Recommendations for the Legislature From Audits Issued During 2019 and 2020

January 2021

REPORT 2020-701

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Elaine M. Howle *State Auditor*

January 21, 2021
2020-701

Dear Governor and Legislative Leaders:

In calendar years 2019 and 2020, the California State Auditor's Office issued reports on various topics as mandated by the Legislature through statute, the budget process, or 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 2019 and 2020.

In this special report, we include recommendations, for example, intended to address the issue of youth suicide prevention. From 2009 through 2018, the annual number of suicides of youth ages 12 through 19 increased 15 percent and incidents of self-harm increased 50 percent. Because students spend a significant amount of time in school, school personnel are well positioned to recognize the warning signs of suicide risk and to make the appropriate referrals for help. Additionally, studies suggest that students use school health centers when they are available and that such health centers can provide the mental health services that serve as protective factors against suicide. One of our recommendations is that the Legislature provide funding for the California Department of Public Health to award grants for a pilot program that would establish school health centers at a selection of local educational agencies located in counties with high rates of youth suicide and self-harm.

We also made recommendations intended to ensure that the California State Lottery (Lottery) is maximizing its funding for education as was intended when the Lottery was established. Our audit found that the Lottery did not adhere to a requirement to increase its funding for education proportionate to its increases in net revenue. As a result, the Lottery failed to provide required funding of $36 million to education in fiscal year 2017–18. We recommended that the Legislature require the Lottery to pay the $36 million to education and amend the California State Lottery Act to specify that the relationship between increases in the Lottery's net revenue and increases in its education funding should be directly proportional.

The Appendix includes a list of legislation chaptered or vetoed during the second 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

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EDUCATION

California Department of Education and Local Educational Agencies

2019-125 *Youth Suicide Prevention: Local Educational Agencies Lack the Resources and Policies Necessary to Effectively Address Rising Rates of Youth Suicide and Self-Harm* (September 2020)

Finding: Studies suggest that students use school health centers when they are available and that such health centers can provide the mental health services that serve as protective factors against suicide. However, at present, school health centers only serve a small proportion of California's students. More than a decade ago, the Legislature took steps to support the creation of additional school health centers, but the Department of Public Health's (Public Health) inaction has impeded these efforts. In 2007 a state law required Public Health's predecessor, the Department of Health Services, to establish the Public School Health Center Support Program (support program) to provide assistance to local educational agencies (LEAs) in establishing, maintaining, and expanding school health centers. In 2009 the Legislature added a grant component—which is contingent on funding—to the support program law authorizing Public Health to provide grants to improve existing health centers or to develop new health centers. However, as of July 2020, Public Health had not established the support program, thus depriving LEAs of the assistance in establishing, retaining, and expanding school health centers that such a program would provide.

Recommendation: To increase students' access to mental health services, the Legislature should provide funding for Public Health to award grants for a pilot program that would establish school health centers at a selection of LEAs located in counties with high rates of youth suicide and self-harm. The Legislature should require Public Health to collaborate with the California Department of Education (Education) to collect data on the pilot program and to provide annual reports on the effectiveness and cost of the program. If the school health center program is deemed affordable and effective, the Legislature should consider expanding it to LEAs throughout the State.

Status: Not implemented. (Note: Report issued in September 2020)

California State Lottery

2019-112 *California State Lottery: The Lottery Has Not Ensured That It Maximizes Funding for Education* (February 2020)

Finding: The California State Lottery (Lottery) did not adhere to a requirement to increase its funding for education proportionate to its increases in net revenue. As a result, the Lottery failed to provide required funding of $36 million to education in fiscal year 2017–18. Further, the Lottery cannot demonstrate that its current prize payout rate is optimal for maximizing funding for education. Its only study on the optimal prize payout rate is 10 years old and the Lottery has not adhered to that study when planning its most recent budgets. Without accurate and up-to-date information about the optimal prize payout rate, the Lottery cannot demonstrate it is maximizing funding for education.

Recommendations:

- To ensure that the Lottery provides the required amount of funding to education, the Legislature should require that the Lottery pay—from its administrative expense category—the $36 million to education it should have provided in fiscal year 2017–18.

- To ensure that the Lottery adheres to the meaning of the 2010 amendments to the California State Lottery Act (Lottery Act), the Legislature should amend the Lottery Act to specify that the relationship between increases in its net revenue and increases in its education funding should be directly proportional.

  Status: Not implemented. AB 2963 (Quirk-Silva) would have, in part, amended the Lottery Act to specify that Lottery revenues are to be allocated so as to maximize the amount allocated to public education and ensure that the relationship between increases in the net revenue of the Lottery and increases in funding allocated to public education is directly proportional. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

  SB 891 (Chang) would have amended the Lottery Act to specify that Lottery revenues are to be allocated so as to maximize the amount allocated to public education and ensure that the relationship between increases in the net revenue of the Lottery and increases in funding allocated to public education is directly proportional, and would have appropriated $36 million from the State Lottery Fund to the State Controller's Office (SCO) for allocation to public education in order to cover the shortfall in allocations from the State Lottery Fund for this purpose for the 2017–18 fiscal year. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

Finding: The Lottery is not subject to the Department of General Services' oversight with regard to its contracts and procurement activity. However, the Lottery's approach to its noncompetitive procurements provides little assurance that it is meeting the intent of the voters and the Legislature. Our audit found that the Lottery has not applied enough safeguards to its procurement activities to enable it to direct the most funding possible to education. The SCO is the primary oversight entity over the Lottery. Although the Lottery Act assigns the SCO broad authority to conduct audits of the Lottery, it does not specify that the SCO must regularly conduct audits of the Lottery's procurement processes.

Recommendation: To ensure that the Lottery is subject to oversight of its procurement practices, the Legislature should amend the Lottery Act to direct the SCO to conduct audits of the Lottery's procurement process at least once every three years.

Status: Not implemented.

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 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. AB 1835 (Weber) would have required each LEA to report the amounts of unspent supplemental and concentration grant funds in its LCAP. This bill was vetoed by the Governor.

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 local educational agencies 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 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. AB 1835 would have required each school district, county office of education, and charter school to identify unspent supplemental and concentration grant funds by annually reconciling and reporting to Education its estimated and actual spending of those moneys. The bill would have required unspent funds identified pursuant to these provisions to continue to be required to be expended to increase and improve services for intended student groups.

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. AB 1834 (Weber/Quirk-Silva) would have required Education to develop, on or before January 1, 2021, a tracking mechanism for school districts, county offices of education, and charter schools to use to report the types of services on which they spend their supplemental and concentration grant funds. The bill would have required each LEA, commencing July 1, 2021, to annually report to Education the types of services on which it spends its supplemental and concentration grant funds using the tracking mechanism developed by the department. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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 the 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. AB 1937 (L. Rivas) would have required LEAs to ensure that each school within the LEA identifies all homeless children and unaccompanied youths enrolled at the school, create a housing questionnaire that includes an explanation of the rights and protections a pupil has as a homeless child or an unaccompanied youth, and annually provide the housing questionnaire to all parents or guardians of pupils and unaccompanied youths of the LEA. The bill also would have required LEAs to collect the completed housing questionnaires and to annually report to Education the number of homeless children and unaccompanied youths enrolled. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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. AB 1937 would have required LEAs to ensure that its school personnel who provide services to youth experiencing homelessness receive training about the homeless education program at least annually.

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. SB 1204 (Jones) would have required LEAs to collaborate with other organizations that provide services to homeless children and youths to enhance the identification of, and the provision of services to, those children and youths. The bill would have required these collaborations to include, but not necessarily be limited to, working with organizations that provide counseling services, social welfare services, meal services, and housing services. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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. AB 3218 (Quirk-Silva) would have required Education to develop and implement a risk-based LEA monitoring plan that includes reviews of LEAs including, but not limited to, school site inspections to ensure that the state is not underestimating the number of youth experiencing homelessness. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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.

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.

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. AB 1937 would have required Education to develop best practices and a model housing questionnaire that LEAs may use to identify and obtain accurate data on all homeless children and youths and unaccompanied youths enrolled in schools of the LEA. The bill would have required Education to post the best practices and model housing questionnaire on its internet website.

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.

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 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.

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.

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.

ENVIRONMENTAL QUALITY

San Diego Air Pollution Control District

2019-127 *San Diego County Air Pollution Control District: It Has Used Vehicle Registration Fees to Subsidize Its Permitting Process, Reducing the Amount of Funds Available to Address Air Pollution* (July 2020)

Finding: In 1990 the Legislature authorized certain local air districts, including the San Diego County Air Pollution Control District (San Diego Air District), to receive $2 in fees collected per vehicle by the Department of Motor Vehicles from owners of vehicles registered in those districts. In 2004 the Legislature amended state law to allow specific local air districts to collect up to $6 in fees for each vehicle registered in their districts.

The Legislature originally intended that local air districts generally use vehicle registration fees for programs and activities to reduce pollution from motor vehicles. However, in 2015 it amended state law to give most local air districts—including the San Diego Air District—broader discretion to use these vehicle registration fees to meet or maintain state or federal air quality standards. Although the San Diego Air District has broad discretion over the use of the vehicle registration fees it receives, its decision to use these funds to subsidize the cost of its permitting program for stationary sources of air pollution instead of raising the permit fees to cover its actual costs does not advance the district's mission of improving county air quality. State law required the local air districts to report to the California Air Resources Control Board (CARB) on their use of the funds. However, in 2004 the Legislature repealed the reporting requirement. One of CARB's goals is to promote transparency, and requiring local air districts to annually report on vehicle registration fee expenditures would both allow CARB to be aware of the district's efforts and help members of the public monitor their respective districts' decisions for the use of those fees.

Recommendation: To increase the transparency of, and promote accountability for, the use of the vehicle registration fees that the public pays, the Legislature should require that each local air district submit an annual report to CARB detailing how it used the vehicle registration fees it received. Both CARB and each local air district should be required to provide this information to the public on their websites.

Status: Not implemented.

Finding: The San Diego Air District spent only $2.2 million of the $12.9 million it received in vehicle registration fees in fiscal year 2018–19 on projects that were related to mobile emissions, such as diesel truck inspections. During this same period, it spent $1.2 million of its vehicle registration fees on divisions directly involved in its permitting program for stationary sources of pollution, and it appears to have used some of the funds that it allocated to its administration and administrative support divisions—which received $4.3 million in vehicle registration fees—for the permitting program. However, stationary sources in the region produced only 4 tons of ozone-causing emissions per day in 2019, while mobile sources contributed 82 tons per day, or nearly 95 percent of all such emissions. By allocating vehicle registration fees to support its permitting program, the San Diego Air District limits opportunities to address emissions from mobile sources, the largest contributor to the region's ozone levels. By raising permit fees to the level necessary to fully pay for the permitting process and

using more of the vehicle registration fees it receives to address emissions from mobile sources, the San Diego Air District could advance the State's efforts to meet federal air quality standards in the San Diego region and its own mission of improving air quality.

Recommendation: To encourage the San Diego Air District to accurately account for its costs, operate efficiently, and effectively use vehicle registration fees, the Legislature should require that the San Diego Air District use at least 90 percent of the vehicle registration fees it receives for projects related to mobile emissions—roughly the proportion of ozone-causing emissions from mobile sources in the region—and it should further require that the San Diego Air District publicly disclose the disposition of any vehicle registration fees it does not use to address mobile emissions.

Status: Not implemented.

GOVERNMENTAL ORGANIZATION

California Department of Technology

2020-043 *California Medicaid Management Information System (CA-MMIS) Status Letter* (December 2020)

Finding: The California Department of Technology (Technology Department) is in the very early stages of developing standards for overseeing state agencies' modular modernization efforts to ensure that modules ultimately function together as a system. Although we believe the Technology Department is raising important issues related to CA-MMIS's modernization, we remain concerned that it does not yet have standards for monitoring modular efforts on large and complex systems, which could become more prevalent in the future. We believe the Technology Department should refine, formalize, and implement these processes for overseeing future modular modernization of IT systems in California. The Technology Department should further establish guidelines for how state agencies must plan and budget for such efforts, develop overall strategies or roadmaps, and track and report progress toward completion. The processes should identify both how the Technology Department will approve and oversee the development of individual modules and the integration of those modules into an overall functioning system.

Recommendation: The Legislature should amend state law to require the Technology Department to implement processes for overseeing the State's modular modernization efforts, including a process for approving and overseeing the development of modules and their integration into an overall system. This process should set expectations for state agencies to plan and develop cost estimates for such projects, including developing an overall strategy or roadmap and reporting progress toward completion. The process should also require state agencies to establish a plan for integrating modules into a complete system.

Status: Not Implemented. (Note: Report issued in December 2020)

Financial Information System for California

2019-039 *FI$Cal Status Letter* (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 the Technology Department and the FI$Cal project office to create a new, ninth project update. The update should include, at a minimum:

- A budget detailing additional time and costs for all remaining development of key functionality currently classified in project documentation as "Maintenance and Operations" costs.
- Sufficient time to stabilize current system functions and complete the transition of existing business processes.
- A budget that includes ongoing funding for oversight until the State Controller produces the state's annual reports exclusively with 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. AB 2508 (Fong) would have required, on or before January 1, 2022, the FI$Cal project office and the Technology Department to create a new project plan update for the FI$Cal system which would include a project timeline allowing sufficient time to stabilize current system functionality and to complete the transition from existing business processes. The bill would also have required, on or before January 1, 2023, the FI$Cal project office, in coordination with the partner agencies, to report to the Legislature on all unanticipated costs of the system project, including, but not limited to, staffing. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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 California 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 in a May 2019 report evaluating the revenues and expenditures from the Gambling 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. AB 2771 (Salas) would have allowed the commission to take action to grant or deny a license at a regular meeting and required an evidentiary hearing only if requested by an applicant upon denial or limited approval of a license. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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. AB 2911 (Patterson) would have required the commission and the bureau, when increasing the amount of a fee, to include in the regulation a clear statement justifying the need for the fee increase and explaining how the funds will be used. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

State of California 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. AB 2669 (Irwin) would have required all nonreporting entities to adopt and implement information security and privacy policies, standards, and procedures based upon standards issued by the National Institute of Standards and Technology and the Federal Information Processing Standards. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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. AB 2669 would have required all nonreporting entities to perform a comprehensive, independent security assessment every two years and authorized them to contract with the Military Department for that purpose.

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. AB 2669 would have required all nonreporting entities to certify, by February 1, annually, to the Assembly Committee on Privacy and Consumer Protection that the agency is in compliance with all adopted policies, standards, and procedures and include a corrective action plan to address any outstanding deficiencies, the estimated dates of compliance, and any additional resources it requires in order to cure each deficiency.

HEALTH & HUMAN SERVICES

Board of Registered Nursing

2019-120 *Board of Registered Nursing: It Has Failed to Use Sufficient Information When Considering Enrollment Decisions for New and Existing Nursing Programs* (July 2020)

Finding: The Board of Registered Nursing (BRN) oversees California's prelicensure nursing programs (nursing programs), which prepare students to practice as entry-level registered nurses. BRN's governing board (governing board) both approves new nursing programs in the State and makes decisions about the number of students that new and existing nursing programs are allowed to enroll. BRN's 2017 forecast of the State's future nursing workforce needs indicated that the statewide nursing supply would meet demand; however, it failed to identify the regional nursing shortages that California is currently experiencing and is expected to encounter in the years ahead. BRN's governing board also lacks critical information about clinical placement slots when it considers enrollment decisions. When making these decisions, the governing board should consider the available number of clinical placement slots.

Recommendation: To better inform stakeholders and the governing board's decision making, the Legislature should amend state law to do the following:

- Require BRN to incorporate regional forecasts into its biennial analyses of the nursing workforce.
- Require BRN to develop a plan to address regional areas of shortage identified by its nursing workforce forecast. BRN's plan should include identifying additional facilities that might offer clinical placement slots.

Status: Not implemented.

Finding: Some of BRN's requirements for approving nursing programs are similar to accreditation standards. National Nursing Program Accreditors (accreditors) are private educational associations that assess whether nursing programs meet and maintain acceptable levels of quality. As part of their evaluation of nursing programs, accreditors verify that course content is consistent with contemporary nursing practices, instructors are using teaching methods that support expected student outcomes, and schools are meeting the needs of nursing students by providing adequate resources and support services. Although BRN approval is required for nursing programs in California, accreditation is optional. However, there are some important differences between BRN oversight and accreditation. According to the National Council of State Boards of Nursing, a state board's mission is protecting the public and ensuring that nursing programs meet state requirements, whereas accreditors focus on quality and program effectiveness.

Recommendation: As part of BRN's sunset review in 2021, the Legislature should consider whether the State would be better served by having BRN revise its regulations to leverage portions of the accreditors' reviews to reduce duplication and more efficiently use state resources. For example, it could consider restructuring continuing approval requirements for nursing programs that are accredited and maintain certain high performance standards for consecutive years (for example, licensure exam pass rates, program completion rates, and job placement rates). Additionally, the Legislature should consider whether and how BRN could coordinate its reviews with accreditors to increase efficiency.

Status: Not implemented.

Finding: When BRN evaluates a request to approve a new nursing program or increase enrollment in an existing nursing program, it considers whether the requesting program has secured sufficient clinical placement slots to accommodate the increase in students. Clinical placements are based on a written agreement with a clinical facility that has provided assurance of the facility's availability to accommodate the program's nursing students. Clinical placement slots are a limited resource. Not all clinical facilities have the capacity or the desire to offer placement slots. The number of clinical placement slots available to a program can constrain the number of students the governing board will allow the nursing program to enroll. Clinical displacement occurs when a program loses placement slots that it is currently using to provide required clinical experience to students because a clinical facility decides to discontinue those placements for some reason. The number of available clinical placement slots affects the number of student enrollments the governing board should approve and the eventual supply of nurses in the State. This information is also crucial to understanding the risk of clinical displacement. However, BRN does not track or consistently report this information to its governing board. In fact, it has not established what information its nursing education staff must provide to the governing board when it is considering enrollment decisions.

Recommendation: To ensure that BRN and stakeholders have an understanding of clinical placement capacity in California, the Legislature should amend state law to require BRN to annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the State.

Status: Not implemented.

California Departments of Health Care Services and State Hospitals

2019-119 *Lanterman Petris Short Act: California Has Not Ensured That Individuals With Serious Mental Illnesses Receive Adequate Ongoing Care* (July 2020)

Finding: Counties are largely unable to access information about when individuals are placed on short-term holds and when they are discharged, and treatment facilities in the counties we reviewed do not always share information about short-term holds with the counties' mental health departments. However, state law requires these facilities to report certain short-term holds to the California Department of Justice (Justice) so that Justice can use this information to determine whether individuals are prohibited from owning firearms. State law deems that this information is confidential unless it is relevant to a court proceeding regarding an individual's right to own or possess a firearm, and Justice indicated that it has not entered into any interagency agreements with other state agencies or county mental health departments to share these data. As a result, the sole possessor of the most comprehensive data about short-term holds is an agency without direct responsibility for overseeing or providing for mental health care. Additionally, treatment facilities are not currently required to report to Justice short-term holds that are the result of grave disability. Therefore, any holds resulting from this criterion would not be among the information that Justice would share with the Department of Health Care Services (Health Care Services).

Recommendation: To ensure that counties are able to access important data about individuals whom they place on involuntary holds under the Lanterman Petris Short Act (LPS Act), the Legislature should amend state law to do the following:

- Require Justice to make the information that mental health facilities report to it about involuntary holds available to Health Care Services on an ongoing basis.
- Require treatment facilities to report to Health Care Services all short-term holds that result from the grave disability criterion.
- Direct Health Care Services to obtain daily the mental health facility information from Justice and make that information, as well as the information that facilities report directly to it, available to county mental health departments for county residents, and for a limited time for nonresidents on an involuntary hold within the county.

Status: Not implemented.

Finding: State hospital facilities have limited space to admit and treat individuals whom counties refer under the LPS Act because of rapidly increasing referrals and a competing obligation to treat individuals involved with the criminal justice system. Because of this shortage of beds, individuals treated under the LPS Act who were waiting for treatment in a state hospital facility as of August 2019 had waited on average one year for admission to a state hospital facility, and some had waited multiple years. The Department of State Hospitals' (State Hospitals) data show that the total capacity in its facilities as of November 2019 was just under 6,300 beds and that 84 percent of these beds were occupied by individuals who were involved with the criminal justice system. Although State Hospitals has allocated some additional beds for individuals receiving their care through the LPS Act, it projects that this waitlist will continue to grow. The fact that courts or counties have determined that these individuals require care at state hospital facilities indicates that these facilities represent one of the few, if not only, opportunities for these individuals to obtain the treatment they need to improve their mental health. When the State does not provide timely access to treatment at state hospital facilities to those who need it, it fails to adequately care for these vulnerable individuals.

Recommendation: To ensure that it is informed about the costs of providing adequate care to individuals treated through the LPS Act, the Legislature should require State Hospitals to report by no later than April 2021 about the cost of expanding its facilities' capacities to reduce and stabilize the LPS waitlist. The report should include a range of options including, but not limited to, reducing the LPS waitlist to limit wait times to within 60 days.

Status: Not implemented.

Finding: Los Angeles's Department of Mental Health and Los Angeles Superior Court (Los Angeles Court) have engaged in practices that do not ensure that individuals subject to conservatorship receive adequate privacy protections and appropriate treatment. The Los Angeles Court has held conservatorship proceedings in public settings instead of safeguarding the confidentiality of individuals' private health information. Case law holds that conservatorship proceedings are presumptively nonpublic, in part to protect individuals' privacy interests. Thus, unless a party to the hearing demands a public hearing, the law effectively requires that conservatorship court proceedings, during which confidential patient records may be discussed, be closed to the public.

Recommendation: To protect the privacy of individuals who are the subject of conservatorship proceedings, the Legislature should amend state law to explicitly prohibit these proceedings from being open to the public unless the subjects of the proceedings direct otherwise.

Status: Not implemented.

Finding: Since 2003 the LPS Act has allowed—but not required—counties to adopt assisted outpatient treatment programs. These programs serve individuals in need of intensive mental health treatment who do not meet the criteria for an involuntary hold or conservatorship. Under state law, assisted outpatient treatment can either be court-ordered or voluntary. Consistent with the LPS Act's emphasis on providing care in the least restrictive environment, assisted outpatient treatment programs must ensure that the individuals they treat are in the most independent and least restrictive housing available in the community. The LPS Act's existing eligibility requirements for involuntary assisted outpatient treatment are a barrier to participation for some of the people who would benefit from the program. Under the LPS Act's criteria for assistant outpatient treatment, individuals exiting from conservatorships are unlikely to be eligible for court-ordered participation in the program because the individuals' conditions must be substantially deteriorating in order to receive this treatment. In contrast, state law requires that conservatorships end when a court determines that individuals are no longer gravely disabled—in other words, they are able to care for their own basic needs. Thus, these individuals are unlikely to satisfy the criterion that they are substantially deteriorating. Further, although the LPS Act permits courts to order assisted outpatient treatment plans that provide for coordination and access to medication, it does not explicitly permit courts to order medication that may be essential to an individual's successful transition to living in their community.

Recommendation: To allow counties to provide effective treatment to individuals in the least restrictive setting, the Legislature should amend the criteria for assisted outpatient treatment programs to do the following:

- Allow individuals who are exiting or have recently exited conservatorships to be eligible for those programs.
- Provide express authority to include medication requirements in court-ordered assisted outpatient treatment plans so long as the medication is self-administered.
- Include progressive measures to encourage compliance with assisted outpatient treatment plans, such as additional visits with medical professionals and more frequent appearances before the court.

Status: Not implemented.

Finding: We found that fewer than a third of California's counties have adopted assisted outpatient treatment, even though it is an effective treatment option that could help prevent individuals from cycling through involuntary holds and conservatorships. Only 19 counties have adopted such programs since California authorized them in 2003.

Recommendation: The Legislature should amend state law to require counties to adopt assisted outpatient treatment programs. However, to ensure the counties' ability to effectively implement such programs, the amended law should allow counties to opt out of adopting assisted outpatient treatment programs by seeking a time-limited waiver from Health Care Services. The Legislature should require a county seeking a waiver to specify what barriers exist to adopting an assisted outpatient treatment program and how the county will attempt to remove those barriers. The Legislature should require Health Care Services to make a final determination as to whether a county will be permitted to opt out of adopting an assisted outpatient treatment program.

> **Status:** Partially implemented. AB 1976 (Chapter 140, Statutes of 2020) commencing July 1, 2021, requires a county or group of counties to offer assisted outpatient programs, unless they opt out by a resolution passed by the governing body stating the reasons for opting out and any facts or circumstances relied on in making that decision. Counties are also authorized to offer assisted outpatient programs in combination with one or more counties, and prohibited from reducing existing voluntary mental health programs serving adults, or children's mental health programs, as a result of implementing the assisted outpatient programs.

Finding: Public accountability for the State's mental health funds currently relies on reporting tools that are disjointed and incomplete. California has a largely county-based system for providing public mental health care to those living with serious mental illnesses. In fiscal year 2018–19, counties received more than $7.5 billion in state and federal mental health dollars from three major types of funds: Medi-Cal, realignment, and the Mental Health Services Act (MHSA). Existing reporting requirements do not provide decision makers and stakeholders with a clear view of the effectiveness of the State's public mental health services. Without a statewide framework for determining spending and outcome information across all funding sources, the State will remain unable to fully and efficiently understand the effects of its investments in mental health services and, if necessary, make changes to better serve those who need critical services.

Recommendation: To increase the accountability for and effectiveness of the counties' use of mental health funds, the Legislature should amend state law to do the following:

- Assign primary responsibility to the Mental Health Services Oversight and Accountability Commission (Oversight Commission) for comprehensive tracking of spending on mental health programs and services from major fund sources and of program-and service-level and statewide outcome data. The Legislature should require the Oversight Commission to consult with state and local mental health authorities to carry out this responsibility. The Legislature should also require the Oversight Commission to explore available data and information when developing this reporting framework, and it should grant the Oversight Commission authority to obtain relevant data and information from other state entities.

- Require the Oversight Commission to develop categories of mental health programs and services that are tailored to inform assessments of spending patterns. The Legislature should subsequently require counties to report to the Oversight Commission their expenses in each of these categories as well as their unspent funding from all major funding sources.

- Require counties to report to the Oversight Commission, in a format prescribed by the commission, program-and service-level outcomes that enable stakeholders to determine whether counties' use of funds benefits individuals living with mental illnesses.

- Direct the Oversight Commission to develop statewide measurements of mental health and report publicly about those measurements annually so that stakeholders and policymakers can assess the progress the State is making in addressing mental health needs.

- Require the Oversight Commission to work with counties and other state and local agencies as necessary to use the information it collects to improve mental health in California.

Status: Not implemented.

Finding: The State should take action to ensure that counties use MHSA funds to provide services to people who have left short-term holds or conservatorships, which is a population our review identified as inadequately served. Because MHSA funding is intended to support community-based services and not more restrictive treatment, we believe it would be consistent with the purpose of the MHSA if the Legislature required counties to spend some MHSA funding to support a stated goal of connecting all individuals who are leaving LPS Act holds—and who could benefit from subsequent services—with those services. Although the MHSA permits counties to spend MHSA funds for this purpose under current law, requiring them to do so would ensure that all counties make concerted efforts to provide services to an important and underserved population and report about those services to the public.

Recommendation: To better serve individuals who are among the most in need of critical, community-based treatment and services, the Legislature should amend state law to do the following:

- Identify those who have left LPS Act holds and who experience serious mental illnesses as a population that MHSA funds must target.

- Establish a goal in the MHSA of connecting all such individuals to the community-based programs and services that they would benefit from—such as assisted outpatient treatment—and require counties to fund efforts to link these individuals to those programs and services. The Legislature should also establish that a goal of providing those programs and services is to reduce the number of repeated involuntary holds or conservatorships that occur.

- Specify that counties can use any portion of their MHSA funds for this purpose as long as they comply with other statutory and regulatory requirements.

Status: Not implemented.

Finding: In the past, counties uniformly reported their unspent funds in their annual MHSA revenue and expenditure reports (MHSA reports). In fact, in a report we issued in February 2018, we relied on information from those uniform revenue and expenditure reports to identify more than $2.5 billion in unspent MHSA funds statewide. However, after we published that report, Health Care Services issued a template for revenue and expenditure reporting that no longer asked counties to provide their total unspent funds. Consequently, the MHSA reports no longer directly identify counties' unspent funds. By removing unspent funds from the MHSA reports, Health Care Services has made it more difficult for stakeholders to assess counties' financial positions, especially at a statewide level. After it removed unspent funds information from the MHSA reports, Health Care Services adopted regulations that effectively prohibit the department from changing the content of the reports without revising its regulations. Therefore, the department would need to adopt revised regulations to once again include

unspent funds in the MHSA reports. However, shortly before the planned release of this audit report, the department shared with us a new approach it planned to take that—if implemented—would result in publicly available information about unspent MHSA funds on the department's website.

Recommendation: If Health Care Services does not follow through with its plan to provide, on its website, information about each county's unspent MHSA funds, the Legislature should amend state law to explicitly require counties to include information about their balances of unspent MHSA funds in their MHSA annual revenue and expenditure reports.

Status: Not implemented.

California Departments of Health Care Services and Public Health

2019-105 *Childhood Lead Levels: Millions of Children in Medi-Cal Have Not Received Required Testing for Lead Poisoning* (January 2020)

Finding: Unlike California, some states use proactive methods to facilitate lead abatement in the environment. For example, a number of states—including Massachusetts and Maryland—maintain publicly accessible online registries of residences built before 1978, the year lead paint was banned. These registries can provide information to property buyers and renters, such as whether and when a property was inspected for lead and the status of any identified lead hazards. This information allows the buyers and renters to better assess the risk of lead or the need for abatement. State regulations already require the California Department of Public Health (Public Health) to collect lead inspection and abatement information. In fact, according to the lead hazard reduction chief, it receives such information on tens of thousands of properties every year, and it maintains this information in a database. Nonetheless, Public Health does not currently make this information available to the public, and it does not have plans to do so. Furthermore, Public Health's lead hazard reduction chief raised concerns that its database may contain personally identifying or medical information in cases where the inspection or abatement resulted from its case management efforts. If Public Health uses the information it already collects to create a registry, it will need to take steps to ensure that it does not make information available to the public that could be used to identify individuals in its case management system.

Recommendation: To provide sufficient information to homebuyers and renters, the Legislature should require Public Health, by December 2021, to provide an online lead information registry that allows the public to determine the lead inspection and abatement status for properties. To accomplish this task, Public Health should use the information it already maintains only to the extent that it can ensure that it does not make personally identifying information, including medical information, public.

Status: Not implemented. AB 2422 (Grayson) would have required Public Health to develop and maintain on its website a public registry of lead-contaminated locations reported to the department pursuant to the provisions relating to lead hazards in buildings. The bill would have required Public Health to ensure that personally identifiable information, including medical information, is not disclosed or ascertainable from the information available on the registry. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

SB 1008 (Leyva) would have required Public Health to design, implement, and maintain an online lead information registry on its website that enables the public to determine the lead inspection and abatement status for properties, and to use information it maintains for the registry to the extent that Public Health ensures that personally identifying information is made unavailable to the public. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

Finding: Public Health has not sufficiently advocated for changes necessary to efficiently assign lead test results to children's cases. Public Health must ensure that a child obtains appropriate case management when lead test results indicate the child has lead poisoning. When it receives test results from laboratories, it must link that data to existing cases in its case management system. Therefore, Public Health needs information that clearly identifies the child tested. Although requiring more complete identifying information would help in assigning test results to new or existing cases, matching tests to cases can best be accomplished with a unique identifier, according to an epidemiologist at Public Health. She described various unique identifiers, such as Medi-Cal identification numbers and medical plan identification numbers, that laboratories could include with their test results. State law allows laboratories the option of reporting additional identifying information to Public Health, and Public Health's case management system has the capacity to collect such information. However, this law does not require such reporting. In addition, even though laboratories must review Medi-Cal identification numbers for billing purposes, Public Health states that they rarely submit them with test results.

Recommendation: To support Public Health's efforts to efficiently monitor lead test results, the Legislature should amend state law to require that laboratories report Medi-Cal identification numbers or equivalent identification numbers with all lead test results.

Status: Not implemented. AB 2278 (Quirk) would have required a laboratory that performs a blood lead analysis to report to Public Health, among other things, the Medi-Cal identification number and medical plan identification number, if available, for each analysis on every person tested. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

AB 2422 would have added the Medi-Cal identification number, or other equivalent medical identification number of the person tested to the information that a laboratory is required to provide regarding blood lead level tests. AB 2422 also would have required, if the person tested is a minor, the laboratory to include the person's contact information and a unique identifier, in a form to be determined by Public Health.

Finding: Poor data reporting by laboratories has also impeded Public Health's ability to contact families of children who need services. Public Health requires contact information for children in order to provide additional services, such as home visits and environmental assessments. State law requires laboratories to report either phone numbers or addresses with test results. However, laboratories often do not submit sufficient information. Requiring laboratories to report both an address and telephone number would improve Public Health's ability to contact the families of children with lead poisoning to deliver appropriate case management services. Further, it would provide information that Public Health could use to match lead tests to children's records that do not have unique identification numbers.

Recommendation: To ensure that Public Health can contact the families of children with lead poisoning and has alternative information to match lead tests to the children's records that do not have unique identification numbers, the Legislature should amend state law to require laboratories to report phone numbers and addresses with all lead test results.

Status: Not implemented. AB 2422 would have required, if the person tested is a minor, a laboratory to include the person's contact information and a unique identifier in a form to be determined by Public Health.

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 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 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 have, in part, required 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 also would have required 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 died in the Assembly Appropriations committee.

HIGHER EDUCATION

University of California

2019-047 *Native American Graves Protection and Repatriation Act: The University of California Is Not Adequately Overseeing Its Return of Native American Remains and Artifacts* (June 2020)

Finding: The federal Native American Graves Protection and Repatriation Act (NAGPRA), passed in 1990, and its California counterpart (CalNAGPRA), enacted in 2001, establish requirements for the protection of Native American graves and the treatment and return of Native American human remains and cultural objects (remains and artifacts) from the collections of government agencies and museums. In California, the University of California maintains a significant collection of hundreds of thousands of remains and artifacts. Federal law allows only those tribes that the U.S. Department of the Interior officially recognizes to use NAGPRA's repatriation process. However, many California tribes lost their federal recognition during the mid-20th century as part of the federal government's efforts to integrate Native Americans into American society. To address this issue, the Legislature passed CalNAGPRA to encourage and increase repatriation of Native American remains and artifacts to California tribes, in part by expanding the number of California-based tribes that can submit repatriation claims. Although the federal government already recognizes more than 100 tribes in California, CalNAGPRA established a process that would enable the State to officially recognize dozens of additional tribes. Specifically, CalNAGPRA requires the Native American Heritage Commission (NAHC)—a state entity that manages Native American cultural resources in California—to publish a list of California tribes that are eligible to participate in CalNAGPRA's repatriation process. Under CalNAGPRA, a key criterion for inclusion on the list is for a tribe to be petitioning for federal recognition. According to the NAHC, because the U.S. Department of the Interior changed its regulations for tribes that were petitioning for federal recognition in 2015, the number of tribes in California formally seeking recognition decreased dramatically, from 81 tribes in 2013 to just four tribes in 2020.

Recommendation: To allow more California tribes to pursue repatriation of remains and artifacts that may belong to them, and consistent with the intent of CalNAGPRA, the Legislature should amend state law to allow more tribes to be eligible for inclusion on the NAHC's list of recognized tribes.

> **Status:** Implemented. AB 275 (Chapter 167, Statutes of 2020) removes the requirement in CalNAGPRA that non-federally recognized California tribes must be on the petitioner list, and expands the definition of "tribe" to include California tribes that are on the contact list maintained by the NAHC. The NAHC is required to develop and notify tribes, museums and agencies of the list by January 1, 2021.

California State University

2019-114 *The Mandatory Fees Its Campuses Charge Receive Little Oversight Yet They Represent an Increasing Financial Burden to Students* (May 2020)

Finding: Although the California State University (CSU) has established mandatory fees to satisfy a variety of purposes, some of these purposes directly relate to its core functions of providing instruction and academic support to students. The campuses we reviewed used significant amounts of revenue from certain mandatory fees to pay for faculty and staff salaries and benefits, tutoring and counseling

services, and software and equipment crucial to educating students. However, the mandatory fees that students pay to generate that revenue do not receive the same oversight as the CSU's other major revenue sources. State law does not specifically define the purposes that the CSU must support with the tuition students pay or the General Fund appropriations the Legislature provides each year, but the CSU relies primarily on these sources of revenue to pay for its core functions. To the extent that campuses use mandatory fees to pay for these same functions, the revenue they generate plays an equivalent role in the statewide process for funding the CSU system; thus, this revenue should be subject to the same discussion between the Legislature and the trustees about the amount of funding the CSU needs for its operations.

Recommendations: To ensure that all funding that students and the Legislature provide to the CSU system to pay for its core functions receives the same oversight, the Legislature should do the following:

- Direct the CSU Office of the Chancellor (Chancellor's Office) to review mandatory fee expenditures across all 23 campuses and, by December 2020, report to the Legislature how much campuses spent of those fees on faculty and academic support staff, classroom and laboratory improvements, educational equipment and software, student trips and events, instruction-related facility improvements, and athletics in fiscal year 2018–19. The Chancellor's Office should also report the proportions and dollar amounts of these fee expenditures that directly support the CSU's core functions— namely, instructing and graduating students who are prepared to succeed.

- Using this information, determine and implement the most effective centralized way to fund the core functions for which mandatory fees currently pay.

- Upon implementing the new funding approach, prohibit CSU campuses from charging and using revenue from mandatory fees—including student success fees; instructionally related activities fees; and materials, services, and facilitates fees—to pay for any of the identified core functions. This prohibition should also apply to any mandatory fees campuses create in the future.

  Status: Not implemented.

Finding: Campuses have raised their mandatory fees an average of 56 percent over the last nine years and have used the resulting revenue from some mandatory fees to help pay for their core functions. Their ability to raise mandatory fees is, in part, the result of vague requirements in the Chancellor's Office fee policy that allow them to impose or increase mandatory fees without justifying specific fee amounts. The fee policy also does not include specific requirements to ensure that campuses adequately consult students about proposed new mandatory fees or fee increases. State law already requires binding student votes before campuses implement or increase student success fees and, in general, student association fees; extending this requirement to all mandatory fees and fee adjustments will address many of the issues we have identified and increase campuses' accountability for the fees they propose.

Recommendation: To ensure that CSU students have a strong voice regarding the mandatory fees they must pay, the Legislature should amend state law to require campuses to hold binding student votes when seeking to establish or increase any mandatory fee. The Legislature should require the Chancellor's Office to verify the results of all student votes before the chancellor approves fee changes.

Status: Not implemented.

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 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 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. AB 1836 (Quirk-Silva) would have required the Chancellor's Office to, on or before November 30 of each year, report to the Legislature the current balance and projections of the surplus the CSU has accumulated for discretionary spending on operations and instruction, and an estimate of how much tuition has contributed to the surplus. This bill failed passage due to the adjournment of the 2019–20 Regular Legislative Session.

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 campus 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. AB 1836 would have required the CSU Board of Trustees to include in the CSU Five-Year Capital Plan specified information relating to the costs and usage of its parking facilities and of alternative transportation strategies considered by campuses in determining the need for those parking facilities.

HOUSING & COMMUNITY DEVELOPMENT

California Housing Agencies

2020-108 *California's Housing Agencies: The State Must Overhaul Its Approach to Affordable Housing Development to Help Relieve Millions of Californians' Burdensome Housing Costs* (November 2020)

Finding: State law requires the California Department of Housing and Community Development (HCD) to develop a state housing plan every four years, but its most recent state housing plan from 2018 lacks key attributes, such as explaining how state financial resources will contribute to meeting current and future housing need and identifying where those resources will have the most impact. Although state law does not expressly require this information in the plan, without it, the State cannot demonstrate how it will build enough affordable housing and ensure that its financial resources are put to best use.

Recommendation: To ensure that the State can identify the extent to which its financial resources are supporting its mission to provide a home for all Californians, the Legislature should require HCD to prepare an annual addendum to the State's housing plan and report to the Legislature, beginning January 2022. The addendum should include up-to-date information and identify the following:

- All financial resources for each housing agency for the development of affordable housing.
- The number of affordable units those resources are expected to build annually compared to the annual units needed, including units for individuals experiencing homelessness, those with special needs, seniors, and farmworkers.
- The amount of financial resources the State will need to obtain from other sources, such as federal, local, and private sources, to meet the remaining gap in needed units.
- Where the State's financial resources will have the most impact based on geographic distribution, population, and indicators of need.
- Outcomes to measure how well the State is maximizing the impact of its financial resources to meet the annual units needed, including measuring whether it has reduced cost burden and overcrowding, and increased housing availability.

Status: Not implemented. (Note: Report issued in November 2020)

Finding: The State does not have the data to determine how much affordable housing it has supported with its financial resources. For example, the State lacks a unified data system across state housing agencies that tracks applications, type and amount of funding awarded, number of units created, and project location for all housing awards. Without data on the real impact of affordable housing resources, the State will continue to struggle to gauge how successfully its housing agencies are meeting Californians' needs and continue to leave millions with burdensome housing costs.

Recommendation: To ensure that the State has sufficient data to determine how much affordable housing it has supported and to maximize the impact of its funds, the Legislature should require HCD to develop the housing data strategy component of its housing plan with input from the California Tax Credit Allocation Committee (Tax Committee) and the California Housing Finance Agency (CalHFA). At a minimum, the housing data strategy should include the following:

- A strategy for assigning a unique identifier to state-funded affordable housing projects so that multiple funding sources can be tracked for each project, such as all agencies using a single application process for multifamily housing programs.

- An evaluation of data priorities to measure the distribution and impact of state-awarded funds for affordable housing, such as number of applications, type and amount of funding awarded, number of units created, and project location.

Status: Not implemented. (Note: Report issued in November 2020)

Finding: Building affordable housing is complex and costly, and developers often must secure funding from multiple financing sources to cover the costs of a single project, including a combination of public and private financial resources. At the state level, currently four separate agencies—HCD, CalHFA, the Tax Committee, and the California Debt Limit Allocation Committee (Debt Limit Committee)—provide project applicants with financing to help develop affordable housing. Although all of these agencies have programs with the same goal—to support multifamily housing for lower-income households—many of the State's requirements are misaligned among the housing agencies because each agency generally developed its requirements without coordinating with the others. State law clearly states the need to maximize the amount of state resources available for affordable housing and to minimize the administrative costs and simplify the financing systems for developing such housing, yet the agencies have not attended to this guidance.

Recommendation: To ensure that the State awards financial resources for housing in a more timely and efficient manner, the Legislature should create a workgroup including the Tax Committee, HCD, CalHFA, and other industry representatives such as private lenders and developers, and require it to do the following:

- Develop consistent program requirements for determining eligibility for awarding financial resources to multifamily housing projects, to the extent feasible.

- Align application deadlines for multifamily housing programs.

- Design the requirements and deadlines to best accomplish the goals outlined in the state housing plan and addendum, with the intent to maximize affordable housing built and to remove administrative barriers.

- Update their respective regulations to reference the new program requirements and deadlines.

Status: Not implemented. (Note: Report issued in November 2020)

Finding: The Tax Committee and the Debt Limit Committee review the same general project information and require similar, if not identical, documentation—such as market studies—from applicants for the majority of project application components. The process wherein two agencies

review applications for the same housing projects and separately determine eligibility when the financing is integrally linked is, in several respects, redundant and thus may contribute to inefficiencies. The two committees make awards to most of the same projects because the majority of affordable housing tax credits are paired with bond allocations.

Recommendation: To reduce administrative redundancy and streamline a portion of the funding process, the Legislature should eliminate the Debt Limit Committee and transfer its responsibilities to the Tax Committee, including reviewing applications and allocating bond resources. To ensure a thorough application review process, the Legislature should also require the Tax Committee to develop a sufficient quality control process for reviewing applications for financial resources, including multiple levels of review.

Status: Not implemented. (Note: Report issued in November 2020)

Finding: The State is facing a severe shortage of affordable homes in part because local jurisdictions can create barriers that make it harder to build those homes. Local barriers to affordable housing development—such as restrictions on the number of units developers can build on a portion of land or lengthy processes for approving developers' projects—are one reason that local jurisdictions reported issuing building permits for only about 11 percent of their needed affordable housing units as of June 2019. State law requires jurisdictions to adopt local housing plans that include sites that accommodate needed units and actions to address barriers to development. However, state law is not strong enough to ensure that local jurisdictions actually mitigate these barriers.

Recommendation: To help ensure that all local jurisdictions mitigate key barriers to affordable housing in the near term, the Legislature should amend state law to do the following:

- Increase the existing default densities for affordable housing, currently set at up to 30 units per acre, to a level that ensures that local jurisdictions make every reasonable effort to accommodate needed affordable housing units on sites they identify in their housing plans. Because other standards, such as maximum building height, can also limit density, the Legislature should also require that local jurisdictions' development standards allow developers to build the densities that jurisdictions specify for each potential affordable housing site in their housing plans.

- Require that local jurisdictions allow a streamlined review process with limited discretionary action for affordable housing projects on a site that a local jurisdiction has identified in its housing plan to accommodate affordable housing units.

Status: Not implemented. (Note: Report issued in November 2020)

Finding: Local jurisdictions can create barriers to affordable housing—such as barriers related to density and to approval processes—because state law is not yet strong enough to ensure that local jurisdictions mitigate these barriers. HCD is responsible for reviewing each local housing plan when jurisdictions adopt them every five or eight years. The plans must include sites suitable for affordable development and actions to remove potential barriers to development where possible. However, the requirements in state law contain gaps that allow these barriers to persist, even for the sites local jurisdictions identify for affordable housing. Because HCD's review process for local housing plans largely focuses on whether jurisdictions have included appropriate analyses or met minimum requirements in state law, its approval of these plans does not necessarily mean that local jurisdictions have done everything possible to mitigate barriers to needed affordable housing.

Recommendation: To ensure that local jurisdictions make sufficient efforts to facilitate the development of needed affordable housing in the long term, the Legislature should require HCD to develop and submit to the Legislature specific and objective standards—for example, a maximum number of parking spaces required per housing unit—for how local jurisdictions can mitigate barriers to lower-income housing development across all the potential barriers they control, such as zoning and parking. HCD should tailor these standards to ensure that local jurisdictions implementing them have made it feasible for developers to build the housing necessary to meet lower-income housing goals. The Legislature should also require that HCD consult with local jurisdictions, regional governments, and affordable housing developers, advocates, and researchers in determining these standards. The Legislature should consider this information when developing legislation to mitigate additional affordable housing barriers: for instance, it could require local jurisdictions to adopt the standards for all potential affordable housing sites in their housing plans unless they provide reasonable justifications for using different standards.

Status: Not implemented. (Note: Report issued in November 2020)

Finding: Even if local jurisdictions developed effective plans to remove affordable housing barriers, HCD's limited oversight is insufficient and its lack of authority does not permit it to ensure that all local jurisdictions are following through with those plans. HCD has only one current option to fully enforce its findings when local jurisdictions are persistently noncompliant: it can notify the Attorney General for possible litigation. To improve its oversight, the State needs an adequate and timely enforcement mechanism—such as an appeals process for developers—for situations in which local jurisdictions fail to approve eligible affordable housing projects. One potential approach is to allow developers of eligible affordable housing projects to appeal to a state appeals board within HCD when local jurisdictions have not approved their projects in a timely manner, and to grant that appeals board the authority to approve such projects when they have met state and local standards. An appeals board could expedite development of needed affordable housing and add more certainty to the development process.

Recommendation: To facilitate timely and needed affordable housing development in local jurisdictions that are not approving it, the Legislature should amend state law and consider the constitutionality of establishing an effective appeals process for developers of affordable housing projects. For example, it could do the following:

- Create an appeals board within HCD to resolve disputes over affordable housing projects in a timely and fair manner. The Legislature should specify that the appeals board include at least one representative from local jurisdictions.

- Allow a developer of an affordable housing project to appeal to the appeals board if the local jurisdiction in which the developer has proposed the project is not on track to provide its needed lower-income units, if the project would contribute significantly to the local jurisdiction meeting that need, and if the local jurisdiction has unreasonably denied or delayed the project.

- Require the appeals board to render decisions on appeals in a timely manner and to approve an appeal for a project if it meets the criteria above and is consistent with state and local standards.

- Specify parameters for any subsequent litigation that challenges or enforces the state appeals board's decisions so that these decisions are enforceable and developers of affordable projects meeting reasonable standards can build as soon as is feasible.

Status: Not implemented. (Note: Report issued in November 2020)

Finding: If the State wants to address the limits of state funding and meet its affordable housing goals, it must take ambitious actions to spur local and private investment in affordable housing development. Current funding programs that could be affected by a local jurisdiction's adoption of various local policies, such as zoning more sites for housing development than state law requires, are substantially housing-focused—meaning that the incentives may not be appealing to local jurisdictions that are opposed to housing development in the first place. We did not identify any significant nonhousing financial incentives for local jurisdictions that the State currently conditions on the amount of affordable housing that jurisdictions approve. For example, housing researchers have explored the possibility of the State offering flexible or nonhousing funds to local jurisdictions based on the housing units they develop.

Recommendation: To better leverage local and private resources and develop more affordable housing, the Legislature should consider amending state law to award a significant amount of nonhousing or flexible funds, such as existing transportation funds, to local jurisdictions based on the number of lower-income housing units they have approved relative to their needs allocation.

Status: Not implemented. (Note: Report issued in November 2020)

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INSURANCE

Department of Industrial Relations Division of Workers' Compensation

2019-102 *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. AB 1815 (Daly/Salas) would have required the DWC Administrative Director to adopt and revise the medical-legal fee schedule at least every two years and to do so separate and apart from adopting and revising the medical fee schedule. This bill failed passage due to the adjournment of the 2019–20 Regular Legislative Session.

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.

State Agencies 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 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 State Fund insurance policies, the Legislature should give CalHR the authority to obtain that information.

Status: Not implemented.

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. AB 3362 (Chapter 360, Statutes of 2020) authorizes the State Bar to collect annual license fees of $395 for active licensees and $97.40 for inactive licensees for 2021. 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 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 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 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. SB 1151 (Jones) would have extended through 2021 the assistance program fee exemption for inactive licensees, and the reduction of the fee for active licensees to $1. This bill failed passage due to the adjournment of the 2019–20 Regular Legislative Session.

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 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.

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 the 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 the 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. AB 3363 (Salas) would have, in part, created in the Committee to Review the Operations and Structure of the Commission on Judicial Performance to study and make recommendations for changes in the CJP's operations and structure and

provide a written report about its findings and recommendations to the Governor, CJP, and the California Supreme Court no later than March 30, 2022. The bill failed passage in the Senate.

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: Implemented. The Budget Act of 2020 (as amended by AB 89, Chapter 7, Statutes of 2020) increased CJP's budget by $1.5 million, in part, to fund an investigations manager position and update the electronic case management system.

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 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. SB 1180 (Dahle) would have provided that voters who are resident registered voters of the district, and voters who are not residents but either own a real property interest in the district or have been designated by the owner of a real property interest to cast the vote for that property, may vote in a district election. The bill would have required the designations of voters and authority of legal representatives to be filed with the El Dorado County elections official (county official) and the district secretary and maintained with the list of qualified voters of the district. The bill also would have authorized a voter who is not a resident of the district but owns a real property interest in the district to designate only one voter to vote on their behalf, regardless of the number of parcels in the district owned by the nonresident voter, and would have prohibited a parcel from simultaneously having a designated voter and a resident voter or voters. The bill would have required the county official, with the assistance of the district secretary, to notify each parcel owner regarding the right to designate a person to cast a vote at district elections. Finally, this bill would have prohibited the district from providing any services other than fire protection and medical services, including emergency response, as well as parks and recreation services and facilities. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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.

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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 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:** Implemented. AB 2809 (Chapter 220, Statutes of 2020) requires, by the end of the 2020–21 fiscal year, that the commission create and implement a procedure to provide managerial review of staff decisions in enforcement cases, timelines for resolving enforcement cases, a penalty matrix for assessing fines and civil penalties, and a method for assessing civil penalties in cases involving multiple violations.

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: Implemented. AB 2809 requires the commission to perform and complete the required review of the marsh program by no later than July 1, 2025, and to perform successive reviews under the act every five years.

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. AB 2809 would have prohibited the commission, commencing with the 2021–22 fiscal year, from using moneys paid into the abatement fund to pay for the commission's staff salaries or enforcement actions. This provision was removed from the bill prior to its enactment.

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. AB 2809 would have, commencing with the 2022–23 fiscal year, authorized the commission to record notices of violation on the titles of properties that have been subject to enforcement actions. This provision was removed from the bill prior to its enactment.

PRIVACY & CONSUMER PROTECTION

California 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: Partially implemented. AB 499 (Chapter 155, Statutes of 2020) prohibits a state agency, by January 1, 2023, from sending to an individual mail that contains the individual's full SSN unless, except in limited circumstances, federal law requires inclusion of the full SSN. This statute also requires each state agency, on or before September 1, 2021, to report to the Legislature when and why it mails documents that contain individuals' full SSNs, Finally, this statute requires a state agency that, by January 1, 2023, is unable to comply with the prohibition to submit an annual corrective action plan to the Legislature until it is in compliance.

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PUBLIC SAFETY

Local Law Enforcement Agencies

2019-118 *Automated License Plate Readers: To Better Protect Individuals' Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects* (February 2020)

Finding: We found that the handling and retention of automated license plate reader (ALPR) images and associated data did not always follow practices that adequately consider an individual's privacy. The four local law enforcement agencies we reviewed—Fresno Police Department, Los Angeles Police Department, Marin County Sheriff's Office, and Sacramento County Sheriff's Office—have accumulated a large number of images in their ALPR systems, yet most of these images are unrelated to their criminal investigations. Furthermore, agencies may be retaining the images longer than necessary and thus increasing the risk to individuals' privacy.

Recommendations: To better protect individual's privacy and to help ensure that local law enforcement agencies structure their ALPR programs in a manner that supports accountability for proper database use, the Legislature should amend state law to do the following:

- Require the California Department of Justice (Justice) to draft and make available on its website a policy template that local law enforcement agencies can use as a model for their ALPR policies.
- Require Justice to develop and issue guidance to help local law enforcement agencies identify and evaluate the types of data they are currently storing in their ALPR systems. The guidance should include the necessary security requirements agencies should follow to protect the data in their ALPR systems.
- Establish a maximum data retention period for ALPR images. The Legislature should also establish a maximum data retention period for data or lists, such as hot lists, that are used to link persons of interest with license plate images.
- Require periodic evaluation of a retention period for ALPR images to ensure that the period is as short as practicable.
- Specify how frequently ALPR system use must be audited and that the audits must include assessing user searches.
- Specify that those with access to ALPR systems must receive data privacy and data security training. The Legislature should require law enforcement agencies to include training on the appropriateness of including certain data in an ALPR system, such as data from the California Law Enforcement Telecommunications System (CLETS).

  Status: Not implemented. SB 1143 (Wiener) would have required that a usage and privacy policy implemented by an ALPR operator or end-user include, among other things, the length of time ALPR information will be retained, not to exceed two weeks, and the process utilized to determine if and when to destroy ALPR information retained for two weeks or less. The bill would have additionally required an ALPR operator maintain reasonable security procedures and practices that include an annual audit to review ALPR end-user searches during the previous year and the destruction of all ALPR information retained

for longer than two weeks. Moreover, the bill would have required an ALPR operator that accesses or provides access to ALPR information to conduct an annual audit to review ALPR end-user searches during the previous year and to confirm that all ALPR information retained for longer than two weeks has been routinely destroyed. The bill would also have required Justice, on or before July 1, 2021, to draft and make available on its website a policy template that local law enforcement agencies may use as a model for their ALPR policies. Finally, this bill would have required Justice to develop and issue guidance to help local law enforcement agencies identify and evaluate the types of data they are currently storing in their ALPR database systems. This guidance would have had to include the necessary security requirements agencies should follow to protect the data in their ALPR systems. This bill failed passage due to the adjournment of the 2019–20 Regular Legislative Session.

Board of State and Community Corrections and Juvenile Justice Coordinating Councils

2019-116 *Juvenile Justice Crime Prevention Act: Weak Oversight Has Hindered Its Meaningful Implementation* (May 2020)

Finding: The Juvenile Justice Crime Prevention Act (JJCPA) requires that each county establish a Juvenile Justice Coordinating Council (Coordinating Council) that consists of representatives from a variety of local agencies and community groups, and requires each Coordinating Council to implement a comprehensive multiagency juvenile justice plan (comprehensive plan). Although the JJCPA requires comprehensive plans to include an assessment of existing resources and strategies for responding to both juvenile offenders and at-risk youth[1], it does not explicitly define at-risk youth. However, it is reasonable to conclude that at a minimum, at-risk youth include youth who are at risk of committing crimes. Accordingly, the law leaves counties to develop their own definitions of the factors that may place youth at risk, based on the specific circumstances in their communities.

Recommendation: To ensure that counties adequately identify how they serve at-risk youth, the Legislature should require counties to define at-risk youth—including identifying specific risk factors—in their comprehensive plans.

Status: Not implemented.

Finding: Counties are required to annually submit a comprehensive plan to the Board of State and Community Corrections (Community Corrections), along with a separate year-end report that describes the programs the county operated with its JJCPA funds and how those programs may have affected juvenile justice trends. The JJCPA requires counties to describe their approach to responding to at-risk youth in their comprehensive plans. It is appropriate for counties to have different definitions of at-risk youth because their at-risk populations may have unique needs and face different challenges. However, when counties do not specifically identify their at-risk populations, they cannot demonstrate that they have complied with state law requiring them to develop comprehensive plans that assess existing services for at-risk youth.

[1] AB 413 (Chapter 800, Statutes of 2019) deleted the term "at-risk" used to describe youth for purposes of various provisions in the California Education and Penal Codes and replaced it with the term "at-promise." However, the term "at-risk" currently remains in JJCPA as part of the California Government Code. As a result, we use the term "at-risk" consistent with the JJCPA throughout our report.

Recommendation: To ensure that counties comply with juvenile justice planning requirements to serve both juvenile offenders and at-risk youth, the Legislature should require Community Corrections to review counties' annual comprehensive plans to ensure that they include an adequate county-specific definition of at-risk youth.

Status: Not implemented.

Finding: State law requires counties to report annually to Community Corrections how their JJCPA-funded programs may have affected countywide juvenile justice trends. However, the five counties we reviewed did not adequately report such information in their 2018 reports, even though Community Corrections' reporting template specifically directs them to do so. Moreover, when we asked the five counties to provide us with certain information about the participants in their JJCPA-funded programs during fiscal years 2013–14 through 2017–18, they could not provide complete or accurate data.

Recommendation: The Legislature should direct Community Corrections to monitor counties' year-end reports to ensure that they include meaningful descriptions or analyses of how their JJCPA-funded programs may have contributed to or influenced countywide juvenile justice trends, as required by state law.

Status: Not implemented.

Finding: Community Corrections does not have the authority to compel counties to comply with JJCPA requirements, resulting in counties' continuing to receive funding despite their lack of compliance. For example, Mendocino and up to 10 other counties that received JJCPA funding did not have Coordinating Councils during our audit period. However, Community Corrections has no authority to compel counties to maintain their Coordinating Councils. In order to address these types of issues, state law needs to provide authority for the State to prohibit counties from spending funding until Community Corrections determines that they meet the requirements of the JJCPA.

Recommendation: To enable Community Corrections to provide effective oversight of the required elements of the JJCPA, the Legislature should amend state law to describe a process for restricting the spending of JJCPA funding by counties that do not meet the requirements of the JJCPA. As part of that process, the State should prohibit counties that have not established Coordinating Councils from spending JJCPA funds.

Status: Not implemented.

Finding: The State has an opportunity to change the mechanism by which counties receive JJCPA funds to make their amounts of funding more predictable. Currently, counties receive JJCPA funds in two allocations: a guaranteed annual amount and an additional amount that varies based on the vehicle license fees that the State collects. The additional JJCPA funding that counties receive has grown over the years but is unpredictable, making it difficult for counties to anticipate the total amount of JJCPA funds they can spend each year. Changing the JJCPA funding structure so that the State allocates more of the funds as an annual guaranteed amount, which Community Corrections should determine, would make this funding more reliable for counties.

Recommendation: To make JJCPA funding more stable and predictable, the Legislature should amend state law to increase the amount of guaranteed JJCPA funding the State provides to counties. If the Legislature decides to stabilize JJCPA funding, it should direct Community Corrections to evaluate the expenditure information counties submit and identify an appropriate amount of base funding. The Legislature should further direct Community Corrections to assess every five years the percentage of total JJCPA funds that growth funds represent to determine whether the base funding needs to be adjusted.

Status: Not implemented.

California Governor's 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: Partially implemented. AB 2386 (Chapter 254, Statutes of 2020) requires Cal OES to annually review a minimum of 10 county emergency plans to determine if they substantially conform to or exceed specified recommendations made by FEMA, and requires Cal OES to prioritize in its review an emergency plan submitted from a county determined to be at a high risk of a wildfire disaster.

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: Partially implemented. AB 3267 (Chapter 260, Statutes of 2020) requires Cal OES to coordinate with representatives of the access and functional needs population when it updates the state plan. Cal OES is also required to complete an after-action report within 180 days after each declared disaster instead of 120 days after a declared disaster.

AB 2064 (Patterson) would have required Cal OES, in the next update of the state plan, to include best practices for local governments and nongovernmental entities to use to mobilize and evacuate people from the access and functional needs population. This bill also would have required Cal OES to develop and update annually, in coordination with organizations representing the access and functional needs population, a guidance document for local governments based, in part, on a review of recent emergency and natural disaster incidents, and what did or did not go well in the response efforts, and post the guidance document and its annual update on its website. Finally, this bill would have required Cal OES to review the emergency plans of all local governments to determine if they are in compliance with the best practices and provide necessary technical assistance to local government, upon request. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

AB 2428 (Fong) would have required Cal OES to work with representatives from the access and functional needs population, as defined, when updating the state plan. The bill also would have required Cal OES to develop and post, on or before July 1, 2021, on its website a guidance document regarding best practices for, and the lessons learned regarding, emergency and natural disaster preparedness, for use by local governments. Finally, the bill would have required Cal OES to update and post this guidance document by July 1 of each year, commencing with the year 2022. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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: 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

United States 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 implement 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.

California 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' Social Security numbers. Corrections uses an agreement with the California Workforce Development Board and Employment Development Department (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.

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VETERANS AFFAIRS

California Departments of Veterans Affairs and General Services

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 DGS.

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.

California Departments of Veterans Affairs and General Services

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: Implemented. AB 240 (Chapter 61, Statutes of 2020) prohibits 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, 2021. The statute authorizes a lease that was executed before January 1, 2021, to be renegotiated, except that any terms regarding the duration of the renewal of the contract shall not be extended. The statute further provides 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.

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. SB 1177 (Jones) would have required CalVet to promulgate regulations that define the types of short-term uses of Veterans' home property that are in the best interests of the homes, including the residents. The bill would have prohibited CalVet from approving short-term use agreements that do not meet that definition. The bill would have required all short-term use agreements to include conditions that protect the state's best interests. Finally, the bill would have required CalVet to develop and implement a fee schedule for short-term third-party uses of veterans' home property. This bill failed passage due to adjournment of the 2019–20 Regular Legislative Session.

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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 *second 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 2020 Regular Session

BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
Education		
AB 1835 VETOED	2019-101 *K–12 Local Control Funding* (November 2019)	Would have required each local educational agency to report the amounts of unspent supplemental and concentration grant funds in its Local Control and Accountability Plan This bill would have required each school district, county office of education, and charter school to identify unspent supplemental and concentration grant funds by annually reconciling and reporting to the California Department of Education its estimated and actual spending of those moneys, and would have required unspent funds identified pursuant to these provisions to continue to be required to be expended to increase and improve services for intended student groups.
Health & Human Services		
AB 1976 Ch. 140, Stats 2020	2019-119 *Lanterman Petris Short Act* (July 2020)	Commencing July 1, 2021, requires a county or group of counties to offer assisted outpatient programs, unless they opt out by a resolution passed by the governing body stating the reasons for opting out and any facts or circumstances relied on in making that decision. Counties are also authorized to offer assisted outpatient programs in combination with one or more counties, and prohibited from reducing existing voluntary mental health programs serving adults, or children's mental health programs, as a result of implementing the assisted outpatient programs.
AB 2276 Ch. 216, Stats 2020	2019-105 *Childhood Lead Levels* (January 2020)	Adds several risk factors relating to childhood lead poisoning to be considered as part of the standard of care specified in regulations, including a child's residency in or visit to a foreign country. The Department of Public Health (Public Health) is required to update its formula for allocating funds to a local agency that contracts with Public Health to administer the Childhood Lead Poisoning Prevention Program, and to revise funding allocations before each contract cycle. This statute also requires a contract between the Department of Health Care Services (Health Care Services) and a Medi-Cal managed care plan (managed care plan) to require the managed care plan, on a quarterly basis, to identify every enrollee who is a child without a record of completing the blood lead screening tests, and to remind the contracting network provider of the requirements to perform the required blood lead screening tests and provide oral or written guidance to a parent or guardian on the risk of childhood lead poisoning. Health Care Services is authorized to impose sanctions for a violation of those requirements, and implement these provisions by means of plan or county letters, or other similar instructions.
Higher Education		
AB 275 Ch. 167, Stats 2020	2019-047 *Native American Graves* (June 2020)	Removes the requirement in the California Native American Graves Protection and Repatriation Act that non-federally recognized California tribes must be on the petitioner list, and expands the definition of "tribe" to include California tribes that are on the contact list maintained by the Native American Heritage Commission (NAHC). The NAHC is required to develop and notify tribes, museums and agencies of the list by January 1, 2021.
Judiciary		
AB 3362 Ch. 360, Stats 2020	2018-030 *State Bar of California* (April 2019)	In part, authorizes the State Bar of California (State Bar) to collect annual license fees of $395 for active licensees and $97.40 for inactive licensees for 2021.

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BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
Natural Resources		
AB 2809 Ch. 220, Stats 2020	2018-120 *San Francisco Bay Conservation and Development Commission* (May 2019)	Requires, by the end of the 2020–21 fiscal year, that the San Francisco Bay Conservation and Development Commission (commission) create and implement a procedure to provide managerial review of staff decisions in enforcement cases, timelines for resolving enforcement cases, a penalty matrix for assessing fines and civil penalties, and a method for assessing civil penalties in cases involving multiple violations. Requires the commission to perform and complete the required review of the Suisun Marsh program by no later than July 1, 2025, and to perform successive reviews under the act every five years.
Privacy & Consumer Protection		
AB 499 Ch. 155, Stats 2020	2018-129 *Employment Development Department* (March 2019)	Prohibits a state agency from sending any outgoing mail that contains an individual's full Social Security Number (SSN) unless, under the particular circumstances, federal law requires inclusion of the full SSN. This statute requires each state agency, on or before September 1, 2021, to report to the Legislature when and why it mails documents that contain individuals' full SSNs, and requires 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.
Public Safety		
AB 2386 Ch. 254, Stats 2020	2019-103 *Emergency Planning: Access and Functional Needs Population* (December 2019)	Requires the California Governor's Office of Emergency Services (Cal OES) to annually review a minimum of 10 county emergency plans to determine whether they substantially conform to or exceed specified recommendations made by the Federal Emergency Management Agency, and requires Cal OES to prioritize in its review an emergency plan submitted from a county determined to be at a high risk of a wildfire disaster.
AB 2213 Ch. 98, Stats 2020	2019-103 *Emergency Planning: Access and Functional Needs Population* (December 2019)	Requires Cal OES, in coordination with California Volunteers, to develop model guidelines for local governments, operational areas, and nonprofit, community-based, faith-based, and private sector organizations active in disasters to identify, type, and track community resources that could assist in responding to or recovering from disasters. The guidelines are required, in part, to include best practices to address the unique needs of people with access and functional needs and vulnerable populations.
AB 2730 Ch. 256, Stats 2020	2019-103 *Emergency Planning: Access and Functional Needs Population* (December 2019)	Authorizes counties to enter into an agreement with an adjacent county, upon the request of the adjacent county, for purposes of permitting the adjacent county to borrow, for compensation, the county's emergency management and transportation services in the event of an emergency that requires the evacuation and relocation of the access and functional needs population in the adjacent county.
AB 2968 Ch. 257, Stats 2020	2019-103 *Emergency Planning: Access and Functional Needs Population* (December 2019)	Requires Cal OES, by January 1, 2022, to develop best practices for counties developing and updating a county emergency plan, and establish a process for a county to request Cal OES to review the its emergency plan. Upon the conclusion of the review process, Cal OES must provide technical assistance and feedback regarding the sufficiency of the county's emergency plan.
AB 3267 Ch. 260, Stats 2020	2019-103 *Emergency Planning: Access and Functional Needs Population* (December 2019)	Requires Cal OES to coordinate with representatives of the access and functional needs population when it updates the state plan. Cal OES is also required to complete an after-action report within 180 days after each declared disaster instead of 120 days after a declared disaster.
Veterans Affairs		
AB 240 Ch. 61, Stats 2020	2018-112 *Veterans Homes* (January 2019)	Prohibits a lease of a veterans home property from exceeding five 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, 2021. Authorizes a lease that was executed before January 1, 2021, to be renegotiated; however, any terms regarding the duration of the renewal of the contract shall not be extended. Provides 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.

BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
SB 588 Ch. 80, Stats 2020	2018-114 *Disabled Veteran Business Enterprise Program* (February 2019)	Requires an awarding department to withhold, on a contract entered into on or after January 1, 2021, $10,000 from the final payment, or the full final payment if less than $10,000, until a prime contractor complies with existing disabled veteran business enterprise (DVBE) certification requirements. A prime contractor that fails to comply with DVBE certification requirements shall, after notice, be allowed to cure the defect. If, after at least 15 calendar days but not more than 30 calendar days from the date of notice, the prime contractor refuses to comply with DVBE certification requirements, the awarding department shall permanently deduct $10,000 from the final payment, or the full payment if less than $10,000. Requires the Legislative Analyst's Office to complete a comprehensive assessment of the DVBE program on or before January 1, 2024, and submit a report to the Legislature.