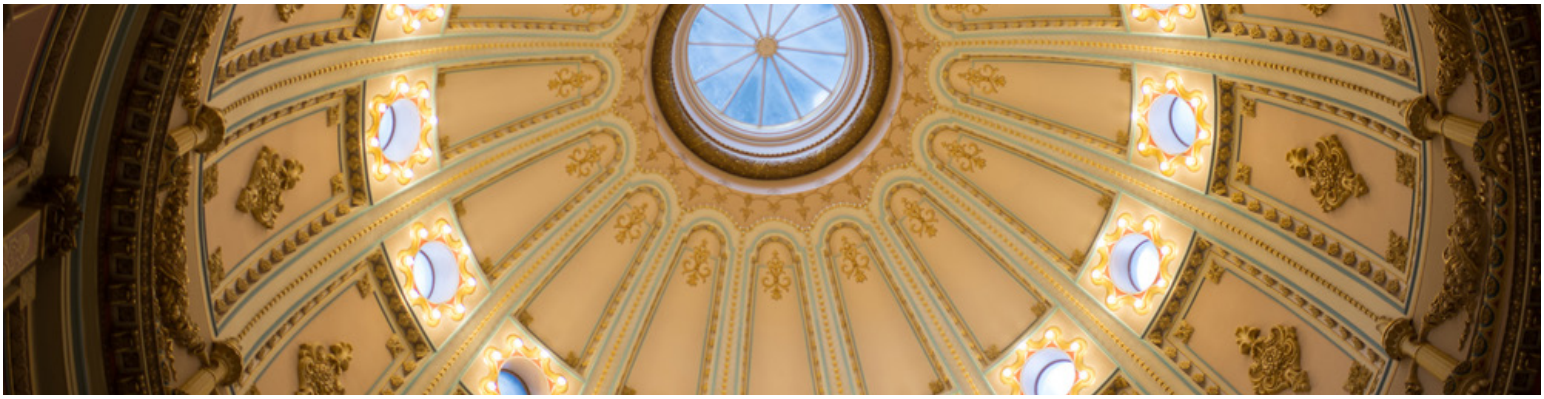
Recommendations for the Legislature From Audits Issued During 2020 and 2021

January 2022

REPORT 2021-701



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January 20, 2022
2021-701

Dear Governor and Legislative Leaders:

In calendar years 2020 and 2021, 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 2020 and 2021.

In this special report, we include recommendations intended to address issues with the administration of unemployment insurance (UI) by the California Employment Development Department (EDD) during the COVID-19 pandemic (pandemic). In March 2020, government directives ordered businesses to close and residents to stay at home in response to the pandemic. The economic shutdowns led to historically high numbers of UI claims in a very short time. Our two audits reviewed EDD's response to the surge in UI claims as well as the weaknesses in its fraud prevention efforts. We made several recommendations to the Legislature to address these issues, including requiring EDD to report UI overpayment information on its website and to assess the effectiveness of its fraud prevention and detection tools.

We also made recommendations to address the more than 151,000 Californians who experienced homelessness in 2019—the largest homeless population in the nation. To do so, we recommended that the Legislature require the Homeless Coordinating and Financing Council to collect and track funding data on all federal and state funded homelessness programs, finalize its action plan, and develop statewide expectations and guidelines.

The Appendix includes a list of legislation chaptered or vetoed during the first year of the 2021–22 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,

MICHAEL S. TILDEN, CPA
Acting California State Auditor

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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. AB 58 (Salas, 2021), in part, states legislative intent to require Public Health to create a pilot program to establish a school health center at five LEAs located in counties with high rates of youth suicide and self-harm and to require Public Health, in collaboration with Education, to collect data on the pilot program and provide annual reports on the effectiveness and cost of the pilot program. This bill is pending in the Assembly.

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, 2020) 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, 2020) 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.

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

Departments of Health Care Services and 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.

HEALTH & HUMAN SERVICES

California Department of Social Services and Counties

2020-109 *In-Home Supportive Services Program: It Is Not Providing Needed Services to All Californians Approved for the Program, Is Unprepared for Future Challenges, and Offers Low Pay to Caregivers* (February 2021)

Finding: Various groups have expressed concerns with the In-Home Supportive Services (IHSS) program, including concerns related to caregiver shortages, the effect that rapid growth in California's senior population could have on the program, and the negative financial impact low wages can have on most caregivers. Caregivers throughout the State earn far less than a living wage—defined as the salary necessary for a full-time worker to afford basic necessities without public assistance—and many likely qualify for public assistance. These low wages likely will affect the ability of counties to recruit caregivers to respond to current and future demand for their services.

Recommendation: To balance the need to attract a sufficient number of caregivers into the IHSS program with the need to maintain control over the State's costs, the Legislature should consider using the annual budget process to allocate additional funds to counties to enable counties to better afford increasing caregiver wages.

Status: Not implemented.

Finding: Although counties can negotiate higher caregiver wages, state law creates disincentives for them to do so, as increases in provider wages have an outsized financial impact on the counties that provide them. Compounding these issues, caregivers in certain localities earn less than the local minimum wage. In 2019 the Legislature increased the statewide minimum wage to be no less than $12 per hour, an amount equal to the local minimum wage. Between 2014 and 2019, localities in seven counties passed ordinances that raised local minimum wages by varying amounts; however, these localities declined to grant the increase to local IHSS caregivers.

Recommendation: To ensure that these offset funds are used to best address wage disparities, the Legislature should prioritize their availability to counties where caregivers earn the least, relative to a living wage, and should exempt these wage increases from Welfare and Institutions Code Section 12306.16, subdivision (d), so that the amounts allocated are not included in adjustments to the county contribution.

Status: Partially implemented. AB 135 (Chapter 85, Statutes of 2021), in part, deletes subsequent county IHSS Maintenance of Effort (MOE) adjustments that otherwise would have applied when the $15 minimum wage takes effect on January 1, 2022.

Finding: Due to the adjustments to the counties' contributions required by state law, counties that increase caregiver wages continue to pay the increased contribution, even when the State's minimum wage surpasses their locally negotiated wage. Generally, the amount a county contributes is based on the amount it paid in the prior fiscal year plus the current inflation factor. Counties that do not negotiate wage increases generally do not have their contribution changed when the state minimum wage increases, even if such an increase results in higher caregiver wages in those counties. However, when a county negotiates a local caregiver wage increase, a portion of the cost of

that negotiated increase is added to the amount the county must pay each year. Thus, when a county contribution is raised for increased caregiver wages in one year, it is also increasing the amount the county must contribute in every future year, even if the state minimum wage increases.

Recommendation: To limit the disincentive for counties to provide caregiver wage increases, the Legislature should modify the State's cost-sharing system to eliminate the ongoing costs that counties pay for local wage increases that are nullified by increases to the State's minimum wage.

> **Status:** Implemented. AB 135 expands the limitation for IHSS state-county sharing arrangements on the 10 percent state participation to allow no more than a two three-year periods that commence before, and no more than a two three-year periods that commence on or after, the date the state minimum wage reaches $15, and deletes subsequent county IHSS MOE adjustments that otherwise would have applied when the $15 minimum wage takes effect on January 1, 2022. Additionally, this statute deletes subsequent MOE adjustments that otherwise would have applied when the $15 minimum wage takes effect on January 1, 2022.

Finding: The State's decision in fiscal year 2012–13 to adjust the contribution each county pays toward the IHSS program by a set percentage—or inflation factor—each year rather than updating each county's contribution based on its proportion of the IHSS program's costs has resulted in some counties paying significantly more than their proportional share while others pay less. This approach has effectively increased the State's share of program costs and penalized counties whose programs did not expand as rapidly as others did. If the State incorporates more modest changes to the way that counties contribute to the IHSS program, it may be able to establish more equitable results.

Recommendation: To provide for more equitable financial participation by counties, the Legislature should revise the State's IHSS funding formula to include annual updates based on current program growth and costs and a review of specific funds available to counties. To the extent that some counties' revenues dedicated to IHSS are insufficient to cover their IHSS contributions, the Legislature should provide counties with assistance as it deems appropriate or designate additional funding sources in state law.

> **Status:** Not implemented.

Homeless Coordinating and Financing Council

2020-112 *Homelessness in California: The State's Uncoordinated Approach to Addressing Homelessness Has Hampered the Effectiveness of Its Efforts* (February 2021)

Finding: The State currently does not have a comprehensive understanding of how it is spending state funds to address homelessness. At least nine state agencies provided funding through 41 programs to address homelessness in the State during the past three years. Furthermore, there is no single state entity that comprehensively tracks the sources of funding, the intended uses, or related expenditures for these programs. We would expect the Homeless Coordinating and Financing Council (homeless council) to do so to fulfill its statutory goal of coordinating existing state and federal funding and applications for competitive funding. However, the homeless council does not track how much funding is available or spent toward addressing homelessness statewide.

Recommendation: To ensure that the State effectively addresses the statewide issue of homelessness, the Legislature should require the homeless council, in collaboration with all state agencies that administer state and federal funding for homelessness, to collect and track funding data on all federal and state funded homelessness programs, including the amount of funding available and expended each year, the types of activities funded, and types of entities that received the funds.

> **Status:** Not implemented. AB 1575 (Assembly Housing and Community Development Committee, 2021) would require the homeless council, upon appropriation from the Legislature or receiving technical assistance from the U.S. Department of Housing and Urban Development (HUD), to conduct a homelessness statewide gaps and needs assessment by July 31, 2022. This bill is pending in the Assembly.

Finding: In 2017 the State established the homeless council—which includes representatives of state agencies, advocacy groups for the homeless, and other stakeholders. The statute that created the homeless council assigned it 18 goals, including coordinating existing funding, creating a statewide data system, and establishing partnerships with stakeholders to develop strategies to end homelessness. However, homeless council staff stated that the council has not set priorities or timelines for achieving all 18 statutory goals. Further, the homeless council still has not finalized an action plan that homeless council staff believe will serve as the council's strategic plan.

Recommendation: The Legislature should require the homeless council to prioritize its statutory goals with an emphasis on giving higher priority to coordination of statewide efforts to combat homelessness. To this end, the Legislature should require the homeless council to finalize its action plan and ensure that the plan documents the State's approach to addressing homelessness in California and that the action plan is updated regularly.

> **Status:** Not implemented. AB 827 (R. Rivas, 2021), in part, would require the homeless council, on or before June 1, 2022, to develop and publish an action plan to implement statutory requirements for creating partnerships with specified entities, and identifying resources, benefits, and services that can be accessed to prevent and end homelessness in California. The bill would require the homeless council, on an annual basis, to review that action plan and hold a stakeholder meeting to determine whether the action plan's goals are being met. This bill is pending in the Assembly.

Finding: California does not currently have a statewide system to collect data on local or statewide efforts to combat homelessness. Federal regulations require continuums of care (CoCs) to capture certain information in their Homeless Management Information Systems (HMIS) about the number and demographics of people experiencing homelessness and the services they receive through different providers in their areas. These data include information about homelessness programs, such as their sources of funding and their inventory of available beds, and information about those experiencing homelessness, such as basic demographic characteristics, current living situations, sources of income, and health conditions. However, the State currently has no mechanism in place to collect, integrate, and analyze statewide data on individuals and families experiencing homelessness or on the services that programs provide. The State is making an effort to establish a statewide data warehouse by contracting with a firm to design, develop, implement, and support HDIS, the Homeless Data Integration System. Requiring data reporting into an HMIS as a condition

of receiving state funding would ensure that data from the various homelessness programs that the State funds would be eventually captured into the HDIS, since the homeless council intends to pull its data from each CoC's HMIS.

Recommendation: To ensure that the State has access to comprehensive data about homelessness, the Legislature should require all state entities that administer state funding for homelessness to ensure that recipient service providers enter relevant data into their CoC's HMIS, as law allows, as a condition of state funding. The required information should include, at a minimum, the same or similar information that recipients of federal CoC program funding must enter.

> **Status:** Implemented. AB 977 (Chapter 397, Statutes of 2021) requires, beginning January 1, 2023, that a grantee or entity operating specified state homelessness programs, as a condition of receiving state funds, to enter the Universal Data Elements and Common Data Elements, as defined in HUD's Homeless Management Information System Data Standards, on the individuals and families it serves into its local HMIS, unless otherwise exempted by state or federal law. These data entry requirements apply to all new state homelessness programs that commence on or after July 1, 2021. The homeless council is required to specify the format and disclosure frequency of the required data elements, and provide technical assistance and guidance to any grantee or entity that operates a program subject to these provisions, if the grantee or entity does not already collect and enter into HMIS the data elements required. Finally, the homeless council is required to provide the aggregate data summaries specified state agencies or departments within 45 days of receipt.

Finding: The State falls short of providing CoCs with the necessary support and guidance to effectively address homelessness at the local level. In fact, the operations of CoCs are largely unsupervised by any state agency. Although state law assigned the homeless council the goals of creating partnerships among state agencies, local government agencies, recipients of federal CoC program funding, federal agencies, and homeless service providers, this goal is vague and lacks a definite requirement or enforcement mechanism to develop minimum expectations or guidance and to disseminate best practices to CoCs. In the absence of detailed requirements, we found the five CoCs we reviewed do not always employ best practices or comply with federal regulations and expectations. We believe that the CoCs would benefit from the homeless council developing guidance and disseminating best practices for effectively addressing homelessness.

Recommendation: To ensure that CoCs are aware of processes and practices that can improve their efforts to combat homelessness at the local level and to provide CoCs with the necessary technical support, the Legislature should require the homeless council to develop statewide expectations and guidelines that CoCs and other local entities must follow as a condition of receiving state funding. These expectations and guidelines should consider best practices available from relevant local, state, and federal entities and should address, at a minimum, developing effective comprehensive plans, conducting point-in-time counts effectively and efficiently, increasing collaboration among service providers, conducting gaps analyses, and ensuring an effective coordinated entry process.

> **Status:** Not implemented. AB 827 would, in part, require the homeless council to collaborate with HUD to develop a statewide best practices guide that addresses and tackles homelessness to disseminate to local agencies and organizations that participate in HUD's CoC Program. The bill would require those agencies and organizations to follow those practices as a condition of receiving state funding.

Finding: By investing added responsibility and authority in the homeless council to coordinate the State's response to homelessness, the Legislature can ensure that decision makers have the ability to clearly assess the State's efforts, successes, and challenges and to make informed decisions in the fight to reduce homelessness.

Recommendation: To the extent that the homeless council believes it does not have sufficient resources to implement any new statutory requirements, the Legislature should require the homeless council to conduct an analysis to determine its budgetary needs for implementing any new statutory requirements.

Status: Not implemented.

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: Implemented. AB 1015 (Chapter 591, Statutes of 2021) requires BRN to incorporate regional forecasts into its biennial analyses of the nursing workforce, develop a plan to address regional areas of shortage identified by its nursing workforce forecast, and identify in the plan additional facilities that could offer clinical placement slots.

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: Implemented. AB 1015 requires 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, including, but not limited to, information regarding the total number of placement slots a clinical facility can accommodate and how many slots the programs that use the facility will need. BRN is required to place the annual report on its website.

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 fewer than 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' 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 assisted 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 individuals' successful transition to living in their communities.

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 they are 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 MHSA 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 ask 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 annual MHSA 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 buyers and renters to better assess the risk of lead or the need for abatement. State regulations already require Public Health to collect lead inspection and abatement information. In fact, according to its 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, 2020) 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.
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> SB 1008 (Leyva, 2020) would have required Public Health to design, implement, and maintain an online lead information registry on its website that would enable 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 not made available 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 that 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, 2020) 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.
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> 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.

HIGHER EDUCATION

University of California and California State University

2021-611 *Higher Education Emergency Relief Fund: Some University Campuses Did Not Maximize Available Federal Pandemic Funds, and They Prioritized Students Differently When Awarding Relief Funds* (November 2021)

Finding: In early 2020, the pandemic caused a global public health crisis. In March 2020, the president of the United States declared the pandemic a national emergency. In response to the pandemic, Congress provided economic assistance to institutions of higher education and their students through three laws enacted between March 2020 and March 2021. These laws allocated more than $76 billion in total to the Higher Education Emergency Relief Fund (HEERF) to help defray campuses' expenses associated with the pandemic and provide financial aid grants to students, among other uses. We found that most of the campuses we reviewed did not maximize available federal funds because they used HEERF funds to pay for some costs that could be reimbursed by the Federal Emergency Management Agency (FEMA) instead, thereby reducing the amount of HEERF funds available for other purposes.

Recommendation: If the CSU Chancellor's Office and the University of California Office of the President (UCOP) do not ensure that their respective campuses submit eligible expenses incurred in response to the pandemic to FEMA for reimbursement, the Legislature should direct the CSU Chancellor's Office and UCOP to do so or explain why submitting these claims was not feasible.

Status: Not implemented. (Report issued in November 2021.)

Calbright College

2020-104 *Calbright College: It Must Take Immediate Corrective Action to Accomplish Its Mission to Provide Underserved Californians With Access to Higher Education* (May 2021)

Finding: In recognition of a deficit in competency-based education in the community college system, in 2018 the Legislature created an online community college, now named Calbright College (Calbright), to provide high-quality, affordable, and self-paced educational programs. The Legislature created Calbright to provide working adults with access to flexible postsecondary education that will position them to obtain well-paying jobs. However, Calbright has failed to take critical steps necessary to achieve that mission. It has yet to adopt sufficient processes for selecting the educational programs it offers, and it has not worked with employers to ensure that the programs it selects adequately prepare its target student population to obtain jobs. In addition, Calbright has neither established a plan for helping its students obtain jobs after graduation, nor has it tracked whether its programs are effective in helping graduates secure jobs.

Recommendation: To ensure that Calbright provides educational and economic opportunities to Californians and is accountable for its performance, the Legislature should do the following:

- Require Calbright to demonstrate substantive compliance with our audit recommendations.

- Require the California State Auditor (State Auditor) to provide an update to the Legislature by no later than December 2022 about Calbright's progress in implementing those recommendations.
- Adopt a sunset provision that would eliminate Calbright as an independent community college district if the State Auditor determines that Calbright has not demonstrated substantive compliance with those recommendations by December 2022.
- If it eliminates Calbright, the Legislature should explore other options for providing competency-based education for California adults who face barriers to traditional postsecondary education.

  Status: Not implemented. AB 1432 (Low, 2021) would make the California Online Community College Act inoperative at the end of the 2022–23 academic year. This bill is pending in the Senate.

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 it 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.

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: Implemented. AB 68 (Chapter 341, Statutes of 2021), starting with any update or revision to the housing plan on or after January 1, 2023, requires the housing plan to include, among other things, the number of affordable units needed to meet the State's affordable housing needs and recommendations for modernizing statutory and regulatory terminology. HCD is required to develop and publish on its website an annual report by December 31 of each year that includes specified information regarding grant programs that are administered by HCD, including the time between the issuance of award letters and the delivery of the standard agreement to the awardee and a comparison of how the time between the issuance of the award letters; delivery of the standard agreement; and execution of the standard agreement across HCD-administered programs. Finally, HCD is required to develop and publish on its website an annual report by December 31 of each year that includes specified information regarding land use oversight actions related to housing, including the number of

land use oversight actions related to housing taken against cities and counties, outcomes of those oversight actions, and the median time between the initiation of each oversight action and its resolution.

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. AB 244 (Rubio, 2021), in part, would require the Tax Committee, HCD, CalHFA, and the Debt Limit Committee to conduct an affordable housing cost study that measures the factors that influence the cost of building affordable housing, breaks down total development costs for affordable housing, and enables the state to maximize resources allocated for affordable housing. The bill would require the study to consider data from projects that have received funding from various programs and funding sources. The bill would require the development of the cost study only as existing resources permit without restructuring funding priorities or as private resources are made available. The bill would require the Tax Committee to publish the study by January 1, 2028. This bill is pending in the Assembly.

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.

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. AB 49 (Petrie-Norris, 2021) would abolish the Debt Limit Committee and transfer its powers, duties, and functions to the Tax Committee. The bill would provide for the transfer of civil service employees, funds, property, and liabilities of the Debt Limit Committee to the Tax Committee, and it would require that Debt Limit Committee regulations remain in effect until the Tax Committee amends or repeals those regulations, or adopts successor regulations. This bill is pending in the Assembly.

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.

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.

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. AB 989 (Gabriel, 2021) would, until January 31, 2029, establish an Office of Housing Appeals (office) within HCD to review housing development projects that are alleged to have been denied or subject to conditions in violation of the Housing Accountability Act (Housing Act). The bill would establish housing appeals panels, consisting of administrative law judges with specified qualifications, within the office. The bill would authorize an applicant who proposes a housing development project that consists of five or more units pursuant to the Housing Act to appeal a local agency's decision on the project application to a housing appeals panel. The bill would prohibit an applicant from bringing an action in court alleging a violation of the Housing Act for any housing development project prior to the final decision of the office, except as specified. The bill would provide that the statute of limitations for a claim alleging a violation of the Housing Act, or any other claim relating to an action of the local agency on the housing development project at issue, does not commence until the date of the final decision of the office. Finally, the bill would prescribe the appeals process and responsibilities of the applicant, the office, and local agencies regarding the appeals process. This bill is pending in the Senate.

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—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.

INSURANCE

Employment Development Department

2020-628.2 *Employment Development Department: Significant Weaknesses in EDD's Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments* (January 2021)

Finding: Since the surge in pandemic-related California unemployment claims began in March 2020, individuals, news organizations, and law enforcement officials have reported many cases of potential and actual unemployment insurance (UI) fraud. Not surprisingly, the pandemic conditions increased the Employment Development Department's (EDD) UI workloads and also resulted in changes to federal UI benefit programs, both of which have created a greater risk of fraud. Additionally, EDD was unprepared to prevent payment for fraudulent claims filed under the names of incarcerated individuals—which it estimated to total about $810 million. EDD had told the Legislature for years that it was considering adopting a cross match between claim and incarceration data. However, because it had not developed the capacity to match data between its claims system and the data from state and local correctional facilities, it did not detect these fraudulent claims until after the fact.

Recommendation: To ensure that EDD prevents fraud associated with incarcerated individuals, the Legislature should amend state law to do the following:

- Require EDD to regularly cross match UI benefit claims against information about individuals incarcerated in state prisons and county jails to ensure that it does not issue payments to people who are ineligible for benefits. The Legislature should specify that EDD perform the cross matches as quickly as possible after individuals file claims and with as little disruption of legal and eligible claims as possible.
- Require the California Department of Corrections and Rehabilitation (CDRC) and any other necessary state or local government entities to securely share information about incarcerated individuals with EDD to enable EDD to prevent fraud.
- Require EDD to include, in its annual report to the Legislature about fraud, an assessment of the effectiveness of its system of cross matching claims against information about incarcerated individuals. The assessment should include how regularly EDD performs the cross matches, how successful the cross matches are in detecting and preventing fraud, and whether the cross matches negatively affect eligible claimants attempting to legally obtain benefits.

  Status: Partially implemented.

  AB 110 (Chapter 511, Statutes of 2021) requires CDCR to provide the name, known aliases, birth date, Social Security number, booking date, and expected release date, if known, of a current inmate to EDD for the purposes of preventing payments on fraudulent claims for unemployment compensation benefits. This information must be provided to EDD on the first of every month and upon EDD's request. For purposes of preventing payments on fraudulent claims for unemployment compensation benefits, EDD's director is required to verify with the information provided by CDCR that the claimant is not an inmate currently incarcerated in the state prisons. EDD is required to complete necessary system programming or automation upgrades to allow electronic monitoring of CDCR inmate data to prevent payment on fraudulent claims for unemployment compensation benefits at the earliest possible date, but not later than September 1, 2023.

AB 56 (Chapter 510, Statutes of 2021), in part, requires EDD to assess the effectiveness of the its system of cross matching claims against information about incarcerated individuals. The assessment shall include how regularly EDD performs the cross matches, how successful the cross matches are in detecting and preventing fraud, and whether the cross matches negatively affect eligible claimants attempting to legally obtain benefits. EDD is required to include this assessment in its annual report on fraud deterrence and detection activities. Details on fraud methods and tools may be generalized, excluded, or redacted to protect the department's fraud deterrence practices.

Finding: EDD's disjointed approach to fraud prevention has placed its UI program at a higher risk for fraudulent activity. It has not established a centralized unit to manage its fraud detection efforts, and it does not reliably track suspicious claims to ensure that it is taking appropriate action to resolve any issues, including those that suggest fraud has occurred. Further, EDD does not measure or monitor any of its fraud prevention or detection tools to determine how effectively each one detects fraud. As a result, it may be using ineffective fraud prevention and detection techniques that fail to prevent fraudulent payments or that delay payments to legitimate claimants.

Recommendation: To ensure that EDD effectively protects the integrity of the UI program, the Legislature should amend state law to require EDD to do the following:

- By January 2022 and biannually thereafter, assess the effectiveness of its fraud prevention and detection tools and determine the degree to which those tools overlap or duplicate one another without providing any additional benefit. EDD should then eliminate any fraud prevention and detection approach for which it lacks clear evidence of effectiveness. It should include this assessment in its annual report to the Legislature on fraud detection and deterrence efforts.

- By July 2021, provide the Legislature with an update on its progress in performing this analysis.

Status: Implemented. AB 138 (Chapter 78, Statutes of 2021), in part, requires EDD to provide to specified legislative committees a plan for assessing the effectiveness of its fraud prevention and detection tools by May 1, 2022, and to provide a report with an update on its progress on performing the assessment that the plan identified by July 1, 2022. On or before January 1, 2023, and annually thereafter, EDD is required to analyze and assess the effectiveness of its fraud prevention and detection tools and submit this analysis and assessment to the specified legislative committees.

Employment Development Department

2020-128/628.1 *Employment Development Department: EDD's Poor Planning and Ineffective Management Left It Unprepared to Assist Californians Unemployed by COVID 19 Shutdowns* (January 2021)

Finding: In March 2020, in response to the pandemic, the federal government passed legislation providing additional UI benefits to supplement California's existing UI program. The dramatic rise in unemployment and the expansion of unemployment benefits created a massive surge in claims (claim surge) after California's statewide stay-at-home order went into effect on March 19, 2020. Along with the claim surge came delays in the receipt of benefit payments, as EDD

was overwhelmed by the extraordinary number of claims. When a claimant has waited more than 21 days after submitting an application for either processing of payment or disqualification, EDD considers that claim as part of its backlog.

Although EDD has made improvements since the pandemic began to increase the number of claims it can process without manual intervention, it cannot rely in the long term on some of these adjustments. As a result, EDD remains at risk of its backlog of claims continuing or increasing. Additionally, EDD has failed to adequately plan for additional possible increases in UI claims when making staffing decisions. This failure to prepare leaves EDD vulnerable to future workload disruptions from spikes in claims caused by additional pandemic-related shutdowns or even predictable seasonal changes in employment levels.

Recommendation: To ensure that EDD's claims processing is as effective and efficient as possible, the Legislature should require EDD to convene a working group to assess the lessons learned from the claim surge and identify the processes that EDD can still improve. That working group should do to the following:

- Include representatives from EDD's UI branch, IT branch, and executive management. It should also include representatives from the strike team.

- Issue a report on the lessons learned from the claim surge by no later than January 2022. The report should identify any improvements that the working group recommends that EDD make and include a review of EDD's implementation of the strike team's recommendations.

    Status: Not implemented. AB 360 (Patterson, 2021) would, in part, require EDD to convene a working group to assess the lessons learned from claim surges, identify the processes that EDD can still improve, and issue a report by January 1, 2022. This bill is pending in the Assembly.

Finding: As claims began to surge in March 2020, EDD halted most of its work determining whether claimants were eligible for UI benefits. This action curbed the size of its claims backlog significantly and resulted in more timely payments to Californians. Although EDD's actions likely allowed it to pay benefits faster, EDD now faces an impending workload for which it has no clear plan to address and that could have significant consequences for claimants. As of mid December 2020, the UI support division was in the process of drafting a plan for resuming all eligibility determinations and addressing deferred determinations. When it conducts these eligibility determinations, EDD will likely find that some of these claimants were in fact not eligible for the benefits they received.

The claim surge and corresponding delayed payment on claims has generated significant levels of interest from the public and the Legislature. EDD's claims processing has been the subject of many news reports and legislative hearings, and members of the Legislature report fielding numerous calls from constituents about their claims. It is almost certain that a similar level of interest will exist for information about how many Californians may be subject to overpayment notices and how far EDD has progressed in processing that workload.

Recommendation: To ensure transparency in EDD's operations and provide information to policymakers, the Legislature should require EDD to report on its website at least once every six months the amount of benefit payments for which it must assess potential overpayments, the

amount for which it has issued overpayment notices, the amount it has waived overpayment on, and the amount repaid related to those notices. The reports should encompass benefit payments EDD made from March 2020 until the time when it resumes all eligibility determinations. EDD should be required to publish these reports until the repayment period for all the notices has elapsed.

> **Status:** Implemented. AB 56 (Chapter 510, Statutes of 2021), in part, requires EDD to, upon appropriation by the Legislature, report at least once every six months on its website specified benefit overpayment information encompassing benefit payments made from March 1, 2020, through January 12, 2021, and continue to publish this information until the time when EDD resumes all eligibility determinations.

Finding: Before the claim surge, EDD did not adopt a comprehensive plan for how it would respond to economic downturns when its UI program is in higher demand. Having such a plan would have strengthened its poor response to the 2020 claim surge.

Recommendation: To ensure that EDD is better prepared to provide effective services and assistance to Californians during future economic downturns, the Legislature should amend state law to require EDD to develop a recession plan that takes into account the lessons learned from previous economic downturns, including the pandemic. At a minimum, the Legislature should require EDD's plan to include the following:

- The indicators EDD will monitor and use to project the likely upcoming workload that it will face.
- The steps EDD will take to address increases in its workload, such as cross-training non-UI staff, changing its staffing levels, prioritizing specific tasks, and adjusting the way it performs certain work.
- The altered policies or procedures that EDD will activate if a rise in UI claims becomes significant enough to warrant that step.

The Legislature should require EDD to develop the plan within 12 months of the effective date of the related change to state law. To address new developments in UI processes, programs, or other relevant conditions, the Legislature should require EDD to update its recession plan at least every three years thereafter.

> **Status:** Implemented. SB 390 (Chapter 543, Statutes of 2021) requires EDD to develop and, upon appropriation by the Legislature, implement a recession plan to prepare for an increase in unemployment insurance compensation benefits claims due to an economic recession. The plan shall detail how to respond to economic downturns with a predetermined strategy that has considered the full effect on EDD's operations and include, but not be limited to, identifying the lessons learned from previous economic downturns, identifying ways to improve self-serve services to avoid long wait times to speak to staff, and enhancing claims processing tools to ensure that the EDD's identity verification processes are as robust as possible. EDD is required to provide a copy of the recession plan to specified legislative committees and the Department of Finance (Finance) by March 1, 2022, and to update the recession plan and provide a copy to specified legislative committees and Finance every second year thereafter.

JUDICIARY

State Bar of California

2020-030 *The State Bar of California: It Is Not Effectively Managing Its System for Investigating and Disciplining Attorneys Who Abuse the Public Trust* (April 2021)

Finding: Beginning in 2016, the State Bar of California (State Bar) reorganized the staffing for its discipline system, including reorganizing the structure of the Office of Chief Trial Counsel of the State Bar (trial counsel's office), which investigates and prosecutes cases of attorney misconduct. Following the reorganization, the State Bar has experienced longer case processing times and an increasing backlog of discipline cases. The State Bar's backlog is generally defined as *discipline cases that remain pending beyond six months from receipt as of every December 31*. The State Bar officials with whom we spoke were critical of using this measure. For instance, the chief of mission advancement and accountability explained that staff cannot control many aspects of case processing, such as the time that it takes a court to provide certified documents.

Although six months may be insufficient for resolving certain cases, the State Bar may take up to 12 months for more complicated cases. However, it has chosen not to take advantage of this option. State law sets a goal and policy of 12 months for the State Bar to reach specified outcomes regarding complaints that the chief trial counsel designates as *complicated matters*. Although in 2016 the State Bar identified criteria for designating an item as a complicated matter, the special assistant to the chief trial counsel explained that the State Bar discontinued use of this designation sometime before July 2017, because the state law allowing this designation conflicts with other parts of the law. As specified, one section of state law sets a goal and policy of resolving or forwarding a completed investigation to the State Bar Court within 12 months for complaints designated as complicated; however, two other sections of state law set a reporting requirement or goal of six months for certain outcomes regarding all complaints. In addition, these sections of law use differing language for cases that proceed to the State Bar Court, including "filing a notice of disciplinary charges" and "filing of formal charges."

Recommendation: To clarify state law and provide more transparency regarding the nature of the existing backlog of discipline cases, the Legislature should do the following:

- Revise state law to remove Business and Professions Code (B&PC) section 6140.2, which has similar requirements for the State Bar's goals and policies for timely case processing but omits the State Bar's authority to designate complicated matters.

- Revise B&PC section 6086.15, subdivision (a)(1), to require the State Bar to include in its discipline report the number of complicated matters as of the end of the reporting period that were pending beyond 12 months after receipt without dismissal, admonition, or the filing of formal charges by the trial counsel's office.

  Status: Implemented. SB 211 (Chapter 723, Statutes of 2021) revises the goal and policy of the State Bar as it relates to complaints alleging attorney misconduct and requires, among other things, the State Bar to propose, no later than October 31, 2022, case processing standards for competently, accurately, and timely resolution of cases within the trial counsel's office. This provision states that it is also the goal and policy of the State Bar, as to complaints designated as complicated matters by the trial counsel's office, to dismiss a complaint, admonish the attorney, or have the trial counsel's office file formal charges

within 12 months after it receives a complaint alleging attorney misconduct. The legislation further requires the State Bar to include in its discipline report a description of its success in meeting these case processing goals.

Finding: State law requires the State Bar to issue a discipline report that enables key stakeholders—the Governor, the Chief Justice of California, and specified legislative members and committees—to evaluate certain aspects of its discipline system for the previous calendar year. The information in the discipline report is particularly important because it is the only comprehensive report that the State Bar submits to the Legislature describing the performance and condition of its entire discipline system. Information from multiple years is useful for determining how effectively the State Bar has used its resources over time and whether changes to the State Bar's fee bill are warranted. The deadline established in state law for submitting the annual discipline report limits the amount of time the Legislature has to assess the State Bar's performance before deliberating on the annual fee bill.

Recommendation: To provide itself sufficient time to review the discipline report before considering the annual fee bill, the Legislature should do the following:

- Amend state law to require the State Bar's discipline report to cover the 12 months from July 1 through June 30 of the previous year and to require that the State Bar submit the discipline report annually by October 31.

- In the year in which it amends the discipline report's time period, require the State Bar to report information for both the prior calendar year and the newly defined period to ensure that stakeholders can compare the information for the newly defined period to prior years.

Status: Implemented. SB 211 requires the State Bar to provide its Annual Discipline Report by October 31, rather than April 30, of each year, and the report must cover the period from July 1 of the previous calendar year to June 30 of the year in which the report is issued. This statute also requires the Annual Discipline Report due on October 31, 2022, to include data from the prior fiscal and calendar year.

PUBLIC SAFETY

Board of State and Community Corrections and Counties

2020-102 *Public Safety Realignment: Weak State and County Oversight Does Not Ensure That Funds Are Spent Effectively* (March 2021)

Finding: To reduce state prison overcrowding and help lower the State's incarceration costs, beginning in 2011, the Legislature transferred the responsibility for managing certain offenders sentenced for nonviolent, nonserious offenses from the State to counties—a change in responsibility commonly referred to as *realignment*. Along with housing the influx of inmates that resulted from realignment, state law also intended for county jails to make educational, rehabilitative, and exercise opportunities available to all inmates; however, the counties we reviewed struggled to do so. Counties generally built their jail facilities before realignment, and the jails were only intended to house inmates for sentences up to one year. As a result, officials at the three counties we reviewed stated that they lack the facilities and resources to provide a number of vocational trade programs to prepare inmates for reentry to the community. Further, these three counties' jails often lack adequate outdoor facilities for inmates to engage in physical activities or exercise sufficiently. These facility limitations are of particular concern because county jails may house some realigned inmates for significantly longer than three years and in some cases longer than 10 years.

Recommendation: To ensure that inmates serving lengthy terms in county jails have adequate educational and exercise opportunities, the Legislature should amend state law to limit the time inmates can spend in county jail to terms of no more than three years. In the event that the total sentence exceeds three years, it should require that the person serve the sentence in state prison.

Status: Not implemented.

Finding: As part of the realignment legislation, the State created the State Revenue Fund 2011 to receive the sales tax revenue and vehicle license fees that the State allocates to the counties for public safety realignment. That fund includes a Mental Health account. In turn, state law required each county to create a Local Revenue Fund 2011 to receive allocations from the State and to divide its Local Revenue Fund 2011 into eight specified accounts. However, in establishing the county accounts, the Legislature did not require counties to create a Mental Health account to receive the funds the State allocated for this purpose for public safety. In total, the State paid $1.1 billion to counties for this mental health funding in fiscal year 2019–20. The other funds the State provides to the counties for mental health are associated with a previous social services realignment dating back to 1991. State law restricts the 1991 mental health funding for mental health services that serve specific targeted populations, such as seriously emotionally disturbed children and adults who have serious mental disorders. In contrast, counties must use the 2011 realignment funding for public safety purposes, including providing mental health services to reduce student failure in schools, harm to self and others, homelessness, and preventable incarceration or institutionalization.

Recommendation: To ensure consistency between state allocations and county accounting records, the Legislature should amend state law to require counties to separate mental health funding for public safety realignment from previously enacted mental health funding.

Status: Not implemented.

Finding: As a part of their responsibilities, Community Corrections Partnership committees (Partnership Committees) are required to recommend plans for how their respective counties will implement public safety realignment programs and services. This plan could also include recommendations to the county to maximize the effective investment of criminal justice resources, which includes realignment funds for the 10 public safety realignment accounts we identified. Additionally, state law requires the Board of State and Community Corrections (Community Corrections) to—among other things—provide an annual report to the Legislature regarding the implementation of realignment, inspect and report on county jail facilities' compliance with state standards, collect best practices and make them available to counties, and define key realignment terms. However, we found that Community Corrections has, at best, minimally met these requirements and needs to improve its oversight of counties.

Recommendation: To ensure that the counties and Community Corrections are aware of their oversight responsibilities and resolve inconsistencies we identified from county to county, the Legislature should amend state law to clearly identify the specific accounts in the Local Revenue Fund 2011 it requires county Partnership Committees to plan for and oversee and Community Corrections to include in its annual reports to the Legislature.

Status: Not implemented.

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.

[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 Government Code. As a result, we use the term "at-risk" consistent with the JJCPA throughout our report.

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.

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.

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 individuals' 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 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.

Status: Not implemented.

AB 1076 (Kiley, 2021) would require Justice to draft and make available on its website an ALPR system policy template for local law enforcement agencies. This bill would additionally require Justice to develop and issue guidance for local law enforcement agencies to help them identify and evaluate the types of data they are storing in their systems. Such guidance would include the necessary security requirements agencies should follow to protect the data in their ALPR systems. This bill is pending in the Assembly.

SB 210 (Wiener, 2021) would do the following:

1. Require an ALPR operator's security procedures and practices to include an annual audit to review ALPR end-user searches during the previous year and, where the ALPR operator or ALPR end-user is a public agency and not an airport authority, the destruction of all ALPR information that does not match information on a hot list within 24 hours.
2. Require the ALPR operator or ALPR end-user, if they access or provide access to ALPR information, to conduct an annual audit to review ALPR end-user searches during the previous year to assess user searches, determine if all searches were in compliance with the usage and privacy policy, and, if the ALPR operator or ALPR end-user is a public agency and not an airport authority, confirm that all ALPR data that does not match hot list information has been routinely destroyed in 24 hours or less.
3. Require these annual audits be made available to the public in writing, and, if the ALPR operator or ALPR end-user has a website, would require the annual audits be posted conspicuously on that website.
4. Require the ALPR operator's usage and privacy policy to include the process the ALPR operator will use to determine if and when to destroy ALPR information.
5. Require Justice, on or before July 1, 2022, to draft and make available on its website a policy template and would permit local law enforcement agencies to use the template as a model for their ALPR policies.
6. Require Justice to develop and issue guidance, which would include necessary security requirements agencies should follow, to help local law enforcement agencies identify and evaluate the types of data they are currently storing in their ALPR database systems.

This bill is pending in the Senate.

Appendix

Legislation Chaptered or Vetoed During the 2021–22 Regular Legislative Session

The table below briefly describes bills that were chaptered or vetoed during the first year of the 2021–22 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 report.

Legislation Chaptered or Vetoed in the 2021–22 Regular Session

BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
Education		
AB 27 Ch. 394, Stats 2021	2019-104 *Youth Experiencing Homelessness* (November 2019)	1) Requires a local educational agency (LEA) to ensure that each school within the LEA identifies all homeless children and unaccompanied youths enrolled at the school. 2) Requires an LEA to administer a housing questionnaire for purposes of identifying homeless children and unaccompanied youths, and, commencing no later than the beginning of the 2021–22 school year, to ensure that the housing questionnaire is based on best practices developed by the California Department of Education (Education). 3) Requires an LEA to annually provide the housing questionnaire to all parents or guardians of pupils and unaccompanied youths, collect the completed housing questionnaire, and report the number of homeless children and unaccompanied youth to Education annually. 4) Requires Education to develop and implement, at least annually, a system to verify that LEAs are providing the required training to school personnel providing services to youth experiencing homelessness. 5) Requires Education to review information submitted by LEAs in compliance with the McKinney-Vento Education Assistance Improvement Act (McKinney-Vento Act) and remind each LEA to update any of its policies that contain outdated information about current requirements. 6) Requires a school district, charter school, or county office of education to create a web page or post on its website a list of LEA homeless liaisons in that school district, charter school, or county office of education, respectively, the contact information for those liaisons, and specific information regarding the educational rights and resources available to persons experiencing homelessness. 7) Authorizes $1.5 million, upon appropriation by the Legislature, to be allocated to up to three county offices of education in different regions throughout the State for purposes of establishing technical assistance centers to foster relationships with community partners and other LEAs in each region.
AB 130 Ch. 44, Stats 2021	2019-101 *K–12 Local Control Funding* (November 2019)	Requires LEAs, commencing with the local control and accountability plan (LCAP) and annual update adopted on or before July 1, 2022, to annually calculate the total difference between amounts budgeted and estimated actual expenditures for each service. Requires LEAs and school districts to annually reconcile unspent supplemental and concentration funds reported in their LCAPS with the amount apportioned by Education and specifies that unspent funds shall be expended only for specific actions that contribute toward meeting the increased or improved services for intended student groups. This provision also requires LEAs to report the planned uses of these funds in its LCAP.
SB 400 Ch. 400, Stats 2021	2019-104 *Youth Experiencing Homelessness* (November 2019)	Requires Education to develop and implement, at least annually, a system to verify that LEAs are providing the required training to school personnel providing services to youth experiencing homelessness. Requires Education to review information submitted by LEAs in compliance with the McKinney-Vento Act and remind each LEA to update any of its policies that contain outdated information about current requirements.

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BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
Environmental Quality		
AB 1024 Ch. 474, Stats 2021	2020-107 *Lead Battery Clean Up* (October 2020)	Requires the Department of Toxic Substances Control (DTSC) to establish performance milestones and post on its website easily accessible information about cleanups of hazardous substances released into the environment carried out or overseen by DTSC. Any moneys recovered by the State from responsible parties relating to the former Exide Technologies lead-acid battery recycling facility in the city of Vernon shall be used to repay the General Fund and the Lead-Acid Battery Cleanup Fund for loans made for the oversight or performance of closure activities and response and corrective actions to protect public health and the environment from hazardous substances or hazardous waste at or near the former Exide Technologies facility.
AB 1261 Ch. 714, Stats 2021	2019-114 *Air Resources Board GHG Reduction Programs* (May 2020)	Requires the California Air Resources Board (CARB) to establish specified processes to assist the state in achieving its greenhouse gas (GHG) reduction goals, including a process to identify any overlap among its incentive programs that share the same objectives and a process to define, collect, and evaluate data on the behavioral changes that result from each of its incentive programs. CARB is required to use the information collected pursuant to these processes to refine the GHG estimates for each of its incentive programs in its annual reports to the Legislature, its funding plans, and any long-term planning documents or reports. CARB is required to develop a process to define, collect, and evaluate data that will translate to metrics demonstrating the socioeconomic benefits that result from each of its incentive programs and use this data to make funding and design recommendations in its annual reports to the Legislature and funding plans. These provisions are contingent upon appropriation by the Legislature, and CARB is required to complete certain of these duties within three years of receiving the appropriation.
Governmental Organization		
AB 120 Ch. 45, Stats 2021	2018-132 *California Gambling Control Commission* (May 2019)	Allows the California Gambling Control Commission (gambling commission) to take action to deny or approve a gambling license application at a gambling commission meeting and requires a hearing only if requested by an applicant, upon denial of an application or if the application is approved with limits, restrictions, or conditions.
Health & Human Services		
AB 135 Ch. 85, Stats 2021	2020-109 *In-Home Supportive Services* (February 2021)	Expands the limitation for In-Home Supportive Services (IHSS) state-county sharing arrangements on the 10 percent state participation to allow no more than two three-year periods that commence before, and no more than two three-year periods that commence on or after, the date the state minimum wage reaches $15, and deletes subsequent county IHSS Maintenance of Effort (MOE) adjustments that otherwise would have applied when the $15 minimum wage takes effect on January 1, 2022. Additionally, this statute deletes subsequent MOE adjustments that otherwise would have applied when the $15 minimum wage takes effect on January 1, 2022.
AB 323 Ch. 458, Stats 2021	2017-109 *Skilled Nursing Facilities* (May 2018)	Changes the standard for the California Department of Public Health (Public Health) when issuing penalties against certain long-term care facilities for violations that result in the death of a resident and increases the minimum civil penalties that may be assessed against those facilities for various violations.
AB 1015 Ch. 591, Stats 2021	2019-120 *Board of Registered Nursing* (July 2020)	Requires the Board of Registered Nursing (BRN) to incorporate regional forecasts into its biennial analyses of the nursing workforce, develop a plan to address regional areas of shortage identified by its nursing workforce forecast, and identify in the plan additional facilities that could offer clinical placement slots. BRN is required 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, including, but not limited to, information concerning the total number of placement slots a clinical facility can accommodate and how many slots the programs that use the facility will need. BRN is required to place the annual report on its website.

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AB 1042 Ch. 475, Stats 2021	2017-109 *Skilled Nursing Facilities* (May 2018)	Requires Public Health, effective January 1, 2023, when a skilled nursing facility (SNF) fails to pay certain penalties and all appeals have been exhausted, to provide written notice to the SNF and any related parties that Public Health may take legal action to recover the unpaid penalty amount from the SNF's financial interest in the related party. Public Health is required to give written notice to related parties when a citation has been issued against a SNF, and to advise the related parties of the potential action if the violation is not remedied. Finally, the Department of Health Care Services (Health Care Services) is required to give notice to related parties that Health Care Services may take legal action to recover unpaid quality assurance fees from the SNF's financial interest in a related party.
SB 507 Ch. 426, Stats 2021	2019-119 *Lanterman-Petris-Short Act* (July 2020)	Expands the criteria for a court to order Assisted Outpatient Treatment (AOT) if a clinical determination has been made that in view of the person's treatment history and current behavior, at least one of the following is true: a) the person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating, or b) the person is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would be likely to result in grave disability or serious harm to the person or to others. Expands the criteria for AOT to include an eligible conservatee who is the subject of a pending petition for termination of a conservatorship under the Lanterman-Petris-Short (LPS) Act. Requires the examining mental health practitioner to determine whether the subject of the AOT petition has the capacity to give informed consent regarding psychotropic medication in their affidavit to the court, and permits the subject of the petition or the examining mental health professional to appear before the court for testimony by videoconference.
SB 578 Ch. 389, Stats 2021	2019-119 *Lanterman-Petris-Short Act* (July 2020)	Requires a conservatorship hearing to be presumptively closed to the public if that hearing involves the disclosure of confidential information, and it authorizes the individual who is the subject of the proceeding to demand that the hearing be public and be held in a place suitable for attendance by the public. A judge, hearing officer, or other person conducting the hearing is authorized to grant a request by any other party to the proceeding to make the hearing public if the judge, hearing officer, or other person conducting the hearing finds that the public interest in an open hearing clearly outweighs the individual's interest in privacy. *Hearing* for these purposes is defined to mean any proceeding conducted under the LPS Act.
SB 650 Ch. 493, Stats 2021	2017-109 *Skilled Nursing Facilities* (May 2018)	Commencing with fiscal years ending December 31, 2023, an organization that operates, conducts, owns, manages, or maintains a SNF is required to prepare and file with the Department of Health Care Access and Information (Health Care Access - formerly the Office of Statewide Health Planning and Development) an annual consolidated financial report that includes data from all operating entities, license holders, and related parties in which the organization has an ownership or control intrest of 5 percent or more and that provides any service, facility, or supply to the SNF. Health Care Access is required to develop policies and procedures to outline the format of information to be submitted, determine if the annual consolidated financial report is complete, and post those reports and related documents to its website.
Higher Education		
AB 251 Ch. 347, Stats 2021	2019-113 *University of California Admissions* (September 2020)	Excludes from the definition of a *senior campus administrator* at the California State University or the University of California (UC) any staff associated with campus development, external affairs, fundraising, donor relations, alumni relations, or alumni outreach.

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BILL NUMBER (CHAPTERED/VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
AB 1215 VETOED	2019-113 *University of California Admissions* (September 2020)	Would have requested UC Regents to adopt a policy directing the UC Office of the President to establish system-wide protocols for admissions of students no later than February 1, 2022, to become effective for the fall 2023 admission cycle of the university, beginning August 1, 2022. The bill would have specified that the protocols adopted do the following: 1) Prohibit consideration of a student applicant's family or other personal relationship connections to university staff or faculty in any decision related to, or resulting in, that student's admission to the UC system and communication between any person employed in or connected with any UC campus development office and any UC campus admissions office regarding any UC student applicant or prospective UC student applicant. 2) Require verification of the athletic talent of all prospective student athlete applicants and tracking of the participation of student athletes in the sport for which they were recruited. 3) Require the Office of the President to annually select a random sample of student applicants admitted by exception, and verify that each UC campus that admitted any student in this manner recorded a rationale for each such admission, and that each recorded rationale aligns with the guidance issued by UC's Board of Admissions and Relations with Schools. 4) Require the Office of the President, by July 1, 2022, to begin conducting an audit of the undergraduate admissions process by annually auditing two campuses each year, and to review the undergraduate admissions process at each UC campus every five years. 5) Require, no later than 120 days after the completion of each audit conducted under these protocols, the Office of the President to determine whether each UC campus has adequately completed all corrective actions identified as a result of any of these audits, and to determine whether each UC campus has fully adopted all UC system-wide admission policies in accordance with the protocols. 6) Require the Office of the President, on or before May 1, 2023, and annually thereafter, to submit a report to the budget, appropriations, and education committees of both houses of the Legislature on admissions policies and campus-wide standards for admissions.
Housing & Community Development		
AB 68 Ch. 341, Stats 2021	2020-108 *Affordable Housing* (November 2020)	Starting with any update or revision to the California Statewide Housing Plan (housing plan) on or after January 1, 2023, the housing plan must include, among other things, the number of affordable units needed to meet the state's affordable housing needs. The Department of Housing and Community Development (HCD) is required to develop and publish on its website annual reports by December 31 of each year that include specified information regarding grant programs that are administered by HCD, as well as information regarding land use oversight actions related to housing.
AB 977 Ch.397, Stats 2021	2020-112 *Homelessness in California* (February 2021)	Requires, beginning January 1, 2023, that a grantee or entity operating specified state homelessness programs, as a condition of receiving state funds, to enter the Universal Data Elements and Common Data Elements, as defined in the U.S. Department of Housing and Urban Development Homeless Management Information System Data Standards, on the individuals and families it serves into its local Homeless Management Information Systems (HMIS), unless otherwise exempted by state or federal law. These data entry requirements apply to all new state homelessness programs that commence on or after July 1, 2021. The Homeless Coordinating and Financing Council (homeless council) is required to specify the format and disclosure frequency of the required data elements, and provide technical assistance and guidance to any grantee or entity that operates a program subject to these provisions, if the grantee or entity does not already collect and enter into HMIS the data elements required. Finally, the homeless council is required to provide the aggregate data summaries to specified state agencies or departments within 45 days of receipt.
AB 1220 Ch. 398, Stats 2021	2020-112 *Homelessness in California* (February 2021)	Renames the homeless council to the California Interagency Council on Homelessness. The appointed members of the council or committees shall serve at the pleasure of their appointing authority. Upon request of the council, a state agency or department that administers one or more state homelessness programs must participate in council workgroups, task forces, or other similar administrative structures and provide to the council any relevant information regarding those state homelessness programs.

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Insurance		
AB 56 Ch. 510, Stats 2021	2020-128/628.1 *Unemployment Insurance Claim Surge* (January 2021) And 2020.628.2 *Unemployment Insurance Fraud* (January 2021)	Requires the Employment Development Department (EDD) to do the following: 1) Provide access to and pay for identity theft monitoring for any individual who receives outgoing U.S. mail from EDD that contains full Social Security numbers (SSNs), if EDD fails to comply with the statutory prohibition on sending SSNs in the U.S. mail by January 1, 2023. 2) Upon appropriation by the Legislature, report at least once every six months on its website specified benefit overpayment information encompassing benefit payments made from March 1, 2020, through January 12, 2021, and continue to publish this information until the time when EDD resumes all eligibility determinations. 3) Revise its public dashboards with regard to the number of backlogged claims. 4) Determine the reasons that claimants cannot successfully complete their identity verification, and identify the elements of the Benefit System Modernization that can assist EDD in making timely payments. 5) Implement a formal policy that establishes a process for tracking and periodically analyzing the reasons why unemployment insurance claimants call for assistance and to regularly analyze this data to improve its call center. 6) Designate a unit as responsible for coordinating all fraud prevention and detection by March 1, 2022. 7) Include an assessment of the effectiveness of EDD's system of cross matching claims against information about incarcerated individuals.
AB 110 Ch. 511, Stats 2021	2020.628.2 *Unemployment Insurance Fraud* (January 2021)	Requires the California Department of Corrections and Rehabilitation (CDCR) to provide, on the first of every month or upon EDD's request, the name, known aliases, birth date, SSN, booking date, and expected release date, if known, of a current inmate to EDD for the purposes of preventing payments on fraudulent claims for unemployment compensation benefits. For purposes of preventing payments on fraudulent claims for unemployment compensation benefits, the EDD Director is required to verify with the information provided by CDCR that the claimant is not an inmate currently incarcerated in the state prisons. EDD is required to complete necessary system programming or automation upgrades to allow electronic monitoring of CDCR inmate data to prevent payment on fraudulent claims for unemployment compensation benefits at the earliest possible date, but not later than September 1, 2023.
AB 138 Ch. 78, Stats 2021	2020.628.2 *Unemployment Insurance Fraud* (January 2021)	Requires EDD to provide to specified legislative committees a plan for assessing the effectiveness of its fraud prevention and detection tools by May 1, 2022, and provide a report with an update on its progress on performing the assessment that the plan identified by July 1, 2022. On or before January 1, 2023, and annually thereafter, EDD is required to analyze and assess the effectiveness of its fraud prevention and detection tools and submit this analysis and assessment to the specified legislative committees.
AB 397 Ch. 516, Stats 2021	2020-128/628.1 *Unemployment Insurance Claim Surge* (January 2021)	Requires EDD, prior to disqualifying an individual for unemployment compensation benefits and subjecting that person to a period of ineligibility, to provide notice to the individual of the proposed determination. The notice may be sent in combination with other notices from EDD, must state the eligibility provision related to the false statement or misrepresentation on which the determination to disqualify was made and must state the individual's right to respond. EDD is authorized, after certain conditions are fulfilled, to issue a final notice of determination to the individual that includes specified information. EDD must implement these provisions upon completing any necessary technical changes to fulfill these requirements or by September 1, 2022, whichever is earlier.
SB 390 Ch. 543, Stats 2021	2020-128/628.1 *Unemployment Insurance Claim Surge* (January 2021)	Requires EDD to develop and, upon appropriation by the Legislature, implement a recession plan to prepare for an increase in unemployment insurance compensation benefits claims due to an economic recession. The plan shall detail how to respond to economic downturns with a predetermined strategy that has considered the full effect on EDD's operations, and include, but not be limited to, identifying the lessons learned from previous economic downturns, identifying ways to improve self-serve services to avoid long wait times to speak to staff, and enhancing claims processing tools to ensure that the EDD's identity verification processes are as robust as possible. EDD is required to provide a copy of the recession plan to specified legislative committees and the Department of Finance (Finance) by March 1, 2022, and to update the recession plan and provide a copy to specified legislative committees and Finance every second year thereafter.

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Judiciary		
AB 143 Ch. 79, Stats 2021	2016-137 *Commission on Judicial Performance* (April 2019)	Establishes the Committee to Review the Operations and Structure of the Commission on Judicial Performance (CJP) which is required to study and make recommendations for changes in the operations and structure of the CJP that would improve its ability to carry out its mission to protect the public, enforce rigorous standards of judicial conduct, and maintain public confidence in the integrity and independence of the judiciary. As part of this study, the Committee is required to look at all findings and recommendations of the State Auditor in Audit 2016-137.
SB 211 Ch. 723, Stats 2021	2020-030 *State Bar of California* (April 2021)	Requires the State Bar of California (State Bar) to provide its Annual Discipline Report by October 31, rather than April 30, and the report must cover the period from July 1 of the previous calendar year to June 30 of the year in which the report is issued. The Annual Discipline Report due on October 31, 2022, must also include data from the prior fiscal and calendar year. The State Bar is required to propose, no later than October 31, 2022, case processing standards for competently, accurately, and timely resolving cases within the Office of Chief Trial Counsel. States that it is also the goal and policy of the State Bar, as to complaints designated as complicated matters by the Chief Trial Counsel, to dismiss a complaint, admonish the attorney, or have the Office of Chief Trial Counsel file formal charges within 12 months after it receives a complaint alleging attorney misconduct. This provision requires the State Bar to include in its discipline report a description of its success in meeting these case processing goals.
Privacy & Consumer Protection		
AB 12 Ch. 509, Stats 2021	2018-129 *Employment Development Department* (March 2019)	Requires state agencies, as soon as is feasible, but no later than January 1, 2023, to stop sending any outgoing U.S. mail to an individual that contains the individual's SSN unless the SSN is truncated to its last four digits, except in specified circumstances.
Public Safety		
AB 57 Ch. 691, Stats 2021	2017-131 *Hate Crimes* (May 2018)	Requires the Commission on Peace Officer Standards and Training (POST) to develop a course on the topic of hate crimes in consultation with subject matter experts and, subject to an appropriation, update course of instruction to include the viewing of a specified video course developed by POST. POST is then required to make the video available via the online learning portal, at which time all peace officers would be required to complete specified training materials no later than one year after POST makes the updated course available. POST is also required to develop and periodically update an interactive refresher course on hate crimes for in-service peace officers, and peace officers are required to take the refresher course every six years. Any local law enforcement agency that adopts or updates a hate crime policy is required to include specified information on recognizing religion-bias hate crimes and include the discriminatory selection of victims as a form of bias motivation.
AB 580 Ch. 744, Stats 2021	2019-103 *Emergency Planning: Access and Functional Needs Population* (December 2019)	Requires the director of the California Office of Emergency Services (Cal OES) to appoint representatives of the access and functional needs population to serve on pertinent committees related to the emergency management system and to ensure the needs of that population are met within that system. A county is required to send a copy of its emergency plan to Cal OES on or before March 1, 2022, and upon any update to the plan after that date. Cal OES, if requested and in consultation with representatives of people with a variety of access and functional needs, is required to review the emergency plan of each county to determine whether the plans are consistent with certain best practices and guidance. Counties are required to develop and revise emergency plans to address the issues identified by Cal OES in its review and Cal OES, if requested, is required to provide technical assistance to a county in developing and revising its emergency plan to address the issues it identified in its review.