, however, any terms regarding the duration of the renewal of the contract shall not be extended. The bill would further provide that a lease contract with any other party may be granted for a term greater than five years only with the approval of the Legislature by statute. This bill was held in the Senate.

Finding: The responsibility for collecting lease payments for veterans home properties is split between CalVet and DGS. However, our audit found that CalVet does not monitor the lease payments it receives to ensure that the lessees make all required payments, and, as a result, it has not collected the total amount of rent it is owed. Without an effective process for monitoring and enforcing compliance with lease payments, CalVet lacks assurance that lessees are making correct lease payments, and therefore it risks forgoing funds that it should collect for the benefit of the veterans. DGS is likely better positioned to collect rent payments than CalVet is because DGS manages the leases of state property, including collecting rental payments for several different state agencies.

Recommendation: To improve the effectiveness of lease payment collection, the Legislature should amend state law beginning in fiscal year 2019–20 to require that DGS receive lease payments for all veterans home property leases, except those for employee housing and those that are required to be deposited into the morale fund.

Status: Not implemented.

Finding: CalVet's lack of oversight allowed third parties to use veterans home properties on a short-term basis without written agreements that would protect the State from liability and without compensating the home. CalVet also approved one use of a home's property that appears to be contrary to the best interests of the veterans.

Recommendation: To protect the interests of the State and veterans homes, the Legislature should amend state law to do the following:

- Require CalVet to promulgate regulations that define what types of short-term uses of veterans home property are in the best interests of the homes, including the interests of the residents of the homes, and to include in all short-term use agreements conditions that protect the State's best interests.
- Prohibit CalVet from approving any short-term uses of the veterans home property that do not meet its definition of the best interests of the home.
- Require CalVet to develop and implement a fee schedule for short-term third-party uses of veterans home property.

Status: Not implemented.

Appendix

Legislation Chaptered or Vetoed During the 2019–20 Regular Legislative Session

The table below briefly describes bills that were chaptered or vetoed during the first year of the 2019–20 Regular Legislative Session and relate to a report issued by the California State Auditor (State Auditor) in the past ten years. These bills either address audit recommendations or the subject matter of the bill relates to findings in a State Auditor's report.

Legislation Chaptered or Vetoed in the 2019 Regular Session

BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
Environmental Quality		
AB 187 Ch. 673, Stats 2019	2018-107 *Mattress Recycling Program* (August 2018)	Requires the mattress recycling organization (organization), during calendar year 2020 and at least once every five years thereafter, to review the mattress recycling plan (plan) and determine whether amendments to the plan are necessary. If the organization determines that no amendments to the plan are necessary, it is required to send a letter to the California Department of Resources Recycling and Recovery (CalRecycle) explaining that the organization has reviewed the plan and determined no revisions are needed. Requires the proposed used mattress recycling program budget to include additional information that CalRecycle deems necessary to determine whether the budget meets statutory requirements. Until a budget has been approved or deemed approved, the organization shall make expenditures consistent with the most recent budget approved by CalRecycle until a new budget has been approved or deemed approved by the department. Requires the organization, commencing with fiscal year 2027–28, to maintain total reserves that do not exceed 60 percent of its annual operating expenses. Authorizes CalRecycle to approve a reserve up to 75 percent. If the organization's reserves exceed the specified amount, CalRecycle may require the organization to increase spending on implementing statutory requirements in order to reduce the excess amount of reserves. Requires CalRecycle, in consultation with the organization and based on methodology contained in the plan, to develop and make public, on or before July 1, 2020, metrics and goals for increasing consumer convenience for used mattress drop-off, disposal, and recycling in a way that applies to the entire state regardless of socioeconomic conditions.
Health & Human Services		
AB 204 Ch. 535, Stats 2019	2011-126 *Non-Profit Hospitals Community Benefits* (August 2012)	Requires the Office of Statewide Health Planning and Development (OSHPD) to annually prepare a report on community benefits provided by non-profit hospitals and post the report and the community benefit plans submitted by the hospitals on its web site. Authorizes OSHPD to impose fines not to exceed $5,000 on hospitals that fail to adopt, update, or submit community benefit plans. Revises the definition of community benefits to exclude activities or programs that are provided primarily for marketing purposes or are more beneficial to the organization than to the community, and revises the definition of hospital to include small and rural hospitals that are part of a hospital system, and to exclude certain health care district hospitals and nonprofit corporations affiliated with a health care district hospital.
AB 262 Ch. 798, Stats 2019	2018-116 *San Diego's Hepatitis A Outbreak* (December 2018)	Authorizes the local health officer to issue orders to other governmental entities within the local health officer's jurisdiction to take any action the local health officer deems necessary to control the spread of the communicable disease. Requires a local health officer, during an outbreak of a communicable disease, or upon the imminent and proximate threat of a communicable disease outbreak or epidemic that threatens the public's health, to notify and update governmental entities within the health officer's jurisdiction if, in the opinion of the local health officer, action or inaction on the part of the governmental entity might affect outbreak response efforts. Requires a local health officer to make any relevant information available to governmental entities within their jurisdiction.

continued on next page . . .

BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
Health & Human Services, continued		
AB 1013 Ch. 498, Stats 2019	2017-129 *Department of Rehabilitation Grant Process* (July 2018)	Prohibits a state agency from permitting an evaluator to review a discretionary grant application submitted by an organization or a person for which the evaluator was a representative, voting member, or staff member within the two year period preceding receipt of that application.
AB 1227 VETOED	2016-126 *Caregiver Background Check Bureau* (March 2017)	Would have required, rather than authorized, the California Department of Aging, Department of Public Health, Department of Health Care Services (Health Care Services), Department of Social Services (Social Services), and the Emergency Medical Services Authority to share information with respect to applicants, licensees, certificate holders, or individuals who have been the subject of any administrative action resulting in one of specified actions, including, among others, the denial of a license, permit, or certificate of approval.
AB 1642 Ch. 465, Stats 2019	2018-111 *Children in Medi-Cal* (March 2019)	Requires Health Care Services to evaluate, as part of its review and approval of an alternative access standard, if the resulting time and distance is reasonable to expect a beneficiary to travel to receive care. Requires a Medi-Cal managed care plan that has received approval from Health Care Services to utilize an alternative access standard to assist an enrollee who would travel farther than the established time and distance standards in obtaining an appointment with an appropriate out-of-network provider within established appointment time standards, to arrange for Medi-Cal covered transportation for the enrollee, as necessary, and to inform all members in mailings of specified related matters, including the Medi-Cal managed care plan's alternative time and distance standards and how to access Medi-Cal covered transportation.
AB 1702 VETOED	2017-112 *Los Angeles Homeless Services Authority* (April 2018)	Would have required the Homeless Coordinating and Financing Council to report to the Legislature recommendations for statutory changes to streamline the delivery of services and effectiveness of homelessness programs in the state, by January 1, 2021.
SB 377 Ch. 547, Stats 2019	2015-131 *California's Foster Care System: Psychotropic Medications* (August 2016)	Requires, by July 1, 2020, the forms developed by the Judicial Council of California to include a request for authorization by the child or the child's attorney to release the child's medical information to the Medical Board of California in order to ascertain whether there is excessive prescribing of psychotropic medication inconsistent with a specified standard of care. Limits the authorization to medical information relevant to the prescription of psychotropic medication, and limits the use of that information for the purpose of these provisions. Requires that medical information to be sealed if it is admitted as an exhibit in an administrative hearing. Requires Social Services, by January 1, 2020, to convene a working group to consider various options for seeking authorization from a dependent child, a ward, or their attorney, for release of the dependent child's or ward's medical information regarding psychotropic medication prescribed between January 1, 2017, and July 1, 2020. Requires Social Services to report to the Legislature by April 15, 2020, on any recommendations to best reach those children and their attorneys to seek authorization.

BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
Judiciary		
SB 176 Ch. 698, Stats 2019	2018-030 *State Bar of California* (April 2019)	In part requires the State Bar of California (State Bar) Board of Trustees to fix the fee for 2020 at a sum not exceeding $438 for active licenses and a sum not exceeding $108 for inactive licenses. States legislative intent that: 1. State Bar licensing fees for future years are set at a level sufficient to fund its proposed technology and capital improvement projects, at the levels recommended by the State Auditor, over a 5-year period for the technology and over a 10-year period for the capital improvements, less the technology updates that are included in the ongoing funding, as recommended by the Legislative Analyst's Office (LAO). 2. State Bar licensing fees in future years be reduced by the increase in income generated by increasing all real estate leases of State Bar property to market rate as soon as the existing below market rate leases expire, as recommended by the California State Auditor in its 2019 audit of the State Bar, and that all leases entered into by the State Bar for lease of State Bar property on and after January 1, 2020, be at or above market rate in order to reduce licensing fees. 3. The State Bar use license fees for active and inactive licensees in a manner that is consistent with the State Auditor's Report released on April 30, 2019, and the LAO's report released on June 26, 2019. 4. The State Bar be included as part of California's annual budget process beginning with the 2021–22 fiscal year.
Public Safety		
AB 32 Ch. 739, Stats 2019	2018-117 *Immigration and Customs Enforcement Jail Contracts* (February 2019)	Prohibits within the State the operation of a detention facility that is operated by a private, nongovernmental, for-profit entity, and operating pursuant to a contract or agreement with a governmental entity. This provision does not apply to a private detention facility that is operating pursuant to a valid contract with a governmental entity that was in effect before January 1, 2020, for the duration of that contract.
AB 1297 Ch. 732, Stats 2019	2017-101 *Concealed Carry Weapon Licenses* (December 2017)	Requires, rather than authorizes, a local licensing authority to charge a fee to an applicant for a concealed carry weapon license or a license renewal and requires the fee to be in an amount equal to the reasonable costs for processing the application, issuing the license, and enforcing the license. Deletes the prohibition on charging more than $100 for the fee.
AB 1688 VETOED	2018-113 *In-Prison Rehabilitation Programs* (January 2019)	Would have required the California Department of Corrections and Rehabilitation to contract with an external researcher to analyze the effectiveness of its rehabilitation programs, and to submit a report to the Legislature by July 1, 2024. The bill would have required the report to contain specified information, including a recidivism analysis that includes the number of sanctions or other adverse actions taken against rehabilitation program vendors in the previous calendar year and data on inmates receiving rehabilitation programs in their areas of expressed need, as well as performance targets, a corrective action plan, and the identification of programs that should be modified or eliminated based on their effectiveness.
Revenue & Taxation		
AB 263 Ch. 743, Stats 2019	2015-127 *Corporate Income Tax Expenditures* (April 2016)	Requires each bill enacting a new tax expenditure under both the Personal Income Tax and Corporate Tax laws to describe the goals, purposes, and objectives for authorizing such an expenditure, and to specify detailed performance indicators intended to measure the effectiveness of the expenditure. Defines a tax expenditure as a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the State, and only applies to tax expenditures enacted by bills introduced on or after January 1, 2020.

continued on next page . . .

BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
Revenue & Taxation, continued		
SB 468 VETOED	2015-127 *Corporate Income Tax Expenditures* (April 2016)	Would have established the five-member California Tax Expenditure Review Board (tax board) as an independent advisory body to comprehensively assess major tax expenditures and make recommendations to the Legislature. The bill would have: 1. Requested the University of California (UC), through a new or existing research center, to perform a comprehensive assessment of major tax expenditures and present a comprehensive, peer-reviewed assessment to the tax board by July 1, 2021, at a public hearing of the tax board. 2. Required, to the extent that the UC needs access to taxpayer data and information, the Franchise Tax Board or the Department of Tax and Fee Administration to ensure relevant taxpayer data is made available and ensure appropriate levels of data security and protections are in place for transferred and sensitive data. 3. Set forth the scope of the comprehensive assessment, which would have included certain specified information, including a brief description of the beneficiaries of the tax expenditure. 4. Required the tax board to post the comprehensive assessment on its internet website after receipt. 5. Required the tax board to make recommendations to the Legislature regarding the major tax expenditures. 6. Required the tax board, after a vote of its members, to provide a report to the Legislature, by January 1, 2022, that compiles all of its recommendations regarding those tax expenditures.
Utilities & Commerce		
AB 1072 Ch. 448, Stats 2019	2018-118 *California Public Utilities Commission* (December 2018)	Requires the California Public Utilities Commission (CPUC) to review or audit, rather than inspect and audit, the books and records of each electrical, gas, heat, telegraph, telephone, and water corporation for regulatory purposes, rather than regulatory and tax purposes, and provides that either a review or audit conducted in connection with a rate proceeding by the applicable industry division within the CPUC or by its Public Advocate's Office, rather than any audit in connection with a rate proceeding, shall be deemed to fulfill these requirements.