OVERVIEW OF THE 2019-20 BUDGET BILL

Senate Bill 73

As Introduced January 10, 2019

Senate Committee on Budget and Fiscal Review

Senator Holly J. Mitchell, Chair

February, 2019

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Dear Colleagues:

I am pleased to provide you with a copy of the *Overview of the 2019-20 Budget Bill*, which has been prepared by the staff of the Senate Committee on Budget and Fiscal Review. The document is intended to highlight the Governor's major proposals and provide additional information and framework to support the review of these proposals. This document, together with other materials, will provide the basis for budget hearings throughout the spring.

The first section presents an overview of the state's fiscal condition and the Governor's fiscal proposals. The next section is organized by budget subcommittee and provides overviews of major issues. For each major issue, this report provides relevant background material, an explanation of the budget proposal, and a discussion of important matters to consider.

In the Appendix, we include supplementary fiscal documents prepared by the Department of Finance. The Appendix also includes a working timeline for completing the 2019-20 budget, a historical listing of adopted state budgets, and a schedule of budget committee consultants and their respective areas of responsibility.

If you have questions, please do not hesitate to contact me or the committee staff.

Sincerely,

HOLLY J. MITCHELL
Chair

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Budget Overview

INTRODUCTION

The Governor has proposed a budget for the 2019-20 fiscal year that includes General Fund resources of $147.4 billion and expenditures of $144.2 billion. Based on the budget proposal, the General Fund would end the 2019-20 fiscal year with an unencumbered reserve of $1.8 billion[1]. The budget also includes a deposit of $1.8 billion to the Budget Stabilization Account (BSA), resulting in an expected balance in this account of $15.3 billion at the end of the budget year, and $700 million to the Safety Net Reserve, bringing the balance of this account to $900 million.

The General Fund continues to be in a strong position. According to the Legislative Analyst's Office's (LAO) overview of the Governor's budget, the Governor had $20.6 billion in discretionary resources to allocate in the 2019-20 budget. This is approximately $6 billion above the LAO's November 2018 estimate. In allocating this surplus, the Governor has taken an approach similar to those taken in recent budgets by focusing on building reserves, paying down debts and liabilities, and making substantial one-time investments. In doing so, the Governor's budget, limits the budget's ongoing commitments in a targeted way. Overall, General Fund spending in 2019-20 is expected to increase by $5.2 billion from the revised 2018-19 budget act. When accounting for all funds, including special funds and bond funds, the Governor's budget proposes $209.1 billion in total expenditures.

Tremendous strides have been made in recent years in building the fiscal strength of the state and ensuring that California is well positioned to protect the critical services and programs that citizens depend upon should another downturn occur. The Governor's budget structure continues to prioritize the strengthening of California's fiscal resiliency. This is important given the continued uncertain impacts of actions at the federal level and the length of the current economic expansion, which, by the time the budget year begins, will have matched the longest economic expansion in modern history at 10 years.

OVERVIEW OF GOVERNOR'S BUDGET PROPOSAL

Overall Structure

Overall, the Governor's proposed 2019-20 budget includes $147.4 billion in General Fund revenues and other resources and $144.2 billion in total General Fund expenditures ($88.9 billion in non-Proposition 98 and $55.3 billion in Proposition 98 funds). The proposed budget would provide for a $1.8 billion unencumbered reserve balance in the Special Fund for Economic Uncertainties (SFEU), a $900 million Safety Net Reserve, and reflect $15.3 billion in the BSA (including a $1.8 billion deposit in the budget year). The Governor's proposed 2019-20 budget strategically targets significant one-time investments while committing $2.8 billion to new expenditures on an ongoing basis.

[1] The Department of Finance has revised this amount from the amount that was included in the Governor's budget, $2.283 million, due to the recognition of the need to reflect $475.3 million of a proposed settle-up payment as an expenditure against the prior year, pursuant to the LAO's observation in their overview of the Governor's budget.

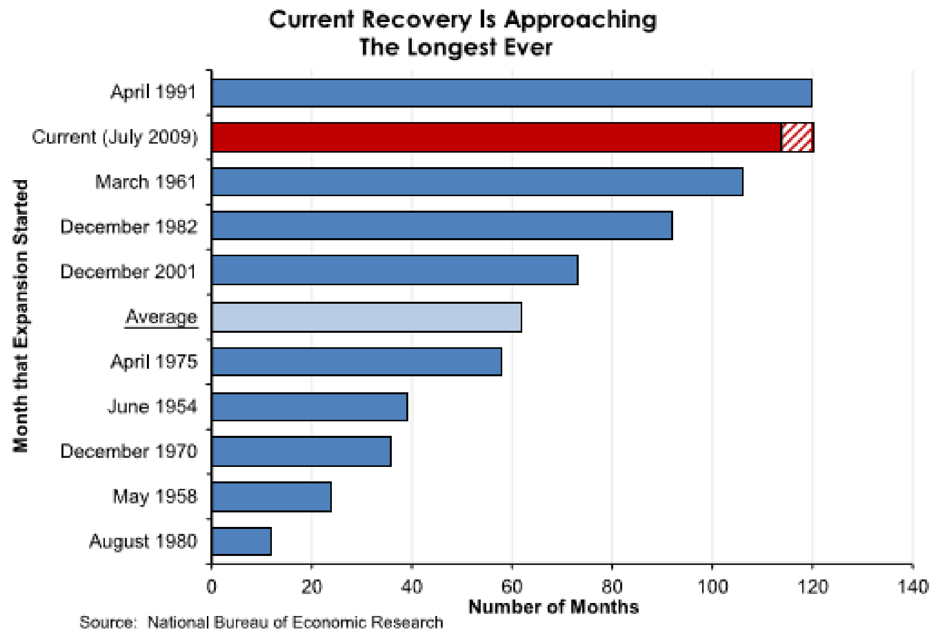
The General Fund budget details are summarized below.

2018-19 and 2019-20
General Fund Summary
(Dollars in Millions)

	Revised 2018-19	**Proposed 2019-20**
PRIOR YEAR BALANCE	$11,902	$4,765
Revenues and transfers	$136,945	$142,618
TOTAL RESOURCES AVAILABLE	**$148,847**	**$147,383**
Non-Proposition 98 Expenditures	$90,054	$88,896
Proposition 98 Expenditures	$54,028	$55,295
TOTAL EXPENDITURES	**$144,082**	**$144,191**
FUND BALANCE		
Encumbrances	$1,385	$1,385
Special Fund for Economic Uncertainties	$3,380	$1,808
Budget Stabilization Account	$13,535	$15,302
Safety Net Reserve	$900	$900

Fiscal Stability

As many commentators have noted the last couple of years, the nation's economic expansion has exceeded and continues to exceed norms and expectations. In fact, as mentioned above and as the Governor's budget points out (displayed in the below chart from the Governor's budget), by the time the budget year starts, the nation will have experienced 10 straight years of economic expansion—matching the longest economic expansion in modern history. As the state recovered from the last recession and through this expansion, California has built a strong fiscal foundation to mitigate the impacts of future economic downturns.



In focusing on continuing to build California's fiscal resiliency, the Governor's proposed 2019-20 budget allocates $13.1 billion to reserve deposits and paying down the state's debts and liabilities, including unfunded pension liabilities. This includes $4 billion to eliminate debts and reverse deferrals, $4.3 billion to build reserves, and an additional $4.8 billion to pay down unfunded retirement liabilities. These investments are intended to better enable the state to protect funding for schools and other core programs that serve the state's neediest individuals during the next economic slowdown.

The debt and deferral payments include:

- $2.4 billion to pay off the state's budgetary debts, including the elimination of all outstanding loans from special funds and transportation accounts.

- $1 billion to eliminate the annual payroll deferral. The one-month deferral of the June payroll provided a one-time budget savings that was used to help balance the budget nine years ago. The state has been deferring this payment ever since; this action eliminates this long-standing practice.

- $700 million to eliminate the deferral of the fourth-quarter payment to the California Public Employees' Retirement System (CalPERS). Similar to the payroll deferral, this action reverses a one-time budget savings that was used to help balance the budget over a decade ago.

In order to continue to build the state's budgetary reserves, the Governor's budget assumes an additional $1.8 billion transfer to the BSA in the budget year and an additional $4.1 billion over the remainder of the forecast period, bringing the Rainy Day Fund to $19.4 billion by 2022-23.

Of significance and per a legal opinion, the budget assumes that supplemental payments made in prior years do not count toward calculating the 10 percent of General Fund tax revenues target set in the

Constitution. Consistent with this opinion, the budget continues to make required deposits in the Rainy Day Fund.

BUDGET YEAR PROPOSED EXPENDITURES

The proposed budget includes additional required programmatic increases and new spending. The table below summarizes the Governor's proposed expenditures by program area. The largest expenditures by program are in K-12 education and health and human services.

General Fund Expenditures
Current and Budget Year
(Dollars in Millions)

Program Area	Revised 2018-19	Proposed 2019-20	Change
K-12 Education	$57,861	$58,746	$885
Higher Education	16,348	17,180	832
Health and Human Services	37,098	40,302	3,204
Corrections and Rehabilitation	12,495	12,482	-13
Business, Consumer Services, Housing	449	1,693	1,244
Transportation	214	296	82
Natural Resources	3,909	3,509	-400
Environmental Protection	358	123	-235
Labor and Workforce Development	159	125	-34
Government Operations	4,876	1,253	-3,623
General Government:			
Non-Agency Departments	1,145	821	-324
Tax Relief / Local Government	472	461	-11
Statewide Expenditures	4,055	2,641	-1414
Legislative, Judicial and Executive	4,643	4,559	-84
Total	**$144,082**	**$144,191**	$109

The Governor's budget proposes some specific policy and budgetary changes. Some of the more important aspects of the budget proposal are outlined below:

Education

- **K-12 Education.** In K-12 education, the Governor proposes to provide $2 billion in ongoing Proposition 98 General Fund to provide a cost-of-living adjustment for the Local Control Funding Formula of 3.46 percent. In addition, the Governor proposes to provide $576 million ($186 million is one-time) in Proposition 98 General Fund for expanded special education services and school readiness supports at local education agencies that have high percentages of both students with disabilities and low income, foster youth, and English language learners.

- **Early Childhood Education.** The Governor proposes $124.9 million non-Proposition 98 General Fund in 2019-20, increasing over 3 years, to expand state preschool for all low-income 4 year olds. In addition, the Governor proposes $750 million in one-time non-Proposition 98 General Fund to increase full-day Kindergarten facilities, $300 million in one-time non-Proposition 98 General Fund to expand child care facilities and invest in the child care workforce.

- **K-14 Pensions.** The Governor proposes $3 billion one-time non-Proposition 98 General Fund over three years to the California State Teachers' Retirement System (CalSTRS) to buy down employer contribution rates and reduce the long-term pension liability for local educational agencies and community colleges.

- **Higher Education.** The Governor proposes an increase of over $300 million ongoing General Fund for the California State University, over $200 million ongoing General Fund for the University of California, and over $275 million ongoing for the California Community Colleges, for operational costs, enrollment growth, and other purposes. In addition, the budget proposes to increase Cal Grant Access awards for student-parents to $4,000 or $6,000, and increases the number of competitive Cal Grant awards by 4,250 awards for a total of 30,000 awards. The budget also proposes increased investments in immigrant legal services, student hunger and housing initiatives, and mental health services for students.

Health and Human Services

- **Safety Net Reserve.** The budget increases the Safety Net Reserve Fund by $700 million, bringing the total amount in the fund to $900 million.

- **CalWORKs.** The budget includes $347.6 General Fund in 2019-20 to raise grant levels to 50 percent of the projected 2019 federal poverty level, effective October 1, 2019. Additionally, the budget includes $78.9 million in 2019-20 to provide home visiting services to an estimated 16,000 eligible CalWORKs families. Services will be provided to pregnant women and families with a child under the age of two for up to 24 months, with priority given to first-time parents.

- **Revised County IHSS Maintenance-of-Effort (MOE).** The budget proposes to adjust the IHSS MOE inflation factor, redirect 1991 realignment back to county indigent health and

mental health services, and reduce counties' IHSS MOE to $1.56 billion, causing an increase of $241.7 million in General Fund costs.

- **Medi-Cal Eligibility for Young Adults Regardless of Immigration Status.** The budget proposes $260 million ($196.5 million General Fund) to extend Medi-Cal eligibility up to age 26 for all individuals regardless of immigration status. The expansion of eligibility will also result in a $2.2 million General Fund cost to the Department of Social Services for additional In-Home Supportive Services (IHSS) for this population. The Administration is also proposing to modify the formula for redirection of county health realignment funds under AB 85 (Committee on Budget), Chapter 24, Statutes of 2013, to account for counties' reduced costs of providing care to these newly eligible individuals. Accounting for increased IHSS costs and additional redirection of county funds, the net General Fund cost of this expansion of Medi-Cal eligibility will be $133.5 million.

Resources and the Environment

- **Wildfire Prevention and Response.** The Governor proposes $654.4 million for fire prevention, suppression, and recovery efforts.

- **Cap-and-Trade Expenditure Plan.** The Governor proposes a total of $1 billion in discretionary spending.

- **Safe and Affordable Drinking Water.** The Governor proposes to create a Safe and Affordable Drinking Water Fund, with a dedicated funding source from new water, fertilizer, and dairy fees.

Transportation

- **Road Repair and Accountability Act Funding** – The budget includes $4.8 billion in SB 1 funding for a variety of transportation programs.

- **Local Streets and Roads** – The budget includes $1.2 billion in SB 1 funding to be distributed by formula to cities and counties for local road maintenance.

General Government and Public Safety

- **Housing Production Strategy.** The Administration proposes to develop a strategy to revamp the current Regional Housing Needs Assessment (RHNA) process, which determines the amount and type of housing regions and local jurisdictions must produce to meet their need. The Administration also proposes to encourage jurisdictions to contribute to their fair share of the state's housing supply by linking housing production to certain transportation funds and other applicable sources, if any, following discussions with appropriate stakeholders.

- **Homelessness**. The budget includes $500 million in one-time General Fund resources for jurisdictions that site and build emergency shelters, navigation centers, or supportive housing.

This includes $200 million in incentive funds for "general purposes" once certain performance milestones are hit.

- **Short-Term Planning and Production Grants.** The budget includes $750 million in one-time General Fund resources to partner with and incentivize local governments to plan for and produce additional housing. This includes $500 million in incentive funds for "general purposes" once certain performance milestones are hit.

- **Moderate-Income Housing Production.** The budget includes $500 million General Fund one-time in the development of housing for moderate-income households.

- **Expanded State Housing Tax Credit.** The budget includes up to $500 million in additional state housing tax credits in 2019-20, and up to $500 million annually thereafter upon an appropriation.

- **Economic Development Tools.** The budget encourages the formation of additional Enhanced Infrastructure Financing Districts (EIFDs) by removing the 55-percent voter approval requirement to issue debt, and by actively pairing with the federal Opportunity Zones program.

- **Earned Income Tax Credit.** The budget proposes to rename the program as the "Working Families Tax Credit" and to increase the credit from approximately $400 million to $1 billion to help families, particularly those with young children, receive a bump in their income to address the costs of housing, rent, and child care. The expanded credit is proposed to be funded as part of a revenue neutral tax conformity package.

- **Labor and Employee Compensation.** The budget proposes a $3 billion cash supplemental pension payment to California Public Employees' Retirement System. In addition, the budget also provides $390 million in Proposition 2 debt funding to pay the General Fund's share of the loan that funded the $6 billion supplemental pension payment to CalPERS in 2017-18. The budget summary notes the convening of a taskforce to consider options to phase in and expand Paid Family Leave to allow children to be cared for by a parent or close relative for up to six months.

- **Division of Juvenile Justice (DJJ) Reform.** The budget proposes to move DJJ facilities from the California Department of Corrections and Rehabilitation to a new department under the Health and Human Services Agency.

- **Human Trafficking Victim Assistance Program.** The budget proposes an ongoing amount of $10 million General Fund for the Office of Emergency Services to continue funding for the Human Trafficking Victim Assistance Program. The program assists victims of sex and/or labor trafficking in recovering from the trauma they experience and reintegrating into society.

STATE ECONOMY AND REVENUES

Economic Outlook

Economic forecasts play an integral role in the state's revenue forecast and fiscal outlook. The state's revenue structure is very 'elastic', meaning it is highly sensitive to economic changes. This is particularly true for personal income tax receipts, which tend to grow (or decline) proportionally more than increases (or decreases) in the underlying income base. The sales and use tax, the second largest state revenue source, is sensitive to consumer confidence and consumption patterns. The property tax – which benefits the General Fund through additional resources for K-12 education – reacts to changes in the underlying property asset values and home sale prices.

Nationally, the Governor's budget forecast assumes continued moderate economic growth over the next few years, with real GDP growth of 2.7 percent in 2019 gradually slowing to 1.5 percent by 2022. Growth is expected to be driven by consumption as real wage growth increases for more workers.

The U.S. unemployment rate was 3.7 percent in September, October and November 2018, the lowest it has been since 1969. With real GDP growth above two percent and higher labor force growth through 2020, the Administration assumes the unemployment rate for the U.S. will decrease to 3.4 percent in mid-2019, before starting to slowly increase in late 2020.

According to the Governor's budget, U.S. inflation was 2.1 percent in 2017 and is projected to average 2.5 percent in 2018 and 2019, due in part to additional tariffs, before gradually slowing to 2.1 percent by 2022. The Administration expects that the Federal Reserve will continue to increase the federal fund rate up to 3.45 percent by the end of 2020.

California's unemployment rate fell to a record low of 4.1 percent in September 2018 and was below 4.5 percent for all of 2018. The Administration points out that, historically, such low levels of unemployment are associated with high wage growth and rates begin to rise after about six months. As an example, the Administration cites that when California's unemployment rate fell to 4.7 percent in December 2000, average wage growth was over nine percent. In the first two quarters of 2018, however, average wage growth in California was around 3.3 percent, with most wage gains accruing to high-income earners. Starting in 2019, the Administration forecasts that a more traditional pattern of low unemployment leading to more full-time workers and real wage increases for more workers.

The Governor's budget forecast points out that consumer inflation, as measured by the Consumer Price Index, averaged 3.7 percent in California and 2.5 percent nationally for most of 2018. Consumer inflation is expected to remain higher in California that the nation, with overall California inflation expected to remain at 3.7 percent in 2019 before gradually decelerating to 2.8 percent by 2022.

Overall, the Governor and the LAO both forecast continued growth in the economy, and accompanying increases in state revenues. However, there is continued uncertainty regarding the impacts of federal tax reform and how other actions at the federal level may impact the state's future economic prospects. In fact, the LAO has pointed out that revenues in January were approximately $2 billion below the Governor's budget estimates. It's unclear whether this is a worrisome sign or whether tax payers have changed their behavior due to the federal tax reform and, if so, additional payments in April would make up for some of this shortfall.

General Fund Revenues
California relies on a broad range of taxes and other revenues to support the activities of the General Fund; however, the personal income tax, sales and use tax, and corporation taxes account for approximately 97 percent of General Fund revenues. For the budget year, the personal income tax is expected to generate $100.5 billion (68.8 percent), the sales and use tax $27.4 billion (18.8 percent), and the corporation tax $13.1 billion (8.9 percent). The General Fund revenue forecast has continued to improve, reflecting a larger share of wages going to high-income tax payers and a stock market that, until the end of 2018, had been stronger than expected. As a result, before accounting for transfers such as to the Rainy Day Fund, General Fund revenue is higher than the 2018 Budget Act projections by $8.1 billion from 2017-18 through 2019-20.

The Governor's budget forecasts that revenue, including transfers, is expected to be $137 billion in 2018-19 and $143 billion in 2019-20. The projected increase since the 2018 Budget Act is due to an improved outlook for personal income tax. The sales tax forecast has been revised down and the corporation tax is up but the improvement is seen as one-time and not ongoing. Over the three fiscal years, personal income tax is up $7.5 billion, sales tax is down $1.4 billion, and corporation tax is up $1.3 billion.

The improved revenue forecast for personal income tax is driven by strong wage withholding and capital gains. Because wage growth is not keeping up with the growth in withholding, it appears that much of the wage growth is accruing to higher-income taxpayers, who have higher-than-average marginal tax rates. The table below presents the state's General Fund revenues for the current and budget year:

General Fund Revenues
Current Year Revised and Budget Year Forecast
(Dollars in Millions)

Revenue Source	2018-19	2019-20	Change	Percent Change
Personal Income Tax	$97,720	$100,547	$2,827	2.92%
Sales and Use Tax	26,244	27,424	1,180	4.50%
Corporation Tax	12,330	13,125	795	6.45%
Insurance Tax	2,606	2,830	224	8.60%
Alcohol Beverage Tax	382	389	7	1.83%
Cigarette Tax	65	63	-2	-3.08%
Pooled Money Interest	554	655	101	18.23%
Other Taxes and Fees	1,088	1,079	-9	-.83%
Subtotal	$140,988	$146,112	$5,123	3.63%
Transfers	-4,042	-3,494	548	13.56%
Total	**$136,945**	**$142,618**	**$5,673**	**4.14%**

SUBCOMMITTEE NO. 1

EDUCATION

K-14 Education

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Students with Disabilities in Early Education 1-21

Higher Education

State Student Financial Aid 1-29

Fiscal Health of School Districts

BACKGROUND

School District Funding

In California, there are 944 elementary, high school or unified school districts. These school districts serve the majority of the state's approximately 6.2 million public school students. Students may also be served by county offices of education, charter schools, state special schools or in other unique settings.[1]

School district operations are funded with a variety of state General Fund, local property taxes, federal funds, and other local funds (e.g. parcel taxes, local bonds, etc.). Total General Fund provided for school districts is determined by the Proposition 98 formula (see "*Proposed Expenditures of Proposition 98 Resources*" for additional detail on Proposition 98), although additional amounts are provided outside of Proposition 98 for school facilities and the state's share of teacher pension liabilities. The amount of state funding for each individual school district is determined through the Local Control Funding Formula (LCFF). Under LCFF a funding amount per district is determined based on the number and characteristics of students. Local property taxes are applied to this amount and then General Fund is provided to make up the difference. School districts also receive Proposition 98 funding for other specific categories of educational services, such as special education and child nutrition. Since the passage of Proposition 13 in 1978, local property taxes cannot be raised to generate additional revenue for schools. However, depending on their need and local electorate, school districts may pass bonds to support facility needs and parcel taxes to supplement their operating revenues.

There are some school districts who receive very little state funding because they have significant local property tax revenue which more than covers their LCFF target funding levels. These districts are commonly known as "basic aid" districts as they receive limited amounts of state aid.

State funding for K-12 school districts has increased substantially over the past several years. The Legislative Analyst's Office (LAO) notes that the average per pupil amount provided for K-12 education in the 2018-19 budget is $11,645. Adjusted for inflation, this is the highest level of per-student funding since the passage of Proposition 98. In addition, this rate is approximately $1,000 per pupil, or nine percent, higher than the per pupil amount provided in 2007-08, the year prior to when funding levels were reduced due to the recession.[2]

The 2019-20 Governor's Budget estimates the Proposition 98 guarantee will reach $80.7 billion total in 2019-20, of which $71 billion is for K-12 education. This results in a Proposition 98 average per-pupil amount of $12,003 in 2019-20, or $17,160 if all fund sources are included.[3]

One marker that is commonly used to determine how well California is funding education is state-to-state comparisons. Several organizations compile this information, although they generally do not account for regional cost of living differences. Most recently, using 2016-17 data, the National

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[1] Ed-Data, California Education Data Partnership www.ed-data.org. 2017-18 data

[2] Legislative Analyst's Office, *The 2019-20 Budget: Proposition 98 Outlook.*

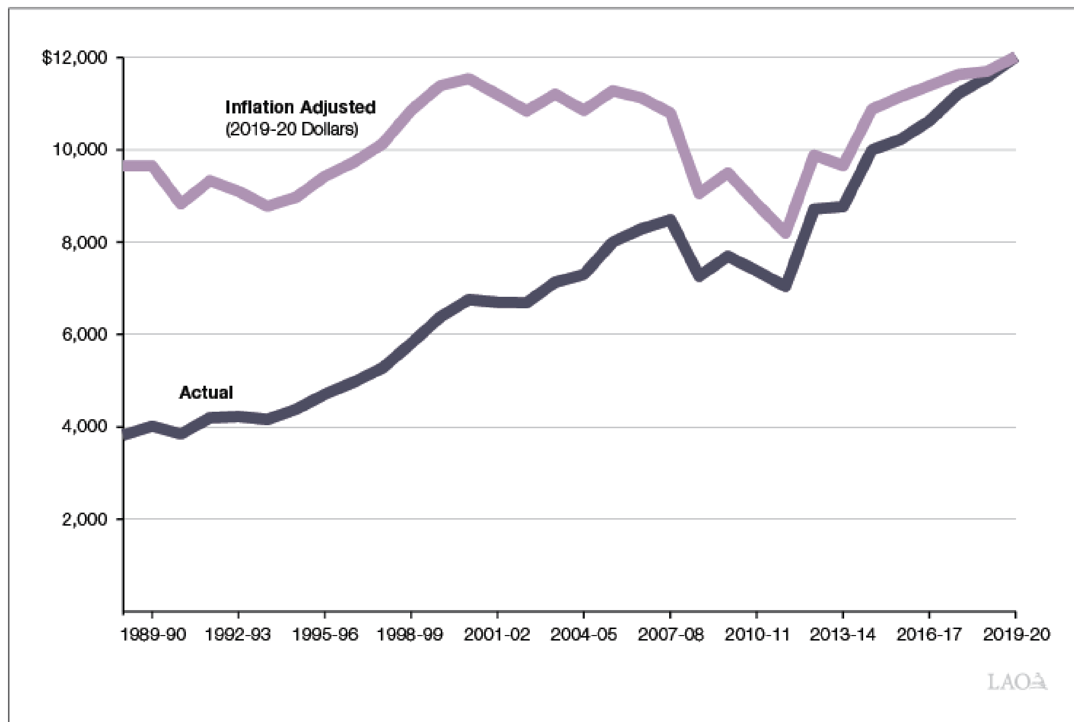
[3] Department of Finance, *Governor's Budget Summary 2019-20.*

Educational Association ranked California as the 32nd highest state for expenditures per average-daily-attendance (ADA) at $11,159 and as the 2nd highest state for average teacher salaries at $79,128.[4] Census data from 2016 ranks California as 28th among states for per-pupil amounts for spending on public elementary-secondary school systems. California has continued to invest in K-12 education over the last few years, which may not be fully reflected in this data from a few years ago.[5] The most recent cost-of-living adjusted ranking showed California as 41st in K-12 spending per student, but used 2015-16 data.[6] Since then, state funding for K-12 education has grown by $10 billion and per pupil funding has grown by over 17 percent.

The following chart shows K-12 Proposition 98 per pupil funding over time, reflecting the currently projected highest historical levels, as well as showing the impact of the great recession on K-12 education funding over several years.

K-12 Proposition 98 Funding Per Student Over Time

From Passage of Proposition 98 (1988) Through 2019-20 Under the Governor's Budget



Source: Legislative Analyst's Office

[4] National Educational Association, *Rankings of the States 2017 and Estimates of School Statistics 2018.*

[5] Census Public Education Finances: 2016, Per Pupil Amounts for Current Spending of Public Elementary-Secondary School Systems by State: Fiscal Year 2016

[6] Kaplan, Jonathan, *California's Support for K-12 Education Is Improving, but Still Lags the Nation.* California Budget and Policy Center.

School District Cost Pressures

Despite large increases in Proposition 98 funding and changes in the distribution of new revenues through the passage of LCFF, school district finances and fiscal health can vary due to unique local needs, student population, regional cost differences, and the ability to raise additional local funding. School districts generally cite insufficient "base" LCFF funding, declining enrollment, costs of providing special education and annual increases to the employer share of the California State Teachers Retirement System (CalSTRS) and the California Public Employees' Retirement System (CalPERS) as creating the largest cost pressures for their budgets.

Local Control Funding Formula. The biggest driver of school district budgets is the LCFF through which school districts receive the bulk of their operating funding. The LCFF was enacted in 2012-13 and has grown by $22 billion to a total of $61 billion in 2018-19. The LCFF was fully funded in 2018-19, meaning school districts and charter schools reached their LCFF target amounts. Pursuant to LCFF statute, in future years school district LCFF amounts will be adjusted for growth and cost-of-living (COLA). While the growth in LCFF since 2012-13 is very significant, much of this growth was building back from deep cuts in education due to the recent recession years. In addition, LCFF distributed funding to districts based on a new formula, one that awards more funding to school districts with high numbers and concentrations of low-income, foster youth, and English-learner students. The change to the LCFF therefore had a distributional effect; while all districts receive a "base" grant per student, some districts generate additional funding based on student characteristics. According to the LAO, districts who received the largest LCFF funding experienced growth of 70 percent or more per student, while those that received the smallest LCFF funding amounts generally experienced growth of around 20 percent per student.[7] This distributional effect was intentional, to provide additional funding to support the neediest students; however, some school districts have voiced concerns that the LCFF base grant is not enough to cover the costs of educating a student. In response to these concerns, the 2018-19 Budget Act included an additional $570 million to effectively increase the base grant upon which future COLAs will be calculated.

Employee Salaries and Benefits. The majority of school district general fund expenditures are for employees. Specifically, in 2016-17, over 84 percent of district general fund expenditures were for salaries and benefits for classified and certificated staff. Remaining general fund expenditures cover books, supplies, services, and other operations.[8] As the state built back funding for K-12 education from the low point of the recession, school districts primarily used this funding to build back their staffing. According to the LAO, school districts increased the average salary and benefits for a teacher by 5.9 percent and increased the number of teachers by about 8 percent between 2012-13 and 2017-18.

In addition, in response to concerns about a growing unfunded pension liability, a policy change in 2014-15 required school districts to begin paying more for the employer share of pension liability under CalSTRS. In 2013-14, districts paid 8.3 percent of payroll into CalSTRS. The 2014-15 budget agreement included scheduled increases each year, reaching 19.1 percent in 2020-21 (an increase of almost $3.4 billion in 2020-21 compared to 2013-14). In 2018-19, school districts are paying 18.1 percent of payroll. After 2020-21, the CalSTRS board is able to increase contribution rates by up to one percent per year, up to 20.25 percent. School districts also participate in CalPERS, which has the authority to adjust employer rates based on investment and actuarial policies. The state's Fiscal Crisis and Management

[7] Legislative Analyst's Office, *The 2019-20 Budget: Proposition 98 Outlook.*

[8] Ed-Data, California Education Data Partnership www.ed-data.org. 2017-18 data

Assistance Team (FCMAT) describes increases in CalSTRS and CalPERS as "the greatest single fiscal challenge facing most [local educational agencies]".[9]

Finally, according to the LAO, in addition to pension benefits, about two-thirds of school districts provide health benefits for their retired employees and due to deferred payments school districts have accumulated an unfunded liability of approximately $24 billion statewide. Most school districts that offer retiree health benefits have at least some unfunded liability, and the largest share is concentrated among about a dozen large school districts.[10]

Special Education. "Special education" describes the specialized supports and services that schools provide for students with disabilities under the provisions of the federal Individuals with Disabilities Education Act (IDEA). Federal law requires schools to provide "specially designed instruction, and related services, at no cost to parents, to meet the unique needs of a child with a disability." The law requires the provision of these special support services to students with exceptional needs from age 0 until age 22, or until they graduate from high school with a diploma. State and federal special education funding in California totals over $4 billion annually. Funding is allocated to school districts primarily using a census model; a per pupil amount is provided based on the total enrollment of the school district, regardless of the number of students with disabilities. Due to historical factors, these per pupil rates vary across the state by school district. California's model for serving special education services reflects that school districts first use their LCFF funds to meet the needs of all students, including those with disabilities, and then use a combination of state and federal special education funding, and finally other local general purpose funds to cover the costs of additional services students with disabilities may need. While it is difficult to measure the amount of additional resources school districts provide from other areas of their budget for special education, according to a recent report by the Public Policy Institute of California, state and federal funding cover approximately 40 percent of cost of special education, with school districts covering the remaining costs from other fund sources.[11] In recent years, the costs of special education have risen due to higher numbers of students with disabilities identified and similar to general education, rising salary and benefit costs for teachers of special education students.

Declining Enrollment. Another factor that has implications for both statewide funding of K-12 education, as well as profound implications for local school district budgets, is the number of students served. At the local level, school districts generate funding under LCFF and other programs primarily based on the number of students enrolled in and attending school. When there are year-over-year declines in school-age population, usually due to changing demographics of a region, school district budgets are impacted. Current law slows the impact by using the greater of current or prior year average-daily-attendance (ADA) when calculating LCFF funding. This "hold harmless" is intended to provide school districts additional time to make budget reductions in response to ADA changes. While some areas of the state face significant declining enrollment, conversely other areas are seeing growth as school-age children and families move into their regions. Finally, some areas are experiencing declines in enrollment as more students are served by charter schools in the region. Statewide K-12 attendance projections from the Department of Finance (DOF) show a slow decline in K-12 attendance over the next few years. DOF uses estimates of births and migration to inform their attendance projections. In addition, statewide K-12 ADA is a component of the Proposition 98 Guarantee calculation. Similar to the school district hold harmless, the Proposition 98 Guarantee calculation includes a two-year hold harmless against declines

[9] FCMAT, *Annual Report 2017-18*

[10] Legislative Analyst's Office, *The 2018-19 Budget: Proposition 98 Analysis.*

[11] Hill, Laura, *Special Education Finance in California,* Public Policy Institute of California, November 2016

in ADA. However, a continued trend of declining statewide enrollment may result in lower Proposition 98 Guarantee levels in future years and lower amounts of "guaranteed" state funding for K-12 education.

While the above section describes the most common cost pressures districts cite as impacting their budgets, they are by no means the only challenges districts face. In addition, each district has their own set of local needs and resources, as well as their own local collective bargaining agreements, which influence their ability to maintain fiscal health.

School District Budgeting and Oversight

Prior to the 1990's there was little formal oversight of school district budgets. This resulted in significant fiscal mismanagement in some school districts. Historically, the Superintendent of Public Instruction stepped in to provide emergency loans and oversee school districts in fiscal distress. According to the LAO, between 1979 and 1991, 26 school districts requested and received emergency loans of varying amounts. However, that historical process was revised with legislation passed in the early 1990's following the bankruptcy of the Richmond Unified (West Contra Costa) School District. These laws have been updated as needed in response to changing statewide conditions in subsequent years, including:

- AB 1200 (Eastin), Chapter 1213, Statutes of 1991, increased the responsibilities for county offices of education in overseeing the fiscal health of their school districts (reviewing and approving school district budgets) and created FCMAT to support school districts and county offices of education, as well as provide fiscal crisis intervention services.

- As a response to the need for emergency state loans by several school districts, in 2004 the process for fiscal oversight was updated through AB 2756 (Daucher) Chapter 52, Statutes of 2004, which added additional structure for the oversight and monitoring of school districts that obtain emergency state loans.

- Most recently, initiated by the failure of Inglewood Unified School District to make meaningful progress towards fiscal and governance stability under state oversight, AB 1840 (Committee on Budget), Chapter 426, Statutes of 2018, increased the role of county offices of education in overseeing fiscal health and monitoring trustees and administrators, and provided FCMAT with a greater role in working with school districts at risk of fiscal crisis.

Current School District Budget and Fiscal Crises Processes:

Annual Budget Review and Adoption. Each school district must meet specified deadlines for adopting a budget and engaging with their county office of education for budget approval. The requirements are as follows:

- On or before July 1 of each year, a school district must adopt a budget and a Local Control and Accountability Plan (LCAP) that ties to their budget, and submit the budget and LCAP to the county office of education.

- The county office of education reviews the budget for meeting state-adopted standards and criteria, the school district's ability to meet financial commitments for the subsequent two years, and the school district's LCAP.

- The county office of education may approve, conditionally approve, or disapprove a school district's budget by September 15th

- If a budget is disapproved, or conditionally approved, the county office of education provides recommendations and the school district must respond by October 8th.

- If a school district fails to adopt a budget, a county office of education may adopt one for the school district.

- School districts must file two interim reports annually on their financial status with the California Department of Education (CDE). First interim reports are due to the state by December 15 of each fiscal year; second interim reports are due by March 17 each year. As a part of these reports, school districts must certify whether they are able to meet their financial obligations. The certifications are classified as positive, qualified, or negative.

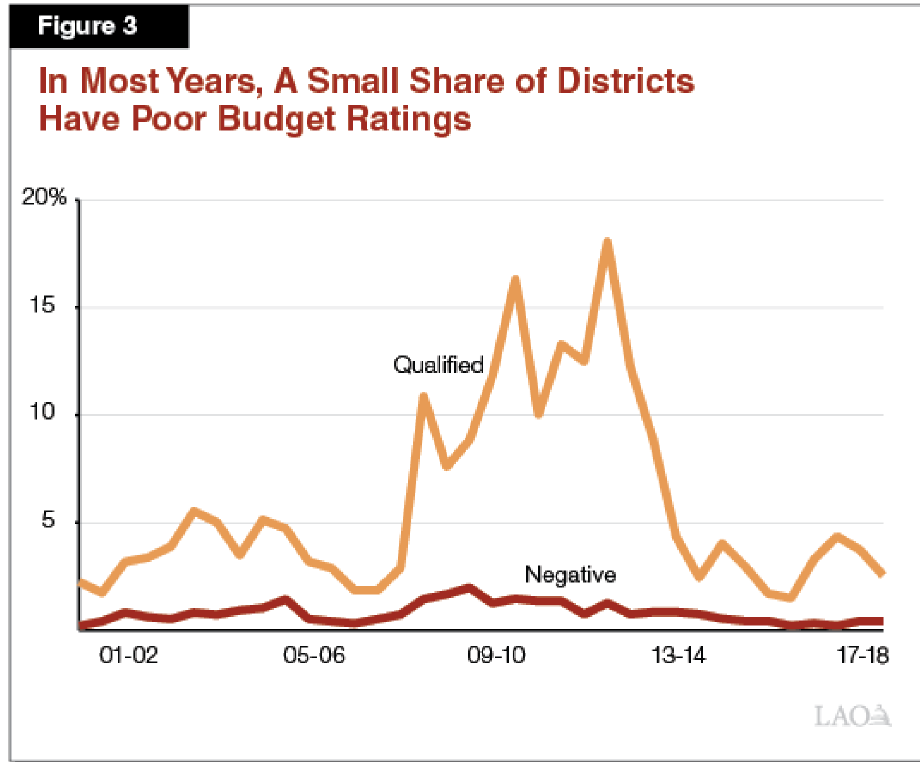
    - A positive certification is assigned when a school district will meet its financial obligations for the current and two subsequent fiscal years.
    - A qualified certification is assigned when a school district may not meet its financial obligations for the current and two subsequent fiscal years.
    - A negative certification is assigned when a school district will be unable to meet their financial obligations in the current year or subsequent fiscal year.

- The county office of education is required to provide tiered interventions for school districts with qualified or negative interim reports. The county office of education is required to provide additional oversight and review of school district financial decisions and may limit the district's ability to issue debt. In addition, a negative status may result in a fiscal advisor or the county superintendent exercising stay and rescind powers over a local governing board. Finally for either a qualified or negative status, the county superintendent has a role in the collective bargaining process.

- School districts are required to provide the county office of education with any evidence of fiscal distress (i.e reports, audit findings, etc).

- FCMAT is required to provide a fiscal health risk analysis for a school district showing specific signs of being at financial risk (i.e. disapproved budget, negative interim report, etc). FCMAT works with the county office of education fiscal oversight process when providing this report.

The chart below shows historical trends for districts showing signs of fiscal distress. In recent years, the number of negative certifications in the second interim peaked in 2008-09 at 19, while the number of qualified certifications peaked in 2011-12 at 176.



Source: Legislative Analyst's Office

State Emergency Loans. When a school district is unable to meet its current obligations during the school year it may request an emergency loan from the state. Separate legislation has historically been used to provide an emergency loan appropriation from the state. Conditions for the loan are included in the authorizing statute, however, legislative intent language notes the following:

- Statutory recommendations for loans above 200 percent of a school district's reserve include: waiving the local governing board's authority and the appointment of an administrator by the County Superintendent of Schools, with the concurrence of the State Board of Education and the Superintendent of Public Instruction. The county superintendent oversees the administrator, who remains in place until specified conditions are met.

- Statutory recommendations for loans up to or at 200 percent of a school district's reserve include: the appointment of a trustee by the County Superintendent of Schools, the State Board of Education, and the Superintendent of Public Instruction. The local governing board retains governing authority, but the trustee has the authority to stay and rescind actions of the governing board. The trustee remains in place until the State Superintendent of Public Instruction determines that the district has the ability to follow the approved fiscal plan. The county superintendent retains some stay and rescind powers until the emergency loan has been repaid.

2018-19 Process Changes. For all school districts that are currently in, or may in the future enter into, fiscal distress, the 2018 budget act included the following specific changes:

- Assigned authority to appoint a trustee or state administrator for school districts who are in fiscal distress and receive an emergency loan from the state to the school district's county superintendent, the State Superintendent of Public Instruction, and the president of the State Board of Education. Previously, the Superintendent of Public Instruction had sole authority to appoint a trustee or administrator.

- Required the appointed administrators to serve under the supervision and direction of the county superintendent, in concurrence with the Superintendent of Public Instruction and the president of the State Board of Education, as specified. Previously, the Superintendent of Public Instruction assumed the authority and rights of the governing board of the school district, and supervised and directed the administrator.

- Automatically qualified school districts in state receivership for state intervention within the K-12 school accountability system, to allow school districts in receivership to access technical assistance for student performance and district management from the California Collaborative for Educational Excellence (CCEE).

- Required FCMAT to do an annual progress review of: (1) the fiscal recovery of school districts in state receivership, and (2) the effectiveness of county office of education oversight. Required FCMAT to complete a fiscal health risk analysis of school districts at risk of fiscal distress based on specified triggers.

Legislation Addressing Inglewood Unified and Oakland Unified School Districts. Legislation AB 1840 accompanying the 2018-19 Budget Act, included an agreement to provide appropriations for the Oakland Unified School District and Inglewood Unified School District for each of the 2018-19 through the 2021-22 fiscal years if specified fiscal and governance benchmarks are met each year.

This agreement was specific to the Oakland Unified School District and Inglewood Unified School District as both of these districts had their governing powers assumed by the state and received emergency state loans in the past. Despite these efforts, without additional fiscal and governance intervention, the students in these districts would be unfairly impacted. Inglewood Unified School District has been under the control of an Administrator since 2012 and has an outstanding emergency loan balance of approximately $24.3 million, with an anticipated repayment date of 2033. Oakland Unified School District is currently overseen by a Trustee (who was initially assigned an Administrator in 2003) and has an outstanding emergency loan balance of approximately $33.9 million with an anticipated repayment date of 2026.

For the 2018-19 fiscal year, the Oakland Unified School District is required to develop short and long-term financial plans and update school district facilities plans to be aligned with their plans for fiscal solvency. In 2018-19, Inglewood Unified School District is required to meet the requirements for qualified or positive certification and complete comprehensive operational reviews of the district, as specified.

For the 2019-20 fiscal year, the intent is that the final budget will include appropriations for the Oakland Unified School District and Inglewood Unified School District, if the specified requirements for 2018-19 are met. Funds will be continue to be allocated to the Oakland Unified School District and Inglewood Unified School District, if specified benchmarks are met each year, in the following amounts:

- For the 2019-20 fiscal year, up to 75 percent of the school district's projected operating deficit.
- For the 2020-21 fiscal year, up to 50 percent of the school district's projected operating deficit.
- For the 2021-22 fiscal year, up to 25 percent of the school district's projected operating deficit.

FCMAT, with concurrence of the appropriate county office of education, shall certify to the Legislature and DOF that specified benchmarks have been met prior to allocating the state funding. FCMAT shall report to the Legislature and DOF on the district's progress in meeting the benchmarks included in the prior year Budget Act by March 1st of each year, until March 1, 2021.

Additional provisions were made to allow school districts with emergency apportionment loans as of July 1, 2018 (Oakland Unified, Inglewood Unified, South Monterey County Joint High School, and Vallejo Unified),when selling or leasing surplus property, until the emergency loan is repaid, to use the proceeds from the sale or lease of the surplus property to reduce, retire, or service outstanding emergency apportionment loan debt.

Current State of School District Finances. Under the changes to the school district budget oversight process in the 2018-19 budget, FCMAT is required to provide a fiscal health risk analysis for a school district showing specific signs of being at financial risk (i.e. disapproved budget, negative interim report, etc). From July 1, 2018 to January 1, 2019, FCMAT has performed fiscal health risk analyses for the Calaveras Unified School District, the Sacramento City Unified School District, and the Sweetwater Unified School District and is currently working on analysis for other school districts. In addition, FCMAT continues to be engaged in both Inglewood and Oakland Unified School Districts. School district first interim reports for 2018-19 were due in January and certified results will be available in February 2019. Notably, Los Angeles Unified School District, which recently reached a contract agreement with labor partners, continues to be of concern with a significant projected operating deficit in 2021-22. In all cases, county offices of education are engaging with school districts to provide fiscal oversight and support.

GOVERNOR’S PROPOSAL

The 2019-20 Governor’s Budget includes several proposals that increase funding for school districts and help to address fiscal pressures. The major proposals are as follows:

COLA. The proposed budget provides a COLA of 3.46 percent for LCFF, approximately a $2 billion increase for K-12 local educational agencies, for the 2019-20 fiscal year, bringing total LCFF funding to $63 billion. The Administration also proposes to cap the continuous appropriation of COLA for LCFF, existing in current law, during future years if the COLAs for LCFF and other K-14 programs exceed growth in the minimum Guarantee. The proposed budget also provides $187 million Proposition 98

General Fund to support a 3.46 percent COLA for categorical programs that are not included in LCFF. These programs include special education and child nutrition, among others.

CalSTRS Pension Liability. The proposed budget includes $3 billion in a one-time non-Proposition 98 General Fund payment to CalSTRS. Of this total, $700 million ($350 million for each of 2019-20 and 2020-21) is proposed to buy down employer contribution rates. The Administration estimates this would reduce the scheduled employer rate for 2019-20 from 18.1 percent to 17.1 percent and for 2020-21 from 19.1 percent to 18.1 percent. The remaining $2.3 billion is proposed to pay down employers' long-term unfunded liability, reducing out year rates by approximately one-half of one percent.

K-12 Special Education. The proposed budget includes $576 million in additional Proposition 98 General Fund ($390 million of this is ongoing) for special education-related services for local educational agencies with significant numbers of students with disabilities and low-income, foster youth, and English language learner students. The funds would support services that are supplemental to those identified in a student's individualized education plan, preventative services to prevent the need for additional services in future years, and other strategies to improve outcomes for students with disabilities.

ISSUES TO CONSIDER

The Legislature may wish to consider options for easing fiscal pressures on school districts. While considerable additional funding has been provided since 2012-13, this was provided against the background of building back from the low point of a multi-year recession. The Governor's proposed budget includes anticipated major investments in the LCFF pursuant to the existing statutory requirement for providing a COLA. School districts, when building their budgets for 2019-20 and the next two years generally look to the Governor's budget as an indication of anticipated funding. The Governor's proposed COLA is a robust 3.46 percent. Under that scenario, school districts gain a significant increase to their general operating funds through LCFF. In addition, the Governor's proposal to pay down CalSTRS pension liability provides both long-term and immediate relief for school districts. However, the Governor's proposal on special education, while supporting student needs, may simply require school districts to provide additional services. In considering any education proposals, the Legislature will need to determine a balance between addressing rising costs for school districts to provide the same level of education service and investments that require a level of service above what is currently provided.

The Legislature may wish to consult with FCMAT on fiscal trends for school districts and how these compare with historical pressures on school districts. FCMAT will also be valuable in providing input on the effectiveness of the new fiscal oversight procedures from the 2018-19 budget agreement and the ability of county offices of education to provide the expertise to help stabilize school district finances and prevent problems from emerging.

The Legislature may also wish to consider the value of large scale investments in school district finances versus emergency loans and grants that stabilize individual districts but historically come with significant loss of local control for school districts. The grants to Oakland and Inglewood Unified School Districts are intended to address their significant fiscal and governance issues, and will need considerable oversight and monitoring. Given that the challenges for school districts discussed in this section are shared by many school districts across the state, the Legislature may wish to be cautious in approaching support for districts on an individual case by case basis.

In addition, funding for K-12 education does not exist in a vacuum. To the extent school district budget relief includes increases to the overall Proposition 98 funding level, this will mean reductions to other areas of General Fund expenditures. The Governor's Budget includes significant expenditures of one-time funding, and begins conversations on other major policy shifts that would require significant ongoing General Fund. In some cases, investments in other areas of the budget are interconnected with the health of California's communities and student outcomes in our schools, such as policies to reduce childhood poverty and reduce homelessness. The Legislature will wish to consider overall state budget priorities as part of any consideration for additional funding for K-12 school districts.

Proposed Expenditures of Proposition 98 Resources

BACKGROUND

California provides academic instruction and support services to over six million public school students in kindergarten through twelfth grades (K-12) and 2.4 million students in community colleges. There are 58 county offices of education, approximately 1,000 local K-12 school districts, more than 10,000 K-12 schools, and more than 1,200 charter schools throughout the state. Of the K-12 students, approximately 3.9 million are low-income, English learners, or foster youth students or some combination of those categories. Approximately 1.3 million of the K-12 students served in public schools are English learners. There are also 72 community college districts, 114 community college campuses, and 70 educational centers. Proposition 98, which was passed by voters as an amendment to the state Constitution in 1988, and revised in 1990 by Proposition 111, was designed to guarantee a minimum level of funding for public schools and community colleges.

The proposed 2019-20 budget includes funding at the Proposition 98 minimum guarantee level of $80.7 billion. The Governor's budget also proposes to provide total Proposition 98 funding for 2017-18 of $75.5 billion, a decrease of $120 million over the 2018 final budget act level, but $44 million above the revised 2017-18 Guarantee level. For 2018-19, the Governor estimates a decrease in the total Guarantee of $526 million (for a total of $77.9 billion), but provides $475 million in settle-up funding to offset the need for expenditure reductions. These adjustments are the result of revised average-daily attendance (ADA) numbers for each of the years and the certification of prior year guarantee levels. Additional Proposition 98 funds in 2019-20 are proposed to be used primarily to provide a cost-of-living-adjustment (COLA) for the Local Control Funding Formula (LCFF) and to provide funding for special education-related services. These proposals are more fully described later in this section.

Proposition 98 Funding. State funding for K-14 education—primarily K-12 local educational agencies and community colleges—is governed largely by Proposition 98. The measure, as modified by Proposition 111, establishes minimum funding requirements (referred to as the "minimum guarantee") for K-14 education. General Fund resources, consisting largely of personal income taxes, sales and use taxes, and corporation taxes, are combined with the schools' share of local property tax revenues to fund the Proposition 98 minimum guarantee. These funds typically represent about 80 percent of statewide funds that K-12 schools receive. Non-Proposition 98 education funds largely consist of revenues from local parcel taxes, other local taxes and fees, federal funds and proceeds from the state lottery. In recent years, there have been two statewide initiatives that increased General Fund revenues and therefore, the Proposition 98 minimum guarantee. Proposition 30, passed by the voters in 2012, raised sales and income taxes, but was designed to phase out over seven years. Anticipating the expiration of the Proposition 30 taxes, Proposition 55 was passed by voters in 2016, extending the income tax portion of Proposition 30 for another 12 years.

The table below summarizes overall Proposition 98 funding for K-12 schools and community colleges since 2007-08, or just prior to the beginning of the recent recession. 2011-12 marks the low point for the guarantee, with steady increases since then. The economic recession impacted both General Fund resources and property taxes. The amount of property taxes has also been impacted by a large policy change in the past few years—the elimination of redevelopment agencies (RDAs) and the shift of property taxes formerly captured by the RDAs back to school districts. The guarantee was adjusted to account for these additional property taxes, so although Local Educational Agencies (LEAs) received significantly increased property taxes starting in 2012-13, they received a roughly corresponding reduction in General Fund.

Proposition 98 Funding
Sources and Distributions
(Dollars in Millions)

	Pre-Recession **2007-08**	Low Point **2011-12**	Revised **2017-18**	Revised **2018-19**	Proposed **2019-20**
Sources					
General Fund	42,015	33,136	52,887	54,028	55,295
Property taxes	14,563	14,132	22,610	23,839	25,384
Total	**56,577**	**47,268**	**75,498**	**77,867**	**80,680**
Distribution					
K-12	50,344	41,901	66,683	68,605	71,155
CCC	6,112	5,285	8,720	9,174	9,438
Other	121	83	95	88	87

Source: Legislative Analyst's Office and Department of Finance

Calculating the Minimum Guarantee. The Proposition 98 minimum guarantee is determined by comparing the results of three "tests," or formulas, which are based on specific economic and fiscal data. The factors considered in these tests include growth in personal income of state residents, growth in General Fund revenues, changes in student ADA, and a calculated share of the General Fund. When Proposition 98 was first enacted by the voters in 1988, there were two "tests", or formulas, to determine the required funding level. Test 1 calculates a percentage of General Fund revenues based on the pre-Proposition 98 level of General Fund that was provided to education, plus local property taxes. The test 2 calculation is the prior year funding level adjusted for growth in student ADA and per capita personal income. K-14 education was initially guaranteed funding at the higher of these two tests. In 1990, Proposition 111 added a third test, Test 3, which takes the prior year funding level and adjusts it for growth in student ADA and per capita General Fund revenues. The Proposition 98 formula was adjusted to compare Test 2 and Test 3, the lower of which is applicable. This applicable test is then compared to Test 1; and the higher of the tests determines the Proposition 98 minimum guarantee. Generally, Test 2 is operative during years when the General Fund is growing quickly and Test 3 is operative when General Fund revenues fall or grow slowly.

Proposition 98 Tests
Calculating the Level of Education Funding
(Including the 2019-20 Governor's Budget Estimate)

Test	Calculated Level	Operative Year	Times Used
Test 1	Based on a calculated percent of General Fund revenues (currently around 38 percent).	If it would provide more funding than Test 2 or 3 (whichever is applicable).	6
Test 2	Based on prior year funding, adjusted for changes in per capita personal income and attendance.	If growth in personal income is ≤ growth in General Fund revenues plus 0.5 percent.	13
Test 3	Based on prior year funding, adjusted for changes in General Fund revenues plus 0.5 percent and attendance.	If statewide personal income growth > growth in General Fund revenues plus 0.5 percent.	11

The Governor's proposal assumes that in 2017-18 and 2019-20 the Proposition 98 minimum guarantee is calculated under Test 1 and that in 2018-19, the minimum guarantee is calculated under Test 3.

Generally, the Proposition 98 minimum guarantee calculation was designed in order to provide growth in education funding equivalent to growth in the overall economy, as reflected by changes in personal income (incorporated in Test 2). In a Test 3 year, the Proposition 98 minimum guarantee does not grow as fast as in a Test 2 year, in recognition that the state's General Fund is not reflecting the same strong growth as personal income and the state may not have the resources to fund at a Test 2 level; however, a maintenance factor is created, as discussed in more detail later.

The Test 1 percentage is historically-based, but is adjusted, or "rebenched," to account for large policy changes that impact local property taxes for education or changes to the mix of programs funded within Proposition 98. In the past few years, rebenching was done to account for property tax changes, such as the dissolution of the RDAs, and program changes, such as removing childcare from the Proposition 98 minimum guarantee and adding mental health services. In the budget year, the Test 1 calculation is adjusted to reflect RDA changes and for a new state preschool policy change. In 2019-20, the Governor's Budget adjusts the portion of the state preschool program that is provided by non-profit agencies for COLA and growth for a total program cost of $297 million. The budget then proposes to move this program outside of the guarantee and rebench the guarantee level by a like amount. The portion of the state preschool program that is provided through local educational agencies remains within the Proposition 98 guarantee. The 2019-20 Proposition 98 guarantee is likely to remain a Test 1 even with some changes in factors at the May Revision. Revenues are growing steadily but slowly, ADA is declining, and also property tax growth is high, all contributing to a Test 1 for 2019-20 and for the out-years.

Suspension of Minimum Guarantee. Proposition 98 includes a provision that allows the Legislature and Governor to suspend the minimum funding requirements and instead provide an alternative level of funding. Such a suspension requires a two-thirds vote of the Legislature and the concurrence of the Governor. To date, the Legislature and Governor have suspended the Proposition 98 minimum guarantee twice; in 2004-05 and 2010-11. While the suspension of Proposition 98 can create General Fund savings during the year in which it is invoked, it also creates obligations in the out-years, as explained below.

Maintenance Factor. When the state suspends the Proposition 98 minimum guarantee or when Test 3 is operative (that is, when the Proposition 98 minimum guarantee grows more slowly due to declining or low General Fund growth), the state creates an out-year obligation referred to as the "maintenance factor." When growth in per capita General Fund revenues is higher than growth in per capita personal income (as determined by a specific formula also set forth in the state Constitution), the state is required to make maintenance factor payments, which accelerate growth in K-14 funding, until the determined maintenance factor obligation is fully restored. Outstanding maintenance factor balances are adjusted each year by growth in student ADA and per capita personal income.

The maintenance factor payment is added on to the minimum guarantee calculation using either Test 1 or Test 2.

- In a Test 2 year, the rule of thumb is that roughly 55 percent of additional revenues would be devoted to Proposition 98 to pay off the maintenance factor.

- In a Test 1 year, the amount of additional revenues going to Proposition 98 could approach 100 percent or more. This can occur because the required payment would be a combination of the 55 percent (or more) of new revenues, plus the established percentage of the General Fund—roughly 38 percent—that is used to determine the minimum guarantee.

Prior to 2012-13, the payment of maintenance factor was made only on top of Test 2; however, in 2012-13, the Proposition 98 guarantee was in an unusual situation as the state recovered from the recession. It was a Test 1 year and per capita General Fund revenues were growing significantly faster than per capita personal income. Based on a strict reading of the Constitution, the payment of maintenance factor is not linked to a specific test, but instead is required whenever growth in per capita General Fund revenues is higher than growth in per capita personal income. As a result, the state funded a maintenance factor payment on top of Test 1 and this interpretation can result in the potential for up to 100 percent or more of new revenues going to Proposition 98 in a Test 1 year with high per capita General Fund growth. This was the case in 2014-15, when the maintenance factor payment was more than $5.6 billion. However, in the past few years, the state has significantly increased funding for K-14 education due in part to payments made towards reducing the maintenance factor balance. As a result, the maintenance factor obligation is essentially paid off and the possibility of the Proposition 98 calculation absorbing an unusually large portion of state revenue gains is unlikely within the next few years.

For 2017-18 the Governor's proposal reflects a $1.2 billion maintenance factor payment, fully paying off the obligation in that year. The estimated Test 3 calculation in 2018-19 creates a maintenance factor obligation of $143 million. Adjusted for growth in ADA and per-capita personal income, this obligation grows to $150 million in 2019-20. No maintenance factor payment is required in 2019-20 as General Fund revenues are not growing significantly year over year, and low maintenance factor obligation balances mean maintenance factor creation and pay-off requirements will have only a minor impact on the Proposition 98 guarantee in the current multi-year window.

Average Daily Attendance. One of the factors used to calculate the Proposition 98 minimum guarantee level is growth in ADA. In a Test 2 or Test 3 year, the guarantee is adjusted for changes in ADA. However, there is a hold harmless provision for reductions in ADA. Under that provision, negative growth is only reflected if the preceding two years also show declines. Under current projections, which reflect birth rates and migration, K-12 ADA is expected to decline slightly in coming years and the hold

harmless will no longer apply for the guarantee calculation, contributing to a dampening effect on Proposition 98 guarantee growth in future years.

Settle-Up. Every year, the Legislature and Governor estimate the Proposition 98 minimum guarantee before the final economic, fiscal, and attendance factors for the budget year are known. If the estimate included in the budget for a given year is ultimately lower than the final calculation of the minimum guarantee, Proposition 98 requires the state to make a "settle-up" payment, or series of payments, in order to meet the final guarantee for that year. The Governor's budget proposes General Fund settle-up payments of $475.3 million in 2018-19 and $211.3 million in 2019-20, fully paying off settle-up obligations from 2016-17 and prior years. In the recent past, the state was not required to make settle-up payments on schedule; however, Proposition 2, passed in 2014, requires the state to spend a minimum amount each year to buy down eligible state debt. In past years, Proposition 98 settle-up payments have counted towards the state's Proposition 2 requirement. By contrast, the Governor is not counting the settle-up payments proposed in the Governor's Budget towards Proposition 2.

Proposition 98 Certification. The 2018 budget package included a new process for certifying the Proposition 98 guarantee. Under current statute, certification of the guarantee is a process by which the Department of Finance (DOF), in consultation with the Department of Education and the Chancellor's Office of the Community Colleges, verifies the factors for the calculation of the Proposition 98 guarantee and the appropriations and expenditures that count towards the guarantee level. Certifying the guarantee results in a finalized guarantee level for the year, as well as finalizing any settle-up owed as a result of changes in the guarantee level. Prior to this new process, the guarantee was last certified for 2008-09. The new process for certifying the Proposition 98 guarantee for a given year is detailed below:

- Each year, as part of the May Revision process, DOF shall calculate the state's Proposition 98 guarantee level for the prior fiscal year based on the most recently available underlying data and publish the proposed certification calculation and underlying data.

- The Superintendent of Public Instruction, the Chancellor of the Community Colleges and other stakeholders are provided the opportunity to comment on the proposed certification of the Proposition 98 guarantee. DOF is required to provide written responses to the comments on their website and to provide this information in a report to the Legislature.

- The Legislature is provided with the opportunity to review the comments and responses and to provide additional feedback to DOF prior to the final certification of the prior-year Proposition 98 guarantee. The final certification is followed by a 90-day period during which a legal challenge may be filed. DOF is required to publish the final certification of the Proposition 98 Guarantee and the underlying data in a separate schedule of the Governor's budget no later than January 10th of the following year.

- If the Director of Finance determines that, pursuant to the certification process, the state has provided appropriations in excess of the Proposition 98 guarantee for the prior fiscal year, it is required that the excess, not to exceed one percent of the value of the Proposition 98 guarantee in the certified year, be credited to a newly created Proposition 98 Cost Allocation Schedule. Any amounts in the Proposition 98 Cost Allocation Schedule may be credited to satisfy an outstanding obligation for K-14 education under the Proposition 98 guarantee in any prior year.

- To the extent an outstanding obligation remains for K-14 education under the Proposition 98 guarantee in any prior year, after any adjustments for amounts in the Proposition 98 Cost Allocation Schedule are made, the amounts necessary to satisfy the obligations to K-14 education entities are continuously appropriated. They are allocated by the State Controller pursuant to a schedule determined by DOF.

- The Legislature may adopt an alternative plan for repayment of any outstanding obligations determined as a result of the certification process through the annual budget process or other statute.

- For the 2009-10 through 2016-17 fiscal years, a truncated version of this process was established to certify the Proposition 98 guarantee. Related to this process, the 2015-16 Proposition 98 guarantee was rebenched to account for additional child care wraparound services related to the State Preschool program that were funded within the Proposition 98 guarantee beginning in 2015-16. According to the Legislative Analyst's Office (LAO), this rebenching increased the Proposition 98 guarantee levels by a total of approximately $350 million over the 2016-17, 2017-18, and 2018-19 period.

- In August 2018, DOF released the proposed certification for the 2009-10 through 2016-17 fiscal years. The total settle-up obligation associated with those five years was calculated at $687 million, an increase of $347 million compared to previous estimates, and is proposed to be paid off in the 2018-19 and 2019-20 years.

Proposition 98 Rainy Day Fund and District Reserve Caps. Proposition 2 also requires a deposit in a Proposition 98 Rainy Day Fund under certain circumstances. These required conditions are that maintenance factor accumulated prior to 2014-15 is paid off, Test 1 is in effect, the Proposition 98 guarantee is not suspended, and no maintenance factor is created. Related statute required that in the year following a deposit into this fund, a cap on local school district reserves would be implemented. However, SB 751 (Hill), Chapter 674, Statutes of 2017, amended the requirements to trigger the cap to specify that the trigger is when the Proposition 98 Rainy Day Fund is funded at three percent of the K-12 share of the Proposition 98 guarantee. SB 751 also loosens the requirements on local school districts in implementing the reserve cap. Under the Governor's estimates, small deposits to the Proposition 98 Rainy Day Fund may be required within the multi-year projection period.

GOVERNOR'S PROPOSAL

As discussed above, the Governor's Budget includes some adjustments to prior year guarantee levels. In 2017-18, the budget proposes to provide total Proposition 98 funding (K-14) for 2017-18 of $75.5 billion, a decrease of $120 million over the 2018 final budget act level, but $44 million above the revised 2017-18 guarantee level. For 2018-19, the Governor estimates a decrease in the total guarantee of $526 million (for a total of $77.9 billion), but provides $475 million in settle-up funding to offset the need for expenditure reductions. These adjustments are primarily the result of revised average-daily attendance (ADA) numbers for each of the years and the certification of prior year guarantee levels.

Certification Process Changes. The process adopted in the 2018-19 budget act to certify the Proposition 98 guarantee and use a separate account to help smooth increases and decreases in the guarantee level was intended to create stability for LEAs. The Governor's budget proposes to instead eliminate the separate account and no longer adjust the guarantee level down if the prior year calculation

changes after the fiscal year is over. The Governor proposes to still make adjustments to increase the guarantee after the fiscal year is over if the calculation results in an increase in a prior year.

Funding Level. The budget includes a proposed Proposition 98 funding level of $71.2 billion for K-12 programs (including preschool provided by LEAs). This includes a year-to-year increase of $2.5 billion in Proposition 98 funding for K-12 education, as compared to the revised Proposition 98 K-12 funding level for 2018-19. Under the Governor's proposal, ongoing K-12 Proposition 98 per pupil expenditures increase from $11,574 provided in 2018-19 (revised) to $12,018 in 2019-20, an increase of 3.8 percent. The Governor's major K-12 spending proposals are identified below.

K-12 Local Control Funding Formula. The bulk of funding for school districts and county offices of education for general operations is provided through the LCFF and is distributed based on the numbers of students served and certain student characteristics. The state fully funded the LCFF in 2018-19 and provided an additional COLA. The proposed budget provides a COLA of 3.46 percent, approximately $2 billion, for the 2019-20 fiscal year, bringing total LCFF funding to $63 billion. The Administration also proposes to cap the continuous appropriation of COLA for LCFF, existing in current law, during future years if the COLAs for LCFF and other K-14 programs would exceed growth in the minimum Guarantee.

K-12 Special Education. The proposed budget includes $576 million in Proposition 98 General Fund ($390 million of this is ongoing) for special education-related services for LEAs with significant numbers of students with disabilities and low-income, foster youth, and English language learner students. The funds would support services that are supplemental to those identified in a student's individualized education plan, preventative services to prevent the need for additional services in future years, and other strategies to improve outcomes for students with disabilities.

K-12 Statewide System of Support. The proposed budget includes $20.2 million in Proposition 98 General Fund for county offices of education to support school districts that need to improve under the state's accountability system to be distributed pursuant to a statutory formula enacted in the 2018-19 budget. These funds would support 374 school districts identified in 2018-19 through the state's accountability measures (displayed in the recently created online tool, the California School Dashboard) to need targeted technical assistance.

K-12 Enrollment. The proposed budget reflects an estimated decrease in student enrollment in the K-12 system. Specifically, it reflects a decrease of $388 million Proposition 98 General Fund in 2018-19, as a result of a decrease in the projected ADA, as compared to the 2018 Budget Act. For 2019-20, the Governor's proposed budget reflects a decrease of $187 million Proposition 98 General Fund to reflect a projected further decline in ADA for the budget year.

Cost-of-Living Adjustments. The proposed budget also provides $187 million Proposition 98 General Fund to support a 3.46 percent COLA for categorical programs that are not included in LCFF. These programs include special education and child nutrition, among others. The proposed funding level for the LCFF includes COLAs for school districts and county offices of education.

Local Property Tax Adjustments. The proposed budget includes a decrease of $283 million in Proposition 98 General Fund in 2018-19 and a decrease of $1.25 billion in Proposition 98 General Fund

in 2019-20 for school districts and county offices of education related to higher offsetting local property taxes.

State Preschool Program Rebenching. The budget also shifts $297 million provided for non-LEA provider State Preschool programs from Proposition 98 to non-Proposition 98 General Fund. The Administration notes that non-LEA providers already receive funding for the wraparound portion of full-day State Preschool through non-Proposition 98 General Fund, and this proposal would unify the funding source for the program for non-LEA providers. A related proposal would provide $125 million non-Proposition 98 General Fund for 10,000 additional full-day State Preschool slots for non-LEA providers in 2019-20. The Administration proposes to also increase slots in 2020-21 and 2021-22, bringing the total to 30,000 new slots by the end of the three-year period and serving all low-income four-year-olds.

State Preschool Program for LEAs. The proposed budget includes $27 million in Proposition 98 General Fund to annualize the 2,959 full-day State Preschool Slots for LEAs included in the 2018-19 budget that commence in April 1, 2019.

ISSUES TO CONSIDER

Calculation of the Guarantee Level. The minimum guarantee level is calculated based on the best available factors at the time. However, between the January budget proposal and the May Revision of the budget, the minimum guarantee calculation can change significantly, usually due to changes in state revenues. The Legislature will want to consider potential changes in preparing a Proposition 98 expenditure package. The LAO notes that their estimate of the Proposition 98 minimum guarantee is very similar to the Governor's, however both the LAO and the Governor note that there is some economic risk that may impact revenues and the guarantee level going into the May Revision. In particular, since the LAO's November forecast and the release of the Governor's budget, there has been significant stock market volatility at the end of 2018 and beginning of 2019 that has not been factored in to either set of estimates.

For the 2019-20 budget, the sensitivity of the minimum guarantee calculation to changes in underlying factors is described in the LAO's recent publication, *Overview of the Governor's Proposition 98 Budget Package*. In 2018-19, the LAO notes that for a dollar increase or decrease in revenues, the guarantee would increase or decrease by approximately 55 cents. However, if revenues increase over $250 million, there will be no impact on the guarantee for the additional revenue, as the calculation would become a Test 2 at that point and not rely on revenue growth. For 2019-20, an increase or decrease of one dollar in revenue would increase or decrease the guarantee by approximately 40 cents. A Test 1 is likely to remain operative in 2019-20, and therefore changes in 2018-19 will not roll forward to impact the 2019-20 guarantee.

One-Time or Ongoing Funding. In the past six years, enacted budgets have included substantial one-time expenditures within Proposition 98, from $413 million to $1.2 billion. While these funds have been dedicated to various one-time education priorities, they have also provided a cushion against having to make difficult cuts should the minimum guarantee decrease in future years. The Governor's proposed 2019-20 budget includes almost no one-time funding (only $3 million in the 2019-20 guarantee). In addition, about $77 million in ongoing program costs are being funded with one-time funds. As a result, the budget proposal essentially assumes the 2020-21 Proposition 98 guarantee grows enough to accommodate these program costs, as well as growth in other programs. If the guarantee should drop in

a recession, without any built-in one-time cushion, cuts would need to be made to ongoing programs. The Legislature may wish to consider out year projections for the minimum guarantee and how they prefer to balance ongoing needs with prudent budgeting.

Rebenching of the Guarantee. The Governor's budget includes a proposal to move the non-LEA portion of the state preschool program outside of the guarantee and to fund it with General Fund. This action reduces the guarantee by a like amount, resulting in a budget neutral shift from the state's perspective. The Legislature may wish to consider the out-year consequences of such a shift. If a program is growing and if it is within the Proposition 98 guarantee, the risk is that the program grows faster than percentage growth in the guarantee, crowding out the availability of funding for other programs. Given that the Governor has proposed to increase the state preschool program for non-LEAs by $125 million each year for the next three years, this would have taken up substantial "room" within the guarantee if the proposal had not shifted it to the General Fund. However, in the event of a recession, programs within the guarantee generally have some degree of protection from reductions. While the guarantee may drop in a recession, generally more of the reductions are borne on the General Fund side.

Certification of the Guarantee. Finally, the Legislature will want to consider the Governor's proposal to change the Proposition 98 guarantee level certification process agreed to as part of the 2018-19 budget act. Under current law, with the use of a Proposition 98 true-up account, the increases and decreases in the guarantee would be smoothed out, protecting LEAs from painful adjustments. The Governor's Budget not only eliminates the true-up account, but prevents the Proposition 98 guarantee from being adjusted downward after the end of the fiscal year. However, if the guarantee increases after the end of the fiscal year, that amount would still be owed to K-14 education under the Governor's proposal. The Governor's budget proposal is beneficial for LEAs, but comes at the expense of the General Fund. Under current law, the funds due to the guarantee in the event of an increase are balanced with the funds (essentially due to the General Fund) in the event of a decrease. Under the proposal, additional funding for Proposition 98 must be allocated from the General Fund in the event of an increase, however, the General Fund gets no relief when the guarantee is realized to have been over-estimated. The Legislature will want to consider whether to maintain the status quo or to retain discretion over when to over-appropriate the guarantee in prior years, based on the availability of General Fund resources.

Students with Disabilities in Early Education

BACKGROUND

Infants and toddlers may demonstrate developmental delays that may resolve on their own or through intervention. As children grow, those who need intervention of some form are eligible to receive supportive services through a variety of programs. Once a child enters the public school system, typically at age 5, the school district of residence provides both education services and eligible special education supports and services for identified disabilities that would otherwise hinder a child from receiving a "free and appropriate public education." For infants, toddlers, and preschool aged children (generally ages 0-5), families may need to navigate a variety of programs to meet the educational and developmental needs of their children.

Child Care and Early Education Background Information

Generally, programs in the early care and education system have two objectives: to support parental work participation and to support child development. Children, from birth to age five, are cared for and instructed in child care programs, State Preschool, transitional kindergarten, and the federal Head Start program. Children with disabilities may be served in any of these settings, however services differ across programs.

Child Care. California provides child care subsidies to some low-income families, including families participating in California Work Opportunity and Responsibility to Kids (CalWORKs). Families who have participated in CalWORKs are statutorily guaranteed child care during "Stage 1" (when a family first enters CalWORKs) and "Stage 2" (once a county deems a family "stable," defined differently by counties). In the past, the Legislature has funded "Stage 3" (two years after a family stops receiving cash aid) entirely. Families remain in Stage 3 until their income surpasses a specified threshold or their child ages out of the program. For low-income families who do not participate in CalWORKs, the state prioritizes subsidized care based on income, with lowest-income families served first. To qualify for subsidized child care: (1) parents must demonstrate a need for care (parents working, or participating in an education or training program); (2) family income must be below 85 percent of the most recent state median income (SMI) calculation; and (3) children must be under the age of 13. Families receiving child care through CalWORKs and some subsidized low-income families receive vouchers that allow them to access care. Other low-income families receiving subsidized care are eligible for a child care slot from a provider that contracts with the state to provide child care services. Providers operating on state contracts are eligible to receive a higher rate for serving children with exceptional needs and children with severe disabilities.

California State Preschool Program. State Preschool provides both part-day and full-day services with developmentally-appropriate curriculum, and the programs are administered by local educational agencies (LEAs) (school districts, charter schools or county offices of education), colleges, community-action agencies, and private nonprofits. State preschool can be offered at a child care center, a family child care network home, a school district, or a county office of education (COE). The State Preschool program serves eligible three- and four-year old children, with priority given to four-year olds whose family is on aid, is income eligible (family income may not exceed 85 percent of the SMI), or is

homeless, or when the child is a recipient of protective services or has been identified as being abused, neglected, or exploited, or at risk of being abused, neglected or exploited.

For children with disabilities, the State Preschool program prioritizes their enrollment within each income bracket. Commencing with the 2017-18 fiscal year, State Preschool programs may enroll children with disabilities who do not meet the income-eligibility criteria after all eligible and interested children have been served. The State Preschool program currently serves approximately 1,500 children with disabilities. State Preschool program providers receive a higher rate for serving children with exceptional needs and children with severe disabilities in a full day program.

Head Start. Head Start and Early Head Start are federal programs that provide grants directly to local agencies to support the health and development of low-income children. These local grants include funding of child care and preschool programs, in addition to other support services for children and parents.

Head Start programs are required by federal law to ensure that ten percent of total funded enrollment is filled with children with disabilities. In California, the Head Start program serves approximately 81,000 children ages 3-5 in addition to approximately 21,000 children ages 0-3 in Early Head Start. Of the Head Start and Early Head Start enrollment, over 15,000 participants are children with disabilities.[1]

Transitional Kindergarten. SB 1381 (Simitian), Chapter 705, Statutes of 2010, enacted the "Kindergarten Readiness Act" and established the transitional kindergarten program, beginning in 2012-13, for children who turn five between September 1 and December 1. Each elementary or unified school district must offer developmentally-appropriate transitional kindergarten and kindergarten for all eligible children, regardless of family income. Transitional kindergarten is funded through an LEA's Local Control Funding Formula allocation. LEAs may enroll children in transitional kindergarten that do not meet the age criteria if they will turn five by the end of the school year, however, these students will not generate state funding through LCFF until they turn five. Children with disabilities in transitional kindergarten receive special education services through their LEA.

Special Education Background

"Special education" describes the specialized supports and services that schools provide for students with disabilities under the provisions of the federal Individuals with Disabilities Education Act (IDEA). Federal special education laws originally enacted in 1975 and reauthorized as IDEA in 2004, require states to provide early intervention services for infants and toddlers and schools to provide "specially designed instruction, and related services, at no cost to parents, to meet the unique needs of a child with a disability." The law requires the provision of these special supports and services to students with exceptional needs from age 0 to age 22, or until they graduate from high school with a diploma.

Children with disabilities who are younger than age 5 and are not yet in school settings receive supports and services in different ways. For infants and toddlers (ages 0-3 years old), an individualized family service plan is created and services are generally provided by regional centers which served approximately 33,500 children served in 2015-16. These centers are non-profit agencies overseen by the Department of Developmental Services. However, a small percentage of infants and toddlers with

[1] National Head Start Association; *2017 California Head Start Profile*

special needs are served by school districts. A small number of school districts that had historically served these children were grandfathered into the current system and currently serve approximately 5,000 children. In addition, schools serve a small number of infants and toddlers (approximately 1,000) who have only a hearing, visual, or orthopedic (HVO) impairment. The state's federal IDEA plan required HVO-related services to be provided by the schools if an HVO impairment is the child's only disability. Once a child reaches age 3, the responsibility for serving children with disabilities is transferred to the school district of residence and regional centers are required to work with school districts during this transition.[2] Through regional centers and school districts, the state also operates a child-find system to identify children for evaluation for early intervention and special education eligibility.

To determine a child's eligibility for special education, schools must conduct a formal evaluation process within a prescribed timeline. If it is determined that a child is an eligible student with disabilities, a team including special education staff, school staff, parents, and other appropriate personnel meet to develop an individualized education program (IEP) to define the additional special education supports and services the school will provide. Each student's IEP differs based on his or her unique needs. Specialized academic instruction is the most common service that schools provide. This category includes any kind of specific practice that adapts the content, methodology, or delivery of instruction to help students with disabilities access the general curriculum. Other commonly provided services include speech and language, physical and occupational therapy, behavioral support, and psychological services. Federal law also dictates that students must receive a Free Appropriate Public Education in the Least Restrictive Environment. This means that to the greatest extent possible students with disabilities are to receive their education in the general education environment with peers without disabilities. California is currently 48th in the nation in terms of students with disabilities spending at least 80 percent or more of their day in general education.

In 2017-18, 774,665 children, ages 0-22 received special education under the provisions of IDEA in California. This represents approximately 11 percent of the total state student population. Specific learning disabilities is the most common disability category for which students are identified, followed by the disability category of speech and language impairments. In recent years, the disability category of autism moved in to the position of third highest category. This is after a decade of increased incidence – now comprising nearly 14 percent of the students with disabilities student population. Different types of disabilities are more prevalent at different ages. For example, speech impairments are most common in earlier grades, while learning disorders are generally identified later in a child's educational career. Schools integrate services and supports into the regular school day for transitional kindergarten through grade 12 students. For children ages 3-5 years old not yet attending school or who are served in an early care setting, preschool, or at home, the school district of residence provides services that may occur at the child's education or care setting, or at a facility designated by the school district. These services are in addition to the early education and child care services children may be receiving if they are enrolled in one of the state or federally-funded programs listed above or in some other early education or care setting.

[2] Legislative Analyst's Office, *Evaluating California's System for Serving Infants and Toddlers with Special Needs*, January 4, 2018.

Special Education Enrollment by Age and Disability[3]

Age	0	1	2	3	4	Totals
Intellectual Disability	61	107	157	854	1,033	**2,212**
Hard of Hearing	406	643	627	384	353	**2,413**
Deaf	42	78	109	99	142	**470**
Speech or Language Impairment	14	205	887	12,706	18,119	**31,931**
Visual Impairment	22	94	85	92	85	**378**
Emotional Disturbance	0	0	*	*	16	**16**
Orthopedic Impairment	55	160	149	392	400	**1,156**
Other Health Impairment	311	761	1,045	930	1,131	**4,178**
Specific Learning Disability	0	*	*	21	57	**78**
Deaf- Blindness	*	*	*	*	*	**0**
Multiple Disability	37	92	108	245	308	**790**
Autism	0	*	71	5,642	7,022	**12,735**
Traumatic Brain Injury	0	0	*	17	29	**46**

Special Education Local Plan Areas (SELPAs) and Fund Distribution. State and Federal special education funding is distributed regionally through 127 Special Education Local Plan Areas (SELPAs) to school districts and charter schools in the state. Most SELPAs are collaborative consortia of nearby districts and charter schools, although some large districts have formed their own single district SELPAs, while three SELPAs consist of only charter schools.

California relies primarily on a "census–based" funding methodology that allocates special education funds to SELPAs based on the total number of students attending, regardless of students' disability status. This funding model, often referred to as the AB 602 (Davis and Poochigian), Chapter 854, Statutes of 1997, (formula after the implementing legislation, implicitly assumes that students with disabilities—and associated special education costs—are relatively equally distributed among the general student population and across the state. The amount of per–pupil funding each SELPA receives

[3] December 2017, California Department of Education (* denotes less than 11 children in this category). This chart includes children served by LEAs, and does not include regional center data.

varies based on historical factors. After receiving its allocation, each SELPA develops a local plan for how to allocate funds to the school districts and charter schools in its region based on how it has chosen to organize special education services for students with disabilities. The ADA used to calculate the AB 602 formula is based on enrollment in grades Kindergarten through grade 12 (including transitional kindergarten). Although SELPAs are serving 3-5 year olds, they do not receive any additional funding under the AB 602 formula for these children. Federal funds are available for regional center services and a small amount (about $100 million) is available for preschool services.

State and federal special education categorical funding totals over $4 billion annually. California's model for serving special education services reflects that school districts first use their general purpose, Local Control Funding Formula (LCFF) funds to meet the needs of all students, including those with disabilities, and then use a combination of state and federal special education funding and other local general purpose funds to cover the costs of additional services students with disabilities may need. While it is difficult to measure the amount of additional resources school districts provide from other areas of their budget for special education, according to a recent report by the Public Policy Institute of California, state and federal funding cover approximately 40 percent of cost of special education, with school districts covering the remaining costs from other fund sources.[4] In recent years, the costs of special education have risen due to schools identifying higher numbers of students with disabilities, and similar to general education, due to rising salary and benefit costs for teachers of special education students.

Special Education Oversight. State oversight of special education is primarily through LEA developed Local Control and Accountability Plans (LCAPs) and the state's California Schools Dashboard. In the development of the template for the LCAP, the State Board of Education (SBE) specifically included a reference to students with disabilities, as follows: "For school districts, the LCAP must describe, for the school district and each school within the district, goals and specific actions to achieve those goals for all students and each student group identified by the LCFF (ethnic, socioeconomically disadvantaged, English learners, foster youth, pupils with disabilities, and homeless youth), for each of the state priorities and any locally identified priorities." As such, the SBE, and through authorizing statute, the Legislature, intended for the goals, actions, and services within the LCAP to be aligned with priorities for all students, including students with disabilities. In practice, the extent to which actions, services and expenditures for students with disabilities are included in the LCAP varies by each LEA.

In addition, the state has moved to a new rubric for identifying the performance of each LEA on each state indicator by pupil subgroup. The California School Dashboard displays this information online. LEAs failing to meet specified benchmarks or progress towards benchmarks are identified for technical assistance. The first cohort of LEAs was identified for technical assistance under the new Dashboard system in December of 2017. Out of a total of 228 districts identified, 163 were identified based on the performance for their students with disabilities student group in one or more priority areas. In 2018, this grew to 243 out of 374 LEAs identified based on the performance for their students with disabilities student group. Performance of student with disabilities on standardized tests (including the California Alternate Assessment specifically designed for students with significant cognitive disabilities) has improved over the past several years, but a majority of students with disabilities still fails to meet state and federal achievement expectations. The most recent graduation rate data (2017-18 school year data) shows that approximately 71.4 percent of student with disabilities graduate on time with a high school diploma, compared with 83.5 percent for all students.

[4] Public Policy Institute of California, Special Education Finance in California

GOVERNOR'S PROPOSAL

The Governor's Budget proposes a variety of investments in both supporting special education services and investing in early education settings. These proposals are detailed below.

K-12 Special Education – The proposed budget includes $576 million in additional Proposition 98 General Fund ($390 million of this is ongoing) for special education-related services for LEAs with significant numbers of students with disabilities and low-income, foster youth, and English language learner students. The funds would support services that are supplemental to those identified in a student's individualized education plan, preventative services to prevent the need for additional services in future years, and other strategies to improve outcomes for students with disabilities.

Full- Day Kindergarten Facilities – The proposed budget includes $750 million in one-time non-Proposition 98 General Fund for eligible LEAs to retrofit or expand existing facilities to allow for an expansion of full-day kindergarten programs.

State Preschool Program Expansion

- The proposed budget includes $125 million non-Proposition 98 General Fund for 10,000 additional full-day State Preschool slots for non-LEA providers in 2019-20. The Administration also proposes to increase slots in 2020-21 and 2021-22, bringing the total to 30,000 additional slots by the end of the three-year period and serving all low-income four year olds.

- The budget also shifts $297 million for non-LEA provider State Preschool programs from Proposition 98 to non-Proposition 98 General Fund. The Administration notes that non-LEA providers already receive funding for the wraparound portion of full- day State Preschool through non-Proposition 98 General Fund, and this proposal would unify the funding source for the program for non-LEA providers.

- The proposed budget would also eliminate the requirement that families must be working or in school for their children to be eligible for full-day State Preschool.

- Finally, the proposed budget includes $27 million in Proposition 98 General Fund to annualize the 2,959 full-day State Preschool Slots for LEAs included in last year's budget that commence in April 1, 2019.

Other Child Care and Early Education Changes:

Child Care Quality and Facilities – The proposed budget provides $500 million in one-time non-Proposition 98 General Fund to improve the state's child care system. Of this, $245 million is to increase the educational attainment of the child care workforce, $245 million is to expand facilities for subsidized child care, and $10 million is to contract for the development of a universal preschool blueprint and plan for improving child care.

Non-CalWORKs Child Care – The proposed budget includes $79 million for a 3.46 percent cost-of-living adjustment (COLA) for non-CalWORKs child care and State Preschool programs and decreases slots by $20 million to reflect a decrease in the birth to age four population.

CalWORKs Child Care – The proposed budget includes several adjustments to reflect changes in the CalWORKs child care caseload and cost of care for a net increase of $103 million, reflecting a $16 million decrease in Stage 1, a $36 million increase in Stage 2, and a $83 million increase in Stage 3.

Transitional Kindergarten. – The proposed budget also includes an increase of $24 million (for a total of $890 million) Proposition 98 General Fund for transitional kindergarten, reflecting ADA growth and a COLA.

Other Adjustments – The proposed budget also makes several other technical adjustments to annualize the costs of actions taken in prior years including $40 million to annualize funding for the January 1, 2019 increase to adjustment factors for infants, toddlers, children with exceptional needs, and children with severe disabilities and $3 million to annualize the 2,100 Alternative Payment slots for LEAs that began September 1, 2018.

The Governor also has a variety of proposals in other areas of the budget to increase support for parents and young children. In the health and human services area, proposals include increases in developmental screenings for children in Medi-Cal, expansion of home visiting programs, and funding to increase the collection and provision of child support payments to families. Finally, the Governor also has proposals to expand paid family leave and increase financial support of parents who are attending public colleges.

ISSUES TO CONSIDER

The Legislature may wish to weigh the benefits of the Governor's proposals to increase special education supplemental services funding against other possible policy and funding changes to the special education categorical program. Various inequities exist within the special education program across the state from varying per-pupil rates to different concentrations of students with disabilities and of students with high-cost disabilities. The Governor's proposal allows for the provision of new services that supplement the supports and services provided under a student's IEP. In theory, school districts will be able to invest funds in ways that will increase outcomes for students with disabilities and potentially decrease the amount of time a student spends in a special education program, producing benefits for both the individual student and school district finances. However the proposal allows broad flexibility in how a school district may use the funds, from early intervention activities to broader school supports, such as positive behavior intervention systems. The Legislature should consider whether to allow school districts to have flexibility with the additional funding or whether funds targeted more specifically for special education purposes will lead to better outcomes.

School districts lack a dedicated funding stream for serving 3-5 year old children with disabilities who are not yet in transition kindergarten or kindergarten. School districts are required to implement a child find program to ensure that they identify eligible children. School districts must then provide services for this population within their special education funding stream and potentially using other general purpose funding. Early identification and intervention provide benefits for school districts in potentially reduced special education services required in future years and improved outcomes for students. The Legislature may wish to consider whether school districts are adequately funded for services for 3-5

years olds and whether the state can further incentivize best practices for serving our youngest children with special needs.

In addition to the services school districts must provide under federal law, for those child care and state preschool settings that are serving young children with disabilities, the Legislature may wish to consider ways to support and incentivize more inclusive practices. There are many areas that may benefit from increased investment. In particular, the Legislature may wish to consider ways to incentivize or fund more inclusive facilities with specialized equipment. For all levels of staff, additional training in working with children with disabilities would be beneficial. Finally, the Legislature may wish to examine when increased rates would be warranted to incentivize inclusion, such as the current adjustment factor for child care contract rates for serving children with exceptional needs and severe disabilities. Many of the Governor's proposals speak to the creation of a system for support of the "whole child." The Legislature should consider how this system can serve every child, regardless of their differences or needs.

The Legislature may also wish to consider whether the state is providing adequate resources for supporting young children with disabilities and their families. The system of subsidized child care and state preschool currently provides approximately 491,000 slots across child care, state preschool, and transitional kindergarten programs. However, this is only a fraction of the more than two million children who are potentially income-eligible for subsidized care (half of whom are younger than school age). In addition, only a small fraction of children served in non-public school settings, such as state preschool or child care are children with disabilities. Families and children may benefit extensively from not only receiving appropriate special education supports and services, but also from participating in a mainstream setting with their peers, and research shows these benefits have particular value when they are provided earlier in childhood. Making choices about priorities when considering the expansion of early education opportunities speaks to the dual purpose that child care and early education provides to families: a family support for working parents and an educational benefit for young children.

Finally, the Legislature may wish to consider other related resources that may need additional investment in order to support any related investments in ensuring special education services for young children. In particular, the availability of a high quality teacher workforce is an issue. Generally, for child care and preschool, low pay and lack of opportunities for career progression lead to high turnover. As a result, it is difficult to attract qualified, educated teachers into the field. For preschool programs, teachers usually have either a California Child Development permit or an undergraduate degree in a related field, although neither requires that the teacher have any special education training. In addition, attracting staff with special education-related credentials is more difficult. A statewide teacher shortage remains particularly acute in the area of special education. Adding additional slots for children in state preschool, as proposed by the Governor, will present implementation challenges that include staffing. The Legislature may wish to consider if there are additional policy changes that must be in place to maximize the intent of the Governor's proposals for young children.

State Student Financial Aid

BACKGROUND

The California Student Aid Commission (CSAC) was created in 1955, and is the state agency responsible for administering financial aid programs for students attending public and private universities, colleges, and vocational schools in California. Originally, CSAC administered merit-based, competitive state scholarship programs for financially needy students attending public or private institutions. In the late 1970s, the Legislature consolidated the state scholarship program and other aid programs into the Cal Grant program. In 2000, the Legislature restructured the Cal Grant program into an entitlement program for eligible students, and created a relatively small competitive program for students not meeting the entitlement criteria.

CSAC consists of 15 appointed members: 11 members are appointed by the Governor and confirmed by the Senate; two members are appointed by the Senate Rules Committee and two members are appointed by the Speaker of the Assembly. Members of the commission serve four-year terms, except the two student members, who are appointed by the Governor, and serve two-year terms.

Cal Grant Eligibility Criteria. In order to qualify for the Cal Grant program, students must meet specified income, asset and age requirements. For example, to qualify for the entitlement programs, students must be recent high school graduates, and transfer students must be under the age of 28. The competitive program generally is designed for older students, who do not qualify for the entitlement programs. Additionally, the entitlement and competitive programs require a minimum grade point average (GPA) ranging from 2.0 to 3.0, except for the Cal Grant C award. The chart below displays the various eligibility requirements for a student to receive a Cal Grant.

2017-18 Cal Grant Eligibility Criteria

Cal Grant	Income and Asset Ceiling*	Age	GPA	Other Requirements
Cal Grant A High School Entitlement	Family income ceiling of $88,900 to $114,300, depending on family size. Asset ceiling of $76,500.	Graduated from high school within the last year.	Minimum high school GPA of 3.0.	The student must enroll in a for-credit instructional program that is at least two academic years.
Cal Grant A Transfer Entitlement	The same as Cal Grant A high school entitlement.	Under the age of 28 by December 31 of the award year.	Minimum college GPA of 2.4.	The student attended a community college (CCC) in the academic year immediately preceding the academic year for which the award will be used.

Cal Grant B High School Entitlement	Family income ceiling of $41,500 to $62,800, depending on family size. Asset ceiling of $76,500.	Graduated from high school within the last year.	Minimum high school GPA of 2.0.	The student must enroll in a for-credit instructional program that is at least two academic years.
Cal Grant B Transfer Entitlement	The same as Cal Grant B high school entitlement.	Under the age of 28 by December 31 of the award year.	Minimum college GPA of 2.4.	The student attended a CCC in the academic year immediately preceding the academic year for which the award will be used.
Cal Grant C	The same as Cal Grant A.	None.	No minimum required GPA; however, students are encouraged to submit their GPA as it may help their chances of receiving an award.	The student must be enrolled in a career technical education (CTE) program that is at least four months long.
Competitive Cal Grant A and B	The same as Cal Grant A and B.	None.	For a CCC student, the minimum GPA is the same as Cal Grant A and B high school entitlement. For a student attending or transferring to a four-year institution, the minimum GPA is the same as the Cal Grant A and B transfer entitlement.	

* Reflects criteria for dependent students. Different criteria apply to independent students.

Award Amounts. The Cal Grant program offers three types of awards. The Cal Grant A covers full systemwide tuition and fees at the public universities and up to a fixed dollar amount toward tuition costs at private colleges. The Cal Grant B covers tuition in all but the first year of college and provides additional aid to help pay for non-tuition expenses, including books, supplies, and transportation. The Cal Grant C covers up to a fixed amount for tuition and provides aid for non-tuition expenses for eligible students enrolled in CTE programs. A student generally may receive a Cal Grant A or B award for up to the equivalent of four years of full-time study, whereas a Cal Grant C award is available for up to two years. The chart on the following page summarizes the award amounts for the various Cal Grant programs.

2018-19 Cal Grant Award Amounts

Cal Grant	Award Amounts	Other
Cal Grant A High School Entitlement	Covers mandatory systemwide tuition and fees at the University of California (UC) and California State University (CSU), which are currently $12,570 and $5,742, respectively.	If the student attends a CCC, the Cal Grant A is held on reserve until they transfer. These students generally have their tuition fees covered by the Board of Governors Fee Waiver.
Cal Grant A Transfer Entitlement	Covers mandatory systemwide tuition and fees at the UC and CSU.	
Cal Grant B High School Entitlement	Covers mandatory systemwide tuition and fees at the UC, CSU and CCC. Additionally, students receive an access award of $1,672 to cover living expenses.	Tuition and fees at the CCC are covered by the Board of Governors Fee Waiver; however, the student will receive the access award. During the first year, eligible students only receive the access award. After the first year, eligible students receive the access award and tuition and fees award.
Cal Grant B Transfer Entitlement	Covers mandatory systemwide tuition and fees at the UC and CSU. Additionally, students receive an access award of $1,672 to cover living expenses.	During the first year, eligible students only receive the access award. After the first year, eligible students receive the access award and tuition and fees award.
Cal Grant C	Covers $2,462 for tuition and fees. Additionally, eligible CCC student will receive $1,094 to cover books and supplies, and eligible students attending other institutions receive $547 to cover books and supplies.	Priority is given to applicants who: (1) are from disadvantaged backgrounds, (2) face economic hardships, or (3) face barriers to employment. Additional priority is given to applicants pursuing specified needed occupational and technical fields with potential for salary growth. Statute authorizes 7,761 awards annually.
Competitive Cal Grant A and B	The award amount is the same as the high school and transfer entitlement programs.	Statute authorizes 25,750 awards each academic year. 12,875 competitive awards are offered to students who meet the March 2 filing deadline, and the remainder are offered to students who are enrolled at a CCC for the fall term and have a GPA reported by the September 2 filing deadline.

Private Universities and Colleges. In addition to providing financial aid to eligible students at UC, CSU, and CCC, the state also provides financial aid to eligible students at private institutions. Eligible students attending Western Association of Schools and Colleges (WASC) accredited private non-profit colleges may receive an award of $9,084. In order for students to maintain the $9,084 award amount, the non-profit college sector must admit a specified number of transfer students each year. Eligible students attending WASC-accredited for-profit institutions receive a Cal Grant of $8,056. Lastly, eligible students attending non-accredited for-profit institutions may receive a Cal Grant of $4,000.

Middle Class Scholarship Program. The Middle Class Scholarship started in 2014, and is only available to eligible students attending UC or CSU. Under the program, students with household incomes and assets each under $171,000 may qualify for an award that covers a portion of their tuition and systemwide fees (when combined with all other public financial aid). CSAC provides these scholarships to eligible students who fill out the federal financial aid application. Unlike Cal Grants, the Middle Class Scholarship is not an entitlement and funding is capped in statute. If funding is insufficient to cover the maximum award amounts specified in law, awards are pro-rated downward. Current state law appropriates $117 million to the program. The chart below summarizes Middle Class Scholarship spending and award amounts by segment.

Middle Class Scholarship Program
Recipients and Spending by Segment

	Recipients	Spending	Average Award	Maximum Award[a]
2018-19 Estimated				
California State University	43,200	$76,456,184	$1,770	$2,298
University of California	8,648	26,500,476	3,064	5,028
Totals	51,848	$102,956,660	$1,986	
2019-20 Proposed				
California State University	43,680	$77,791,896	$1,781	$2,298
University of California	8,740	28,057,748	3,210	5,028
Totals	52,420	$105,849,644	$2,019	

[a]Students with household income less than or equal to $118,000 receive the maximum award, which is equal to 40 percent of the systemwide tuition and fee charge. Students with household income over $118,000 but less than or equal to $177,000 receive an award that is graduated downward for each $1,000 increase in income.

The chart below displays CSAC's budget operations.

California Student Aid Commission Budget
(Dollars in Millions)

	2018-19 Revised	2019-20 Proposed	Change from 2018-19	
			Amount	Percent
Spending				
Local Assistance				
Cal Grants	$2,271	$2,560	$289	12.7%
Middle Class Scholarships	103	106	3	2.8
Chafee Foster Youth Program	18	18	—	—
Student Opportunity and Access Program	8	8	—	—
Assumption Program of Loans for Education	3	1	-2	-55.2
Other programs[a]	6	3	-2.9	-47.8
Subtotals	($2,408)	($2,696)	($288)	(11.9%)
State Operations	$21	$22	$0.9	4.1%
Totals	**$2,430**	**$2,719**	**$289**	**11.9%**
Funding				
General Fund	$1,337	$1,626	$289	21.6%
Federal Temporary Assistance for Needy Families	1,066	1,066	—	—
Other federal funds and reimbursements	21	21	—[b]	0.1
College Access Tax Credit Fund	6	6	—	—

[a] Includes Cash for College, Child Development Teacher/Supervisor Grants, Every Kid Counts, John R. Justice Program, Law Enforcement Personnel Dependents Scholarships, Military Department GI Bill Awards, and State Nursing Assumption Program of Loans for Education for Nursing Faculty.

[b] Less than $500,000

Other State Financial Aid Programs. In addition to state financial aid offered through CSAC, community college students also receive financial aid through the Promise Grant (formerly known as the Board of Governors (BOG) Fee Waiver), the Student Success and Completion Grant, and the California College Promise. For the purpose of this analysis, the Promise Grant will be referred to as the BOG Fee Waiver, and the California College Promise will be referred to as AB 19 Promise grants.

Board of Governors Fee Waiver. The BOG Fee Waiver waives the per-unit enrollment fee (currently $46) for eligible students at any community college, regardless of the number of units in which they are enrolled. The BOG Fee Waiver is available to California residents, or students who are exempt from

non-resident fees under AB 540, and who have financial need. Financial need is based on: (1) a student's Free Application for Federal Student Aid (FAFSA), (2) whether a student receives Temporary Assistance for Needy Families (TANF), (3) whether a student receives Supplemental Security Income/State Supplementary Payment (SSI/SSP) or General Assistance, or (4) whether a student falls under certain income standards. For the 2017-18 academic year, almost one million California community college students received a BOG Fee Waiver, totaling $763.7 million in financial aid.

CCC Student Success Completion Grant. The 2018-19 budget created the CCC Student Success Completion Grant, which combined the Community College Completion Grant and the Full-Time Student Success Grant. The new financial aid grant program provides eligible community college students who receive a Cal Grant B or C with additional aid to cover living expenses. Specifically, eligible students enrolling in 12 to 14 units receive $649 per semester or quarter equivalent, and students enrolling in 15 units or more receive $2,000 per semester or quarter equivalent. Students must maintain satisfactory academic progress. AB 1809 (Committee on Budget), Chapter 33, Statutes of 2018, requires the CCC Chancellor's Office to report by April 1, 2020 on student and award data regarding the 2018-19 award year. In 2018-19, the budget provided $131.8 million Proposition 98 General Fund for the CCC Student Success and Completion Grant.

AB 19 Promise Grants. The 2018-19 budget provided $46 million to fund AB 19 Promise Grants. Colleges may use AB 19 funds to provide fee waivers to first-time full-time community college students, however colleges are not required to use funds for this purpose. In order to receive AB 19 funds, colleges must:

1. Partner with K-12 schools to establish an Early Commitment to College Program, to inform students and their parents about college opportunities, college eligibility requirements, college admissions tests and the financial aid process.

2. Partner with K-12 schools to support and improve high school student preparation for college and reduce postsecondary remediation.

3. Use evidence-based assessment and placement practices at the community college that include multiple measures of student performance, such as high school performance, and use evidence-based practices to improve outcomes for underprepared students.

4. Participate in the Guided Pathways Grant Program.

5. Leverage the BOG Fee Waiver by ensuring students complete the FAFSA and Cal Grant or Dream Act application, and participate in a federal loan program.

AB 19 funds are distributed based on an allocation formula, which includes the prior year fee waiver costs, the number of Pell Grant recipients, and the number of full-time equivalent students at a college.

In 2018, 105 colleges received AB 19 funds. Colleges used AB 19 funds as follows: (1) 60 colleges provided fee waivers only, (2) nine colleges provided direct support and services to students, (3) 14 colleges provided fee waivers and direct support and services to students, (4) 13 colleges provided support to their local education agency (LEA), (5) five colleges provided fee waivers, direct support and services to students, and support to their LEAs, (6) two colleges provided fee waivers and support to

their LEAs, and (7) one college provided direct support and services to students, and support to their LEAs. Nine colleges declined AB 19 funds because they did not wish to participate in a federal loan program.

As noted above, to receive a fee waiver under AB 19, a student must be a first-time, full-time student. In the spring of 2018, approximately 30 percent of students were enrolled full-time in credit courses, and approximately 231,353 students were one course short from being a full-time student. In contrast, the BOG Fee Waiver is available to eligible low-income students who are enrolled in college part-time.

Mount San Antonio College, a recipient of AB 19 funds, found that if they used AB 19 funds to provide fee waivers, the typical student who would receive a fee waiver was a white, male teenager from the upper-middle-class town of Diamond Bar. Instead, Mount San Antonio College used AB 19 funds to offer first-time, full-time students with at least a 2.0 GPA free bus passes, book grants of up to $250 per semester, and food cards that can be used to buy meals on campus. Similarly, Las Positas College, in the San Francisco Bay Area, used AB 19 funds to provide students with up to $500 per semester to buy textbooks. Las Positas College also used AB 19 funds to hire additional financial aid counselors to help students apply for other forms of aid.

Institutional Aid. In addition to Cal Grants and Middle Class Scholarships, UC and CSU operate institutional need-based programs. UC and CSU pay for these programs largely by redirecting a portion of tuition revenue generated from full-fee-paying students. When packaging financial aid, UC first applies any applicable federal and state aid on a student's behalf and assumes each student must contribute $10,000 through work and borrowing. It then uses institutional aid to fill any remaining gap between available resources and the total cost of attendance. In 2017-18, UC distributed approximately $838 million in institutional aid, $952 million from Cal Grants, and $411 million from Pell Grants. By comparison, CSU uses its State University Grant program only to cover tuition for certain students based on their federal expected family contribution. Institutional grant aid at the CCCs is limited, and students must rely on the Cal Grant B access award, the Student Success and Completion Award, or work to help cover those costs.

GOVERNOR'S PROPOSAL

Access Award for Student Parents. The budget proposes an increase of $122 million ongoing General Fund to provide greater financial assistance to eligible student parents. The Governor proposes to expand Cal Grant non-tuition awards for CCC, CSU, and UC students who have dependent children. Specifically, these students would qualify for a non-tuition award of up to $6,000 if they receive Cal Grant A or Cal Grant B, and up to $4,000 if they receive Cal Grant C.

Cal Grant Competitive Awards. The budget proposes an increase of $9.6 million ongoing General Fund to fund an additional 4,250 Cal Grant competitive awards, which would raise the total number of competitive awards available annually to 30,000.

Higher Estimated Caseload-Driven Costs. The Governor proposes to increase 2018-19 Cal Grant spending by $32.5 million (1.5 percent). Compared to this revised spending level, the Governor's budget provides a $158.1 million (7.0 percent) increase for 2019-20 based on updated caseload.

Grant Delivery System. The Governor's budget proposes an increase of $6.2 million one-time for CSAC to continue replacing its online grant delivery system. The 2018-19 Budget Act included $5.5 million one time for that purpose.

Student Loan Awareness. The Governor's budget proposes $5 million General Fund one-time to the Office of Planning and Research (OPR) to fund an outreach initiative to educate student loan borrowers about their loans and available repayment options.

ISSUES TO CONSIDER

Financial Aid Reform. The 2017-18 budget required CSAC to report by February 1, 2018, on options to consolidate existing programs. The intent of the report was to lower students' total cost of college attendance, which includes tuition and fees, books and supplies, transportation, and room and board. The goal of the report was to identify: (1) similarities between the state's nine grant and scholarship programs and the four loan assumption programs, including similarities in student and family eligibility requirements, (2) options for how programs could be streamlined or consolidated, and (3) any technology or systems barriers, or other challenges to streamlining or consolidating programs.

CSAC contracted with the Century Foundation, and released a report *Expanding Opportunity, Reducing Debt: Reforming California Student Aid*, on April 3, 2018. The report recommended the state: (1) combine major CSAC programs into one Cal Grant entitlement that would be available without regard to students' age, time out of high school, and high school GPA, (2) revise the expected family contribution, and (3) create a standardized methodology to determine the cost of attendance that takes into account regional cost of living. CSAC endorsed three aspects of reform: (1) streamlining financial aid and closing gaps by utilizing a GPA requirement of 2.0 across all programs, and allow Cal Grant B students to receive their tuition award in their first year, (2) consolidating Cal Grant A, B, C and the Middle Class Scholarship into a single program, and (3) increasing the Cal Grant B Access Award from $1,672 to $3,000.

For 2019-20, CSAC requests the state provide $101.4 million to begin phasing in an increase in the Cal Grant B Access Award, which would reach $3,000 in 2022-23. Under their proposal, the Access Award would increase by 25 percent in 2019-20. For 2020-21, the award will be $2,400, and will increase costs by $177.1 million. For 2021-22, the award will be $2,700, and will increase costs by $260.1 million. For 2022-23, the award will be $3,000, and will increase costs by $350.9 million. According to CSAC, at the current maximum value of $1,672, the Access Award is worth approximately 75 percent less, in inflation-adjusted dollars, than when it was implemented in the late 1960s.

CSAC also requests $88 million in 2019-20 to: (1) allow CCC students a gap year before transferring to a four-year school, (2) modify the proof of residency for transfer students, (3) adjust the application deadline for transfer entitlement awards, and (4) remove the age limit of 28 years of age for the transfer entitlement award.

CSAC has not developed a plan to consolidate the Cal Grant A, B, C and the Middle Class Scholarship into a single program, nor does it have a plan to implement the other recommendations from the Century Foundation.

Total Cost of Attendance. The Cal Grant program's focus on tuition does not address the considerable living expenses that students face. Living expenses such as food and housing, transportation and other personal expenses make up the majority of undergraduate student expenses. The chart below illustrates the average costs of students living in an apartment off campus in the San Diego area:

Comparison of College Costs for a Student Living Off-Campus

2018-19 Undergraduate Student Budget	UC San Diego	CSU San Diego	San Diego Mesa College
Tuition and Fees	$14,199	$7,488	$1,144
Housing and Food	$13,080	$13,399	$13,779
Books and Supplies	$1,101	$1,915	$1,917
Transportation/ Other Expenses	$2,655	$3,462	$4,248
Total Costs	**$31,035**	**$26,264**	**$21,088**
Tuition/ Fees Percent of Total Costs	45.75%	28.51%	5.43%

While California has one of the country's most robust financial aid systems, it is primarily focused on covering tuition costs. The stipends associated with the Cal Grant B and the Cal Grant C programs provide some aid for living expenses, $1,672 and $547, respectively; however, these stipends do not come close to covering the cost of living expenses.

Tuition at the CCC is the lowest in the nation; however, living expenses can exceed $15,000 for a student living off-campus. BOG Fee Waivers are widely available to help students with tuition and fee costs, but fees make up, at most, 10 percent of total college costs, and state and institutional grant aid for living expenses are limited.

To cover living expenses, many students must work part-time or even full-time jobs. This can have a negative impact on student outcomes and increase their time to earn a degree. Research by the American Council on Education indicates that students working more than 15 hours per week are more likely to drop out of college than those working fewer than 15 hours.

The Administration proposes to provide additional aid to Cal Grant eligible student parents to help address cost of living expenses that these students' face. According to the Department of Finance, there are approximately 21,400 student parents at CCCs, 770 at UC, and 6,500 at CSU who currently receive a Cal Grant. The Legislature may wish to identify holistic approaches to address total cost of attendance at the state's public higher education segments, including whether the current Access Award amount or the institutional financial aid framework is appropriate in addressing student needs.

Student Debt. Students that attend California public colleges and universities have some of the lowest debt in the nation upon graduation. According to the Project on Student Debt, by The Institute on College Access and Success (TICAS), about 65 percent of students graduating in 2017 from public four-year

institutions and private non-profit four-year institutions in the US had student loan debt, with an average loan amount of $28,650. This is one percent higher than the 2016 average. California is considered a low student loan debt state, with an average loan amount of $22,785. In 2016-17, 50 percent of students graduating from UC had some form of student loan debt, with an average amount of $18,972. At CSU, 46 percent of students who graduated in 2016-17 had some form of student loan debt, with an average amount of $16,625.

The Governor proposes $5 million General Fund one-time for OPR to conduct outreach to educate student loan borrowers about their loans and repayment options. At the time of writing this analysis, the Governor has not released details regarding this proposal. It is unclear if OPR is the appropriate entity to administer an outreach program, or if CSAC is the more appropriate entity. Currently, there are a variety of education and outreach services available to students regarding student loan borrowing. Specifically, the National Student Loan Data System in the U.S. Department of Education provides students access to their financial aid summary, details about federal student loans they receive, contact information of their federal student loan officer, and an estimate of their loan payments and repayment plans. Additionally, students receiving federal loans must conduct financial aid entrance and exit counseling to learn about loan responsibilities and obligations. Additionally, AB 1178 (Calderon), Chapter 448, Statutes of 2017, requires each higher education institution (except CCCs) to send an individualized letter, to the extent possible, to their students regarding information on their federal, state, and private student loans. This information includes: (1) estimates about the cumulative principal of the loans, (2) potential total payoff amount, (3) monthly repayment amounts, and (4) contact information for the financial aid office.

Non-Traditional Students. According to the National Bureau of Economic Research, low-income students are much less likely than higher income students to enroll in or complete college, and in recent decades, income gaps have grown. Cal Grants are a critical tool to help low-income students attend college and graduate, and provide the possibility of upward mobility for low-income California students.

The Cal Grant Program primarily serves recent high school graduates and students under the age of 28. In an effort to reach more non-traditional students, the 2015 Budget Act increased the number of competitive Cal Grants by 3,250, raising the total from 22,500 to 25,750. As noted earlier, the Governor proposes $9.6 million ongoing General Fund to fund an additional 4,250 Cal Grant competitive awards. As noted previously, the Cal Grant C program also provides financial aid to eligible non-traditional students pursuing occupational training. Existing law requires the Legislative Analyst's Office to report by April 1, 2019 regarding Cal Grant C participation, including the type of occupational and training programs that were prioritized, and outcomes of Cal Grant C students. The Legislature may wish to identify what the appropriate number of competitive Cal Grants awards should be, or if other reforms are needed to expand the eligibility pool of the entitlement program to include nontraditional students.

SUBCOMMITTEE NO. 2

RESOURCES, ENVIRONMENTAL PROTECTION, ENERGY and TRANSPORTATION

Resources

Safe and Affordable Drinking Water 2-1
Wildfire Prevention and Suppression 2-11

Transportation

High-Speed Rail Authority 2-27
Motor Vehicle Account 2-34

Safe and Affordable Drinking Water

BACKGROUND

Sources of Drinking Water. According to the State Water Resources Control Board (SWRCB), the majority of public water systems (PWSs) in California use groundwater as their primary source of supply. PWSs that use both groundwater sources and surface water sources are categorized as surface water systems by convention. Although over 80 percent of PWSs use only groundwater as their primary source of water, these systems serve less than 20 percent of the population. Almost 80 percent of the population served by PWSs are served treated surface water in whole or part.

Federal, State, and Local Entities Regulate Drinking Water. The federal Safe and Affordable Drinking Water Act (SDWA) was enacted in 1974 to protect public health by regulating drinking water. California has enacted its own safe drinking water act to implement the federal law and establish state standards. The United States Environmental Protection Agency (US EPA) enforces the federal SDWA at the national level. However, most states, including California, have been granted "primacy" by the US EPA, giving them authority to implement and enforce the federal SDWA at the state level.

SWRCB's Division of Drinking Water (DDW) regulates PWSs that provide water for human consumption and have 15 or more service connections, or regularly serve at least 25 individuals daily at least 60 days out of the year. DDW also oversees water recycling projects, permits water treatment devices, supports and promotes water system security and works closely with SWRCB's Division of Financial Assistance (DFA) on funding for PWSs. DDW regulates approximately 7,500 water systems, of which about one-third of these systems have between 15 and 200 service connections.

The state does not regulate water systems with less than 15 connections. Instead, county health officers oversee these smaller systems. The number of smaller systems—specifically, those with 14 or fewer connections—is unknown but estimated to be in the thousands.

At the local level, 30 of the 58 county environmental health departments in California have been delegated primacy—known as Local Primacy Agencies (LPAs)—by the SWRCB to regulate small water systems with between 15 and 200 connections within their jurisdiction to ensure that these systems deliver adequate and safe drinking water.

For investor-owned public water utilities under the jurisdiction of the California Public Utilities Commission (CPUC), the CPUC shares water quality regulatory authority (including compliance with the Safe Drinking Water Act) with the DDW or LPAs.

Safe and Affordable Drinking Water as a Human Right. In response to concerns about the prevalence of unsafe drinking water in California, the Legislature and the Governor enacted AB 685 (Eng), Chapter 524, Statutes of 2012. This law declares the state's policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Under AB 685, state agencies are required to consider this policy when revising, adopting, or establishing policies, regulations, and grant criteria. AB 685 stated that it did not expand any obligation of the state to provide water or to require the expenditure of additional resources to develop water infrastructure.

California Safe Drinking Water Act. The California Safe Drinking Water Act requires SWRCB to regulate drinking water to protect public health, and requires SWRCB to ensure that PWSs are operated in compliance with the Act. If a PWS within a disadvantaged community (DAC) consistently fails to provide an adequate supply of safe drinking water, SWRCB may order the water system to consolidate with a receiving water system. SWRCB may also contract with an administrator to provide administrative and managerial services to a designated PWS to assist with the provision of an adequate and affordable supply of safe drinking water.

Multiple Causes of Unsafe Drinking Water. The causes of unsafe drinking water generally can be separated into two categories (1) contamination caused by human action and (2) naturally occurring contaminants. In some areas, there are both human caused and natural contaminants in the drinking water.

Three of the most commonly detected pollutants in contaminated water are arsenic, perchlorate, and nitrates. While arsenic is naturally occurring, perchlorate contamination is generally a result of military and industrial uses. High concentrations of nitrates in groundwater are primarily caused by human activities, including fertilizer application (synthetic and manure), animal operations, industrial sources (wastewater treatment and food processing facilities), and septic systems. Agricultural fertilizers and animal wastes applied to cropland are by far the largest regional sources of nitrates in groundwater, although other sources can be important in certain areas.

PWS Violations. According to SWRCB, violations data for 2017 shows that 93.8 percent of PWSs, serving 98.4 percent of people in the state, complied with maximum contaminant levels (MCLs) and treatment techniques (TTs) contained in the federal rules established under SDWA.

In 2017, the Drinking Water Program issued approximately 2,220 enforcement actions to PWSs for failing to comply with regulations. The board's records show that 459 PWSs had one or more violations in 2017. In all, about 592,000 people were affected by these violations. That number does not include people who rely on private wells or "state small" water systems with fewer than 15 connections. Overall, 24 percent of PWSs subject to enforcement actions had returned to compliance for an MCL or TT violation incurred in 2017.

In some cases, unsafe contamination levels may persist over time because the local agency cannot generate sufficient revenue from its customer base to implement, operate, or maintain the improvements necessary to address the problem. The challenge in these systems is often a product of a combination of factors, including the high costs of the investments required, low-income of the customers, and the small number of customers among whom the costs would be spread.

Office of Sustainable Water Solutions (OSWS). AB 92 (Committee on Budget), Chapter 2, Statutes of 2015, established the OSWS, which is in SWRCB's Division of Financial Assistance (DFA). The purpose of OSWS is to promote permanent and sustainable drinking water and wastewater treatment solutions ensuring effective and efficient provision of safe, clean, affordable, and reliable drinking water and wastewater treatment services.

OSWS provides grants, principal forgiveness and low interest loans for planning and construction projects utilizing state and federal funds. In addition, OSWS provides pre-planning assistance for projects seeking funding and technical, managerial and financial assistance through its technical assistance program.

OSWS staff manage over 330 drinking water projects in 290 communities and over 250 wastewater projects in 150 communities. The 580 active drinking water and wastewater projects currently span approximately 56 of the 58 counties in California. Since January 2018, OSWS has received, and is working on processing, 220 new applications for drinking water and wastewater projects (121 and 99, respectively).

OSWS: Legal Entity Formation Assistance (LEFA) Program. According to SWRCB, the LEFA program was established to assist communities not currently served domestic water from an existing community water system, and PWSs not eligible for Drinking Water State Revolving Fund (DWSRF) funding due to the lack of an eligible entity. The purpose of the program is to provide financial assistance in the formation of a legal entity for communities that would then have, among other things, the authority to own/operate a PWS, assess rates and charges for domestic water supply, or consolidate with an existing public water system. Possible project outcomes include the identification and/or creation of a regional authority, identification of an existing authority (PWS) which could extend service, or the creation of a new governing authority.

OSWS: Accomplishments since 2014. Since DDW was established at SWRCB in July 2014, DFA has been able to help approximately 7.2 million people in 220 communities receive safe and reliable drinking water. Approximately 1.15 million of the people reside in 200 small disadvantaged (approximately 40 percent of the 200) or small severely disadvantaged communities (approximately 60 percent of the 200).

OSWS: Technical Assistance. In calendar year 2018, technical assistance was provided to approximately 174 small disadvantaged communities, benefitting more than 175,000 people, to develop projects to provide safe drinking water and wastewater solutions. Approximately 120 of the communities that received technical assistance were small disadvantaged or small severely disadvantaged drinking water systems. The scope of technical assistance provided to the drinking water systems included: (1) assisting the water system to improve their compliance and develop their technical, managerial, and financial capacity; and (2) assisting the communities that do not currently have access to safe and adequate drinking water to be connected to sustainable water suppliers.

Current SWRCB Funding Programs Addressing Safe and Affordable Drinking Water Issues. DFA administers multiple funding programs to assist water systems to achieve and maintain compliance with safe drinking water standards. These programs use federal funds and state funds to address the highest priorities of infrastructure need and include the following:

Drinking Water State Revolving Fund (DWSRF). The largest drinking water funding program that SWRCB administers is DWSRF. US EPA provides DWSRF funds to states, including California, in the form of annual capitalization grants. States, in turn, provide low-interest loans and other assistance to PWSs for infrastructure improvements. Total funding provided to PWSs in executed loans and grants to date is over $1.3 billion.

American Recovery and Reinvestment Act (ARRA). On February 17, 2009, President Obama signed ARRA, which allocated $2 billion nationally for safe drinking water infrastructure improvements. California’s share of these funds was $159 million, and was administered by the California Department of Public Health through the DWSRF program prior to the transfer of the drinking water program to SWRCB. ARRA funds were a one-time opportunity for the state and did not require matching funds

from the state. Funding agreements were issued, totaling $149 million, to 51 projects statewide and among 47 community drinking water systems.

Proposition 50. The Water Security, Clean Drinking Water, Coastal, and Beach Protection Act of 2002 (Proposition 50) was voter-approved in 2002. Proposition 50 allocated $485 million to drinking water quality issues.

Proposition 84. The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006 (Proposition 84) was voter-approved in 2006. Proposition 84 allocated $300 million to address drinking water and other water quality issues.

Proposition 1. The Water Quality, Supply and Infrastructure Improvement Act of 2014 (Proposition 1) was voter-approved in 2014 and authorized $7.12 billion in general obligation bonds. Proposition 1 authorized $520 million for projects that improve water quality or help provide clean, safe, and reliable drinking water.

Proposition 68. The Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2017 (Proposition 68) was voter-approved in 2018. Proposition 68 allocated a total of $4.1 billion – $4 billion of which was new bond authority and the remaining $100 million of which was redirected from unsold bonds previously approved as part of Propositions 1, 40, and 84. Proposition 68 dedicated $250 million specifically to safe drinking water.

The following four tables summarize drinking water projects funded by DFA, working with DDW, between July 2014 and January 2019:

Table 1: Proposition 1: Drinking Water Projects between July 2014 and January 2019

Prop 1 – Drinking Water	Total Funded	Total Number of Projects Funded[1]	Approximate Number of People Benefited[2]	Small DACs Funded	Number of Small DAC Projects Funded[1]	Approximate Number of People in Small DAC Project Benefited[2]
Drinking Water - Planning	$43,816,454	97	186,200	$43,816,454	97	186,200
Drinking Water - Construction	$143,446,066	48	594,000	$143,446,066	48	594,000
Technical Assistance	$25,969,040	12	--	$25,969,040	12	--
Total Prop 1	**$213,231,560**	**157**	**--**	**$213,231,560**	**157**	--

Source: SWRCB.

[1] Multiple projects received funding from more than one funding source. Therefore, the total number of projects funded across funding sources cannot be readily added.

[2] Multiple projects received funding for both the planning and construction phases. Therefore, the total number of people that benefited from the projects cannot be readily added.

Table 2: Proposition 84: Drinking Water Projects between July 2014 and January 2019

Prop 84 – Drinking Water	Total Funded	Total Number of Projects Funded[1]	Approximate Number of People Benefited[2]	Small DAC Funded	Number of Small DAC Projects Funded[1]	Approximate Number of People in Small DAC Communities Project Benefited[2]
Planning	$3,878,746	12	8,600	$3,816,799	11	8,300
Construction	$48,249,733	19	563,700	37,876,402	16	191,600
Total Prop 84	**$52,128,479**	**31**	**--**	**$41,693,201**	**27**	**--**

Source: SWRCB.
[1] Multiple projects received funding from more than one funding source. Therefore, the total number of projects funded across funding sources cannot be readily added.
[2] Multiple projects received funding for both the planning and construction phases. Therefore, the total number of people that benefited from the projects cannot be readily added.

Table 3: DWSRF: Drinking Water Projects between July 2014 and January 2019

DWSRF	Total Funded	Number of Projects Funded[1]	Approximate Number of People Benefited[2]	Small DAC Funded	Number of Small DAC Projects Funded[1]	Approximate Number of People in Small DAC Project Benefited[2]
Federal – Legal Entity Formation Assistance (LEFA)*	$1,202,690	11	--	$1,202,690	11	--
Federal - Planning	$16,607,521	35	1,471,600	$14,448,519	30	1,359,100
Federal - Construction	$1,108,615,288	57	21,887,400	$421,365,233	34	2,918,900
Federal - Technical Assistance**	$3,215,756	1	--	$3,215,756	1	--
Total DWSRF	**1,129,641,255**	**104**	**--**	**$440,232,198**	**76**	**--**

Source: SWRCB.
**Contracts to form legal entities. Assumption is that all serve DACs.*
***Contracts for small water system leak detection training.*
[1] Multiple projects received funding from more than one funding source. Therefore, the total number of projects funded across funding sources cannot be readily added.
[2] Multiple projects received funding for both the planning and construction phases. Therefore, the total number of people that benefited from the projects cannot be readily added.

Table 4: Proposition 50: Drinking Water Projects between July 2014 and January 2019

Prop 50 – Drinking Water	Total Funded	Number of Projects Funded[1]	Approximate Number of People Benefited[2]	Small DAC Funded	Number of Small DAC Projects Funded[1]	Approximate Number of People in Small DAC Communities Project Benefited[2]
Drinking Water - Construction	$9,158,799	3	--	$814,877	1	--
Total Prop 50	**$9,158,799**	**3**	**--**	**$814,877**	**1**	**--**

Source: SWRCB
[1] Multiple projects received funding from more than one funding source. Therefore, the total number of projects funded across funding sources cannot be readily added.
[2] Multiple projects received funding for both the planning and construction phases. Therefore, the total number of people that benefited from the projects cannot be readily added.

A summary of small DAC drinking water projects funded by funding source between July 2010 and January 2019 is as follows:

- DWSRF: $440,232,198 (63 percent)
- Proposition 1: $213,231,560 (31 percent)
- Proposition 84: $ 41,693,201 (6 percent)
- Proposition 50: $ 814,877 (<1 percent)

A summary of small DAC projects funded by type of assistance between July 2010 and January 2019 is as follows:

Type of Assistance	Number of Projects	Amount
Planning	138	$ 62,081,772
Construction	99	603,502,578
Technical Assistance	13	29,184,796
LEFA	11	1,202,690
TOTAL Funding for small DAC projects between July 2010 and January 2019		**$696,691,836**

Interim/Emergency Drinking Water Funding. Below is a table reflecting interim/emergency drinking water funding between April 2010 and January 2019. These funding sources fund emergency needs, such as well rehabilitation or replacement, emergency interties, extension of service, treatment systems, including point of use treatment, and interim water supplies, such as bottled or hauled water.

Interim/Emergency Drinking Water Funding Summary
April 2010 through January 2019*

Funding Source	Number of Projects	Funding Approved
Proposition 84, Chapter 2 Safe Drinking Water Projects, Section 75021 Emergency Funding ($10 million)*	129	$7,827,904
Public Water System Drought Emergency Response (PWSDER) - SB 103 (Committee on Budget and Fiscal Review), Chapter 2, Statutes of 2014 ($15 million)*	85	$14,894,973
Interim Emergency Drinking Water Program - Allocation from Cleanup and Abatement Account (CAA) per SB 103 ($4 million)	14	$3,438,300
Interim Replacement Emergency Drinking Water Program - Allocation from CAA per SWRCB Resolution No. 2014-0028, June 17, 2014 ($2.125 million)	25	$2,042,789
Interim Emergency Drinking Water Program - Allocation from CAA per AB 91 (Committee on Budget), Chapter 1, Statutes of 2015 ($4 million)	30	$3,580,068
Interim Emergency Drinking Water Program - Allocation from CAA per AB 91 ($15 million)**	21	$9,300,043
Interim Emergency Drinking Water Program - Allocation from CAA per SB 826 (Leno), Chapter 23, Statutes of 2016 ($15 million)	13	$4,715,196
Set-Aside for Contamination Related Projects - Allocation from CAA per SWRCB Resolution No. 2016-0039, July 19, 2016 ($4 million)	56	$3,813,890
CAA for Urgent Drinking Water Needs - Continuous Authority per AB 339 (Mathis), Chapter 439, Statutes of 2017	22	$1,649,184
Household Well Replacement Program - SB 108 (Committee on Budget and Fiscal Review), Chapter 54, Statutes of 2017 ($8 million)**	2	$5,000,000
Drinking Water for Schools Grant Program - SB 828 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2016 ($9.5 million) (project totals here include water quality impairment only, not access)	6	$643,787
TOTAL PROJECTS	**401**	**$51,906,134**
TOTAL COMMUNITIES SERVED* **		**265**
ESTIMATED TOTAL CONNECTIONS		**139,209**
ESTIMATED TOTAL POPULATION		**427,882**

Source: SWRCB.
**The drinking water program was transitioned from the Department of Public Health to SWRCB on July 1, 2014. Prior to that date, approximately 84 projects ($6,683,866) and 11 projects ($2,556,182) were funded by the Proposition 84 and PWSDER allocations, respectively. The remaining 306 projects were funded after the transition.*
***Of the $15 million allocation in 2015, $5 million was awarded to three non-profits to provide well replacements for households impacted by the drought. An additional $5 million was awarded from the $8 million allocation in 2017, and the remaining $3 million of that 2017 allocation will likely be awarded for the same purpose. Households benefitting under these agreements are not included in the above estimates of connections and population served.*
****Recipient Median Household Income (MHI) data was not historically tracked throughout this entire time period. However, based on available information, it can be concluded that the overwhelming majority of these funds went to disadvantaged communities.*

The 2018-19 Budget. Last year, the Administration proposed, but the Legislature did not adopt, a Safe and Affordable Drinking Water proposal, which would have done the following: (1) established the Safe and Affordable Drinking Water Fund; (2) created a safe and affordable drinking water fee for all water customers statewide and three other fees for confined animal facilities, fertilizer, and dairy to address nitrates in groundwater; and, (3) given liability relief for agricultural operations from unlawful discharges of nitrate to groundwater and exempted them from nitrate-related enforcement actions, as specified.

Instead, the 2018-19 Budget Act provided $23.5 million General Fund for allocation to safe drinking water actions, as follows:

- $3.5 million for emergency water tanks for homes.
- $10 million for emergency relief grants to household to fund well replacement, septic system replacement, permanent connections to public systems, well or septic abandonment, point-of-use and point-of-entry systems, and debt relief for households that have financed well replacement as a result of drought emergency. Of that amount, $750,000 was to create a pilot program to provide grants for wells and septic replacements in households affected by wildfire and not covered by insurance.
- $6.8 million for Safe Drinking Water for Schools grant program, which included up to $1 million for technical assistance.
- $200,000 for the implementation of AB 1577 (Gipson), Chapter 859, Statutes of 2018, to authorize SWRCB to order the Sativa Water District to accept full management and control by an administrator selected by SWRCB.
- $3 million to conduct a needs assessment.

Last year, the Administration's trailer bill language was substantially similar to SB 623 (Monning), as amended August 21, 2017. That version of SB 623 was not heard in a policy committee and died in the Assembly Rules Committee.

GOVERNOR'S PROPOSAL

The Governor proposes the following to address safe and affordable drinking water needs in the current budget year:

- $10 million General Fund to continue emergency funding for emergency drinking water and technical assistance.
- $10 million General Fund to local water districts for technical assistance related to compliance with current drinking water standards.

The Governor's budget proposal for 2019-20 includes:

- $168.5 million in Proposition 68 funds for public water systems in disadvantaged communities for infrastructure improvements, including drinking water and wastewater treatment projects.

- $10 million General Fund for emergency water supplies in disadvantaged communities.

- $4.9 million General Fund one-time for implementation of a proposed Safe and Affordable Drinking Water Program.

- Trailer bill language (which is substantially similar to the Governor Brown's proposal last year and SB 623 (Monning), as amended August 21, 2017) to do the following:

    - Establish four charges, including a:

        - Safe drinking water fee for confined animal facilities excluding dairies.
        - Fertilizer safe drinking water fee.
        - Dairy safe drinking water fee.
        - Safe and affordable drinking water fee for community water system customers.

    - Establish the Safe and Affordable Drinking Water Fund to provide a source of funding to assist communities in paying for costs of obtaining access to safe and affordable drinking water.

    - Require SWRCB to conduct a public review and assessment of the Safe Drinking Water Fund at least every 10 years.

    - Require SWRCB to prepare a report of expenditures annually, as specified.

    - Require SWRCB to make available a map of aquifers that are high risk of containing contaminants and that exceed primary federal and state drinking water standards.

    - Exempt an agricultural operation from an enforcement action for causing, contributing, creating, or threatening to create a condition of pollution or nuisance for nitrates in groundwater if the operation meets specified criteria.

ISSUES TO CONSIDER

Exempting Certain Agricultural Entities from Regulatory Enforcement Actions. SWRCB and regional water quality control boards set objectives for the amount of nitrate contamination in groundwater. Agricultural entities that contribute to levels of nitrate contamination that exceed these objectives are subject to enforcement actions that can include cleanup and abatement orders, as well as cease and desist orders. However, under the Governor's proposal, if an agricultural operation meets certain requirements, such as implementing best practicable treatment control, the operation would not be subject to these types of regulatory enforcement actions.

Some stakeholders have raised concerns that by establishing a framework that limits agency and citizen oversight over agricultural discharges, this proposal would create a "safe harbor" from enforcement that could effectively allow agricultural polluters to continue polluting practices. Specifically, proposed Water Code §13278 et seq., could potentially make significant changes to the way the state regulates agricultural pollution for those agricultural operations. Proposed Water Code §13278.1(a) would provide immunity from enforcement by the SWRCB or a Regional Board under Chapter 5 (commencing with Water Code §13300) if an agricultural operation meets specified criteria. Chapter 5 currently contains all of the water boards' enforcement tools, including cease and desist orders, cleanup and abatement orders, pollution and nuisance abatement notices, and compliance and civil penalty schedules.

How does prohibiting specified enforcement actions against agricultural operations improve water quality in either the short- or long- term? Could a lack of enforcement potentially increase contamination of sources of drinking water? If so, could that result in an increase in the volume and costs of clean up, as well as the need to find and provide alternative sources of potable water for affected drinking water users?

New Fees Proposed: Will the Revenue Generated be Sufficient to Address the Problem? The Administration's proposal is substantially similar to Governor Brown's proposal last year, as well as SB 623 (Monning), as amended August 21, 2017. Based on last year's estimates, the Administration estimated that the various proposed charges would generate roughly $150 million annually when fully implemented. The charges on agricultural entities would be required to be targeted to water systems affected by nitrate contamination.

A significant number of California communities, especially disadvantaged communities, rely on a contaminated groundwater source for their drinking water supply. Solutions to providing potable drinking water to these communities may include consolidation with other systems or installing water treatment systems. However, available solutions are often costly. There are funds, such as various voter-approved bonds and DWSRF that provide financial assistance for capital costs. However, finding funding for operations and maintenance of some of these systems is a conundrum.

The Governor's proposal seeks to address the funding gap by imposing a fee on water users and agricultural operations. The funds are intended to provide necessary upgrades to water infrastructure and financial assistance for operations and maintenance of drinking water systems in disadvantaged communities.

However, the extent of the problem trying to be resolved is highly uncertain given the lack of data about the number of smaller water systems and domestic wells that fail to provide safe drinking water. It is possible that actual costs could be significantly higher or lower than the revenue generated by these fees. The Governor's proposal requires SWRCB to prepare an annual needs assessment, which could provide the Legislature with greater certainty in the future; but is there enough data currently to establish a viable program that achieves the goal of providing safe drinking water for all Californians?

Wildfire Prevention and Suppression

BACKGROUND

Wildfires are sweeping and destructive blazes that can occur in forestlands, grasslands, and brushlands. In California, wildfires have escalated significantly in severity over recent years, getting larger and more unpredictable. Fires today burn twice as many acres and for twice as long as they did in the 1990s. Experts believe that a combination of factors will result in serious fire seasons for the indefinite future. Among other factors, three primary reasons why California wildfires have become more catastrophic include: (1) the climate is becoming warmer; (2) more people are living in combustible places; and (3) there is more fuel for the fires to burn.

Scientists state that climate change is a central factor in creating the atmospheric ingredients that make wildfires like California's more extreme. Warmer global temperatures, driven by greenhouse gas emissions, have led to droughts, as well as more extreme heat waves that last longer. As the climate warms, the fuel conditions on the ground and increasing warm spells create opportunities for fire. Over the past generation, the fire season has grown at the front end by approximately 30 days and extended at the back end by about another 30 days.

In addition, the continued expansion of human development into previously undeveloped land plays a significant role in the destructiveness and deaths involved in recent wildfire events. On average, 95 percent of fires in California are caused by some form of human activity, such as: vehicle sparks, lawn mowers, faulty residential electrical connections, power lines, target shooting, fireworks, cigarettes, debris burns, campfires, and power equipment. At the same time that human activity is the cause of most wildfires, more people are increasingly impacted by the damage from them as well.

Wildland-Urban Interface (WUI). WUI is the area where houses and wildland vegetation meet or intermingle, and where wildfire problems are most pronounced. WUI includes three main components: human presence, wildland vegetation, and a distance that represents the potential for effects (e.g., wildland fire and human activity) to extend beyond boundaries and impact neighboring lands.

When people build houses close to forests or other types of natural vegetation, it poses two problems related to wildfires. First, there will be more wildfires due to human ignitions. Second, wildfires that occur will pose a greater risk to lives and homes. They will be hard to fight, and letting natural fires burn becomes impossible[1]. An estimated 54 percent of California ecosystems are fire dependent, meaning that fire is essential to the health of the most ecosystems. For example, some seeds need fire to germinate. In addition, fires can clear a forest of underbrush, leaving ash and opening the forest floor up to sunlight. The resulting grasses, herbs, and regenerated shrubs provide food for many wildlife species. In addition, where the ground has a deep accumulation of fallen branches and dry litter, fires can reduce this debris and supply nutrients to the soil.

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[1] Radeloff, V.C., D.P. Helmers, H.A. Kramer, M.H. Mockrin, P.M. Alexandre, A. Bar-Massada, V. Butsic, T.J. Hawbaker, S. Martinuzzi, A.D. Syphard, and S.I. Stewart. 2018. *Rapid growth of the U.S. Wildland Urban Interface raises wildfire risk.* Proceedings of the National Academy of Sciences, 115(13): 3314-3319.)

One-third of United States (US) homes are now built in WUI areas, which are the fastest-growing land use type in the continental US. California's WUI zone grew 20 percent from 1990 to 2010, according to US Forest Service data. The number of housing units in WUI, has gone from 3.3 million in 1990 to 4.4 million in 2010.

Demographic trends do not suggest slower future WUI growth. Furthermore, climate change projections indicate that conditions favorable for wildfire will occur more frequently in the future. Thus, increased wildfire ignition rates due to WUI expansion will initiate more wildfires in vegetation that is more susceptible to fire spread, leading to more widespread fires and possibly more severe fire behavior. Researchers note that this suggests that WUI growth and climate change together will compound the existing problems with wildfires in the WUI.

WUI: The Town of Paradise in Butte County: Camp Fire. Paradise is a town in Butte County with a population of 26,682. It is located in a forest at the base of the Sierra Nevada Mountains. The entire town is in a high-risk severity zone. Only 103 of more than 11,000 parcels were not "very high" fire risk according to county emergency plans, which were updated in 2013.

The town is located on a ridge at 1,700 feet above a canyon cut by the Feather River, and is basically at the dead end of two roads – the four-lane Skyway slicing west to Chico, and two-lane Highway 191, known locally as Clark Road, that goes south towards Oroville. There are only four exit routes running south; all are in fire corridors. In the 1960s, when Paradise's building boom began, those roads would have served a population of about 8,000 people. During the Camp Fire, they were the primary escape route to safety for more than 26,000 people on the ridge.

According to Jonathan Pangburn, of the Department of Forestry and Fire Protection's (CalFire's) incident management team, the Camp fire that decimated Paradise in 2018 "was an urban conflagration. It was structure-to-structure-to-structure ignition that carried the fire through this community." Over 18,000 structures were destroyed and 86 lives were lost in the Camp Fire.

The area around Paradise is not unfamiliar with wildfires. In 1961, Butte County was caught in a wind-driven event of nearly 100 fires stretching from the bluffs to the Bay Area. Other massive fires in the area include ones in 1927, 1943, 1951, 1964, 1990, 1999, and 2000.

WUI: Santa Rosa: Tubbs Fire. In 2017, Santa Rosa's Coffey Park neighborhood was destroyed overnight by the Tubbs Fire. According to Jacquelyn Chase, Ph.D., a professor in geography and planning at California State University, Chico and a Butte County planning commissioner, Santa Rosa residents affected by the Tubbs Fire, which destroyed approximately 5,000 homes, "were deep inside a suburb, but they were burned by embers coming from the hills not too far away." Fire likely spread to these communities through burning embers carried by the wind – a phenomenon known as "spotting".

Over the past 50 years, humans have been expanding the WUI. Although the areas that experienced the Camp Fire and Tubbs Fire have seen massive fires before, neighborhoods and cities were not as prevalent, or in some cases even present, decades ago. More development means higher chances of ignition, as well as more homes and people to defend. According to a UCLA study, an estimated one million new homes are expected to be built in California's high-risk wildfire zones by 2050.

Wildfires: 2017 and 2018. Wildfires from the past two years have been devastating. In August, 2018, California was fighting approximately 17 large fires simultaneously, including the largest in California history at the time, the Mendocino Complex fire.

The following table shows the number of wildfires and acres burned in calendar years 2017 and 2018.

Number of Fires and Acres Burned

Interval	Fires	Acres
January 1, 2018 through December 30, 2018 (CalFire)	6,284	876,147
January 1, 2017 through December 30, 2017 (CalFire)	7,117	505,956
5-year average (same interval)	5,756	233,483
2018 Combined YTD (CalFire and US Forest Service)	7,571	1,671,203

Source: CalFire. Note: Statistics include all wildfires responded by CalFire in both the State Responsibility Area (SRA), as well as the Local Responsibility Area under contract with the department. Statistics may not include wildfires in SRA protected by CalFire's contract counties. Final numbers will be provided in the annual Wildfire Activity Statistics Report (Redbook) once it is published.

Although there were fewer fires in 2018 than 2017, the number of acres burned in 2018 was 73 percent more than in 2017.

The speeds of some of these fires were notable. For example, at one point the Camp Fire burned 80 acres per minute and burned 70,000 acres in 24 hours. According to Neil Lareau, an atmospheric scientist at the University of Nevada, Reno, "We have a weather event, in this case a downslope windstorm, where, as opposed to the normal westerly winds, we get easterly winds that are cascading off the crest of the Sierra Nevada." In addition, fire itself can create wind, further accelerating the conflagration. Another example is the Tubbs fire, which was pushed downhill at unusually high speeds by winds that sometimes exceeded 50 miles per hour. Burning embers blew ahead of the main front, leaping ahead and igniting new fires. Some wind-driven fires of 50-60 miles an hour can throw embers that can ignite a roof a half of a mile or a mile in advance of the flaming front of the fire. Scott McLean, CalFire Deputy Chief, states: "It was like a blowtorch. We could've put every piece of equipment in its path and that fire would've gone over it, under it, through it. It wouldn't have mattered."

Below is a table reflecting major wildfires from the past two years.

Major Wildfires in 2017 and 2018

FIRE NAME *(Cause)*	DATE	COUNTY	ACRES	STRUCTURES	DEATHS
Camp Fire *(Under investigation)*	Nov. 2018	Butte	153,336	18,804	86
Woolsey *(Under investigation)*	Nov. 2018	Ventura	96,949	1,643	3
Carr *(Human related)*	July 2018	Shasta & Trinity	229,651	1,604	8
Mendocino Complex *(Under investigation)*	July 2018	Colusa, Lake, Mendocino & Glenn	459,123	280	1
Redwood Valley *(Under investigation)*	Oct. 2017	Mendocino	36,523	546	9
Thomas *(Under investigation)*	Dec. 2017	Ventura & Santa Barbara	281,893	1,063	2
Nuns *(Under investigation)*	Oct. 2017	Sonoma	54,382	1,355	3
Tubbs *(Private electrical system)*	Oct. 2017	Napa & Sonoma	36,807	5,636	22
Atlas *(Under investigation)*	Oct. 2017	Napa & Solano	51,624	783	6

As shown in the table above, the Mendocino Complex fire was the largest wildfire recorded in California since 1932. Although the Camp fire was the 16th largest fire recorded in the state, it was by far the most destructive (18,804 structures) and deadliest (86 deaths).

Forestland. There are 33 million acres of forest in California, including:

- 57 percent (19 million acres) owned and managed by federal agencies (including the US Forest Service, Bureau of Land Management, and National Park Service).
- 3 percent (700,000 acres) owned by state and local agencies, including CalFire, local open space, park and water districts and land trusts.
- 40 percent (13.3 million acres) privately owned, including individuals/families, Native American tribes, and companies.

State's Forests Are in Poor Condition, Increasing Risk of Severe Wildfires. According to the Legislative Analyst's Office (LAO), roughly one-third of California is forested, and these forests provide critical air, water, wildlife, climate, and recreational benefits. However, a combination of factors have resulted in poor conditions across these forests, including excessive vegetation density and an overabundance of small trees and brush.

There are a few primary reasons for the vast amount of fuel load present in wildlands. First, the most recent drought weakened forests. According to the Little Hoover Commission's report, "Fire on the Mountain: Rethinking Forest Management in the Sierra Nevada" (February 2018), when overcrowded forests encounter drought, more trees compete for less water and leave the trees vulnerable to disease and insects. Drought also reduces moisture in fuels littering the forest floor, increasing wildfire risk. It reduces relative humidity and makes trees more likely to die from wildfire – and at lower temperatures that healthier trees normally would withstand. Further, snowpacks are reduced and melt sooner, extending the length of the fire season. The drought, in combination with the bark beetle infestation has resulted in more than 129 million dead trees in the Sierra Nevada. In addition, the Little Hoover Commission states that a century-old policy of putting out all fires, known as fire suppression, has created overcrowded forests. According to a study,[2] fire suppression in many dry forest types has left a legacy of dense, homogenous forests. Such landscapes have high water demands and fuel loads, and when burned can result in catastrophically large fires.

These conditions have contributed to more prevalent and severe wildfires and unprecedented tree mortality in recent years. Experts are concerned these trends will continue if steps are not taken to significantly improve the health of the state's forests.

Federal Lands: Good Neighbor Authority (GNA) and the Wyden Authority. As noted above, federal agencies (including the US Forest Service, Bureau of Land Management, and National Park Service) own and manage 19 million acres, which is 57 percent of forestland in the state.

The GNA allows the Forest Service to enter into cooperative agreements or contracts with states to allow the states to perform forest, rangeland, and watershed restoration services on National Forest System (NFS) lands. The objective of GNA is to improve coordination across federal, state, and private boundaries during hazardous fuels, insect and disease, and watershed restoration projects. Project activities that can utilize GNA include:

- Forest restoration: Timber stand improvement, prescribed burning, restoration, timber sales to treat insect or disease infected stands, project support such as sale preparation, biological assessments, heritage surveys, and environmental analysis.

- Hazardous fuels reduction: Forest thinning, piling, removing, or burning slash, and prescribed burning.

- Fish and wildlife habitat improvement: Fish passages, instream fish structures, developing wildlife water sources, constructing turkey piles, and installing duck boxes.

- Watershed restoration: Seeding for soil stabilization and decommissioning existing roads.

In February 2016, the US Forest Service, Region 5 and California Natural Resources Agency (CNRA) signed a GNA Master Agreement. The agreement provides the broad authority for National Forests to engage with CNRA and state entities within CNRA, such as CalFire, the Sierra Nevada Conservancy, and the California Conservation Corps, in Supplemental Project Agreements (SPAs) for a variety of

[2]"Managed Wildfire Effects on Forest Resilience and Water in the Sierra Nevada," (Ecosystems, 2017) by Gabrielle Boisramé (University of California, Berkeley), et al.,

forest, rangeland, and watershed restoration activities. The Master Agreement is valid for 10 years. A SPA specifically identifies the work the state can perform on NFS lands. CalFire currently has three signed SPAs that will facilitate a variety of fuel reduction and forest health activities on the Eldorado, Sierra, and Klamath National Forests.

The Wyden Authority allows the US Forest Service to enter into cooperative agreements that benefit resources within watersheds on NFS lands. Agreements may be with willing federal, tribal, state, and local governments, private and nonprofit entities, and landowners. The agreements include conducting activities on public or private lands for the purposes of: (1) the protection, restoration, and enhancement of fish and wildlife habitat and other resources, (2) the reduction of risk for natural disaster where public safety is threatened, or (3) a combination of both.

The GNA allows CalFire crews to work on US Forest Service lands, and the Wyden Authority allows US Forest Service crews to work on adjacent state/private lands. CalFire states that combined, these agreements allow efficient use of resources across jurisdictions to maximize project implementation.

State Responsibility Area (SRA). The SRA consists of 13.2 million acres of forestland – mostly privately owned – for which CalFire is responsible for preventing and suppressing wildfires. SRA does not include lands within city boundaries or under federal ownership.

SRA: SRA Fire Prevention Fee. AB 29 X1 (Blumenfield), Chapter 8, Statutes of 2011 First Extraordinary Session, established the SRA Fire Prevention Fee, which was later suspended as of 2017. The purpose of the fee is to help pay for fire prevention services within the SRA. The fee applies to all habitable structures within the SRA. Effective July 1, 2013, the fee was levied at the rate of $152.33 per habitable structure, which is defined as a building that can be occupied for residential use. Owners of habitable structures who are also within the boundaries of a local fire protection agency receive a reduction of $35 per habitable structure. In addition, a natural disaster exemption allows waiver of the SRA Fire Prevention Fee if a habitable structure is no longer habitable due to a natural disaster. The goal of the fee is, over time, to return fees (in the form of fire prevention activities) across the entire SRA where habitable structures exist.

The fee funded a variety of fire prevention services and programs in the SRA, including fuel reduction activities that lessen risk of wildfire to communities and evacuation routes. Other activities included helping communities create and update their Community Wildlife Protection Plans, defensible space inspections, fire prevention engineering, emergency evacuation planning, fire prevention education, fire hazard severity mapping, implementation of the State and local Fire Plans, and fire-related law enforcement activities such as arson investigation.

From 2011-12 through 2016-17, the fee funded over $195 million of fire prevention programs and activities throughout the state. Fire prevention activities were prioritized based on the 2010 California Strategic Fire Plan. CalFire has distributed prevention funding to the highest priority projects throughout the state. The fee funded approximately $90 million annually in various activities noted above. The last fiscal year the SRA fee was collected was in 2016-17.

In 2017, Governor Brown signed AB 398 (E. Garcia, et al.), Chapter 135, Statutes of 2017, which suspended the fee until 2031. Instead, the revenue that would have been derived from the fee is now backfilled by the Greenhouse Gas Reduction Fund (GGRF). The Governor's budget includes $83.94 million GGRF to backfill suspended SRA fee revenues in 2019-20.

CalFire's Increased Efforts in Fire Prevention. CalFire provides resource management and wildland fire protection services. CalFire operates 234 fire stations and also staffs local fire departments when funded by local governments. CalFire contracts with county agencies in six counties to provide wildland protection services. The Governor's budget proposes $2.6 billion ($1.6 billion General Fund) and 7,645.6 positions for CalFire.

The department has significantly increased its efforts in fire prevention in recent years. CalFire's resource management and fire prevention programs include: forest and vegetation treatments, wildland pre-fire engineering, land use planning, education and law enforcement. The purposes of these activities are to reduce the number of fire starts, create more fire resistant and defendable communities, and reduce the overall intensity of wildfire. Typical projects include: forest thinning, vegetation clearance, prescribed fire, defensible space inspections, emergency evacuation planning, fire prevention education, fire hazard severity mapping, and fire-related law enforcement such as fire cause investigation and civil cost recovery for negligently started fires.

Since 2011, CalFire has conducted over one million defensible space inspections. In the last five years, California has treated about 250,000 acres annually of state and private wildlands through forest management activities.

Since 2015, CalFire has approved approximately 500 grants totaling about $242 million in fire prevention, forest health, and tree mortality grants to stakeholders across the state aimed at restoring health and fire resilience.

The Fire Prevention Program grants emphasize the following:

- Protection of habitable structures
- Number of people benefited
- Wildfire reduction benefits
- Community support

The Forest Health Program grants emphasize projects that:

- Are landscape scale
- Provide multiple benefits (carbon, fire resilience, water, pest resistance, wildlife habitat)
- Provide community benefits – in low income and disadvantaged communities
- Focus on project readiness
- Result in permanence

According to the LAO, in 2017-18, CalFire allocated about half (52 percent) of the Forest Health Program funding for projects on forestlands that are part of the SRA, with nearly all of the balance allocated for projects on federally owned land. Improving the health on neighboring federal forestlands can reduce the threat of wildfire on – and thereby provide benefit to – adjacent SRA lands.

CalFire's Recent Greenhouse Gas Reduction Fund (GGRF) Funding for Forestry. According to the LAO, the 2017-18 budget included a significant appropriation for activities to improve the health of the state's forests and reduce the potential for severe wildfires. Specifically, the Legislature appropriated $195 million in GGRF funds to CalFire for forest health and fire prevention activities. This was a notable increase from earlier GGRF appropriations for similar purposes ($25 million in 2014-15 and $40 million in 2016-17). The Legislature identified GGRF as an appropriate funding source for these forest management activities because preventing severe wildfires helps avoid potential emission of greenhouse gases, and because healthy forests sequester more carbon than those in poor conditions. (The 2017-18 budget package provided additional GGRF for other forest-related activities – $20 million to CalFire for its Urban and Community Forestry Program and $5 million to the California Conservation Corps to conduct forest health and urban forestry activities.)

2017-18 GGRF: CalFire Allocated Forest Management Funds Across Various Programs and Activities. According to the LAO, the Legislature granted CalFire discretion over how to divide the $195 million for forest management across its various programs and initiatives. As shown in the figure below, the department decided to allocate $171 million as local assistance funding through competitive grants across two programs – $91.5 million for Forest Health and $79.7 million for Fire Prevention. As of November 2018, CalFire was using most of the remaining $24 million for state-level activities, including grant administration and technical assistance, data collection, public education, and equipment.

2017-18 GGRF Forest Management Funds
(Dollars in Millions)

Grant Program	Funding	Number of Grants	Average Amount of Grant
Forest Health	**$91.5**	**22**	—
Forest health projects	78.0[a]	17	$4.6
Forest Legacy conservation easements	13.6	5	2.7
Fire Prevention	**$79.7**	**142**	—
Fuel reduction	75.2	114	$0.7
Fire prevention planning	3.3	13	0.3
Fire prevention education	1.3	15	0.1
Totals	**$171.3**	**164**	—

[a]CalFire indicates it plans to award an additional $2.2 million in grants for forest health projects in the coming months.GGRF = Greenhouse Gas Reduction Fund and CalFire = California Department of Forestry and Fire Protection.

Source: LAO

The LAO notes that roughly the same amount of total funding was given out via grants in the two largest funding categories – forest health projects through the Forest Health Program ($78 million) and fuel reduction projects through the Fire Prevention Program ($75 million). For forest health, however, the department gave larger amounts of funding to fewer grantees (17 grants with an average size of $4.6 million), compared to fuel reduction, for which it awarded smaller grants to a larger number of recipients (114 grants with an average size of $700,000). This reflects the difference in size and complexity of the projects to be undertaken by grantees across these two programs. Specifically, forest health projects typically cover tens of thousands of acres and could include multiple types of forest "treatments" like forest thinning (tree removal), prescribed fire, and/or reforestation (tree planting). Such projects typically have goals of both reducing fire risk and improving the ecological functions of the land (such as carbon storage, quality of habitat, and water supply). In contrast, fuel reduction grants focus on much smaller areas around residential communities and typically are primarily intended to reduce the intensity and spread of wildfire. Such projects include creating defensible space around homes and clearing a strip of trees to serve as a "fuel break" that might slow a fire from spreading.

2018-19 GGRF. According to the LAO, the Legislature followed the 2017-18 funding for forest management activities with $223 million in 2018-19, including $160 million specifically for forest health and fire prevention activities.

California Forest Carbon Plan. Governor Brown's Administration released the *California Forest Carbon Plan* in May 2018. The plan provided forest-related carbon storage and emission estimates, as well as strategies to improve forest management and resilience. This plan laid out the Brown Administration's aspiration to increase the rate of forest restoration and fuels treatment – including mechanical thinning and prescribed fire – on nonfederal forestlands from the recent average of 17,500 acres per year to 35,000 acres per year by 2020, and to 60,000 acres per year by 2030. The plan also stated a goal of supporting federal efforts to double the current rate of "health and resiliency treatments" on US Forest Service lands in California from 250,000 acres per year to 500,000 acres per year by 2020.

The plan covers all forested regions of the state and emphasizes the need to take regional and watershed based actions to improve forest health. The plan includes:

- Significantly increasing fuels reduction to prevent high intensity fire.
- Increasing prescribed fire.
- Centering strategies around regions, watershed, and ecosystems.
- Protecting forestland and guaranteeing lower intensity forestry practices through easements, acquisitions, and land use planning.
- Building new and modern economies around wood products so that small trees and other fuels can be removed in lieu of pile burning.

The 2018 Budget Act included approximately $320 million related to implementation of the Forest Carbon Plan, including:

- $160 million for Forest Health grants and $63 million for fuels reduction in the WUI.
- $30 million for forest treatment in the Sierra Nevada Conservancy.
- $29 million in permanent funding for six prescribed burning and fuels reduction crews.
- $22 million to support local agencies and non-profits leading work at the local level.
- $15 million for protection of forests in State Parks.
- $2.2 million for wood product market innovation and acceleration.

Major State Expenses Related to Wildfires. Over the last two fiscal years, the state has spent over $10 billion on wildfire-related expenses, including approximately $5 billion in 2017-18 and $5.8 billion in 2018-19, as shown in the following table:

Category	FY 2017-18 *(in millions)*	FY 2018-19 *(in millions)*
Wildfire Prevention. CalFire Resource Management Program, Fire Prevention Program, and one-time funding to OES for tree mortality.	$130	$330
Fire Response. CalFire initial attack and Emergency Fund fire suppression efforts, conservation camps, and OES funding such as for mutual aid fire engines.	2,300	2,500
Other Response and Recovery. Costs related to response and recovery of the major wildfires in 2017 and 2018.	2,500 *(2017 major wildfires)*	2,900 *(2018 major wildfires)*
CalFire Capital Outlay. Funding for CalFire facilities such as fire stations and conservation camps.	50	70
TOTAL	**$4,855**	**$5,800**

Source: LAO. Note: These amounts do not reflect federal reimbursements.

The state has significantly increased its investment in fire prevention and forest management activities in recent budgets. However, the state spends a fraction on prevention compared to the amount spent on fire response and recovery efforts.

2018 Wildfire Legislative Package. Last year, the Legislature and Governor enacted a package of wildfire and forestry bills, including:

- SB 901 (Dodd), Chapter 626, Statutes of 2018, which addressed numerous issues concerning wildfire prevention, response and recovery, including funding for mutual aid, fuel reduction and forestry policies, wildfire mitigation plans by electric utilities, and cost recovery by electric corporations of wildfire-related damages.
- SB 1260 (Jackson), Chapter 624, Statues of 2018, which was an omnibus fire prevention and forestry management bill intended to promote long-term forest health and wildfire resiliency.

SB 1260 authorized federal, state, and local agencies to engage in collaborative forestry management, created new opportunities for public and private land managers to mitigate wildfire risks, and enhanced CalFire's role in identifying wildfire hazards as local governments plan for new housing and neighborhoods.

- AB 2126 (Eggman), Chapter 635, Statutes of 2018, which required the California Conservation Corps to establish a forestry corps program.

- AB 2518 (Aguiar-Curry), Chapter 637, Statutes of 2018, which directed CalFire, in collaboration with the Board of Forestry and Fire Protection, to identify barriers to in-state production of mass timber and other innovative forest products. Also, AB 2518 required other entities to develop recommendations for siting of additional wood product manufacturing facilities in the state.

- AB 2911 (Friedman), Chapter 641, Statutes of 2018, which made changes to local planning processes, provided for new building standards based on data from the 2017 fire season, provided for new vegetation management guidance, defensible space authorizations, and re-vegetation requirements in order to improve fire safety, and provided that utilities may be liable for damages from removing vegetation not within their easements.

The Governor's 2019-20 budget includes several proposals to implement provisions in the 2018 wildfire legislative package. *(Please see below, under "GOVERNOR'S PROPOSAL," for more detail regarding these budget change proposals.)*

CalFire and the Emergency Fund (E-Fund). According to CalFire, the department's base budget, through its main budget item, pays for initial attack fires, which are fires that can generally be contained and controlled by the next morning. CalFire has a separate funding source, the E-Fund, to pay for extraordinary fire suppression costs when fires cannot be contained and controlled by the next morning. These fires are generally referred to as extended attack and major incidents, which are the fires that are given proper names such as the Thomas and Camp fires. The E-Fund pays for these types of fire suppression costs, which are unbudgeted costs, such as:

- Overtime for CalFire firefighters to work beyond their existing 72-hour shifts (base budget) to fight the fires;

- Overtime costs for the people who fill in and cover the required shift for the person at the incident;

- Hiring local government to help fight the fire;

- California Department of Corrections and Rehabilitation and California Conservation Corps costs for fire crews;

- Costs to create the Incident Base and for its operation; to feed all incident personnel; and,

- Contracted aircraft, dozer, water tender, and other fire suppression vendors.

According to CalFire, the E-Fund also pays for additional fire detection capability to retain minimum initial attack capability during extreme fire conditions, to minimize the greater costs caused by fires escaping initial attack (which is commonly referred to as pre-positioning, where CalFire strategically locates fire suppression assets in advance of predictive weather conditions). It may also be used on a reimbursable basis for assistance-by-hire (for fire emergencies), typically when the federal government agencies, such as the US Forest Service and/or Bureau of Land Management request for CalFire to fight fires on the land that is under their management and financial responsibility.

An initial E-Fund appropriation is included in the annual budget act. CalFire then submits to the Legislature and the Department of Finance (DOF) quarterly actual and projected full year expenditure information for review and approval. DOF may augment the budget for the projected full year expenditure amount, once the Legislature has approved the quarterly letter, no sooner than 30 days after it is submitted, unless an earlier approval is requested.

Background: Wildfires: Conclusion. As stated by researchers and scientists, it is not a question of *if* the fires come again – but rather *when* the fires come again. California spends a significant amount of money for immediate, emergency responses to, and consequences of, wildfires. By investing more in forest management and improving land use planning, the state has an opportunity to proactively reduce the costs of wildfire suppression and recovery.

GOVERNOR'S PROPOSAL

The 2019-20 wildfire-related budget proposals are reflected in the following table:

Governor's 2019-20 Wildfire-Related Budget Proposals

(In Millions)

Proposal	General Fund	Other Funds	Total
Local and Recovery Assistance			
Waive local share of debris removal costs[a]	$155.2	—	$155.2
HCD community development block grant	—	$108.8	108.8
Property tax backfill[b]	31.3	—	31.3
Subtotal, Local and Recovery Assistance	($186.5)	($108.8)	($295.3)
2018 Legislative Package—Forest Health and Fire Prevention			
CalFire (various bills)	—	$210.0	$210.0
PUC and Public Advocates Office (SB 901)	—	9.1	9.1
CCC (AB 2126)	$4.5	—	4.5
State Water Resources Control Board (SB 901)	2.6	1.8	4.4
Department of Fish and Wildlife (SB 901)	—	3.5	3.5
Air Resources Board (SB 1260)	—	3.4	3.4
Subtotal, 2018 Legislative Package	($7.1)	($227.8)	($234.9)
Enhanced Fire Protection			
CalFire—13 additional fire engines	$40.3	—	$40.3
OES—fire engine prepositioning	25.0	—	25.0
CalFire/CCC—5 dedicated fire crews	13.6	—	13.6
CalFire—air tankers	13.1	—	13.1
CalFire—heavy equipment operator staffing	10.6	—	10.6
CalFire—employee wellness	4.2	$2.4	6.6
CalFire—fire detection cameras	5.2	—	5.2
CalFire—situational awareness staffing	4.5	—	4.5
CalFire—mobile equipment replacement	3.0	—	3.0
Military Department—administrative support	1.7	—	1.7
Subtotal, Enhanced Fire Protection	($121.2)	($2.4)	($123.6)
State Lands Management			
CalFire—acquire demonstration forest lands	$0.4	—	$0.4
State Lands Commission—forest health inventory	—	$0.2	0.2
Subtotal, State Lands Management	($0.4)	($0.2)	($0.6)
Totals	**$315.2**	**$339.2**	**$654.4**

[a] Debris removal costs are scored in 2018-19.
[b] Property tax backfill amount is the total for a three-year period and is scored in 2018-19.
HCD = Department of Housing and Community Development; CalFire = California Department of Foresty and Fire Protection; PUC = Public Utilities Commission; CCC = California Conservation Corps; and OES = Governor's Office of Emergency Services.

Source: LAO

According to the LAO, the budget assumes a net increase of $923 million will be needed from the General Fund for response and recovery activities associated with the Camp, Woolsey, and Hills fires that occurred in November 2018. This assumes that the federal government will reimburse the state for 75 percent of the state's eligible costs associated with these fires (although the Governor's administration has requested the federal government reimburse the state for 100 percent of certain eligible costs, the administration has yet to receive a response). The Governor also proposes the state General Fund pay for the local share of debris removal costs associated with the fires, currently estimated at $155 million. In addition, the Administration indicates that it intends to request a total of $60 million from the General Fund in the coming months for a public education campaign ($50 million) and for the modernization of the 911 system ($10 million).

As noted above, a package of wildfire-related legislation was chaptered in 2018. The table located on the next page provides a list of the budget proposals for implementation of these bills.

2019-20 Governor's Budget: 2018 Wildfire Prevention and Recovery Legislative Package *(In Millions)*					
Dept.	**Proposal**	**General Fund**	**Other Funds**	**Total**	**Posi-tions**
CalFire	SB 901 (Dodd): Improving forest management and decreasing fire risk.	-	$4.832 *GGRF*	$4.832	10
CalFire	SB 901: Prescribed fire crews, research and monitoring.	-	$35 *GGRF*	$35.0	157
CalFire	SB 901: Forest health and fire prevention projects and programs.	-	$165 *GGRF*	$165.0	19
Dept. of Fish & Wildlife	SB 901: Timber Harvest Plan exemption review.	$1.483	$2 *Timber Regulation and Forest Restoration Fund*	$3.483	15
State Water Resources Control Board	SB 901: Review of Timber Harvest Plan exemptions and utility corridor vegetation management permitting.	$2.547	$1.831 *Waste Discharge Permit Fund*	$4.378	22
Public Utilities Commission (PUC)	SB 901: Support for PUC workload associated with wildfires cost recovery proceedings, wildfire mitigation plans, and oversight.	-	$6.632 *PUC Reimbursement Account*	$6.632	34
PUC – Public Advocate's Office	SB 901: Support for Public Advocate's Office to address utility safety-related, financial-related, and legal workload.	-	$2.529	$2.529	14
CalFire	SB 1260 (Jackson): Prescribed fire program, burn boss certification, and increasing pace and scale.	-	$2.517 *GGRF*	$2.517	8
Air Resources Board	SB 1260: Prescribed fire-monitoring program.	-	$3.438 *GGRF*	$3.438	5
California Conservation Corps	AB 2126 (Eggman): Support for four Forestry Corps crews that will undertake forest health and hazardous fuel reduction projects.	$4.454	-	$4.454	2
CalFire	AB 2518 (Aguiar-Curry): Barriers to and solutions for expanding the use of mass timber and other wood products.	-	$0.4 *GGRF*	$0.4	-
CalFire	AB 2911 (Friedman): Increasing fire and life safety – implement local government survey, coordination with local governments, and conduct field reviews and develop recommendations for improving fire and life safety of non-conforming residential subdivisions.	-	$2.278 *GGRF*	$2.278	6
Total		**$8.484**	**$226.457**	**$234.941**	**292**

In addition, the budget includes other wildfire-related proposals, such as:

- **Increasing Aviation Resources.** The budget includes $11.4 million General Fund for the first year of operating C-130 air tankers ($120 million total General Fund).

- **Expansion of Firefighting Surge Capacity.** The budget includes $64.4 million General Fund for 13 new year-round fire engines, expanding heavy fire equipment operator staffing, and accelerating the replacement of fire engines and other mobile equipment. Also, the budget includes $3.1 million General Fund to operate five additional California Conservation Corps fire crews at Los Padres, Camarillo, and Butte Fire Centers.

  CalFire requests 199 additional full-time firefighters. The department currently employs 1,927 full-time and 1,466.6 seasonal firefighters.

- **Support for Emergency Responders.** The budget includes $6.6 million from various funds to expand the health and wellness program to provide medical and psychological services to firefighters.

- **Improving the Use of Technology.** The budget includes $9.7 million General Fund for 100 additional fire detection cameras, and staff to review data gathered through remote sensing technology.

ISSUES TO CONSIDER

Factors Associated with Wildfire Increases. Three primary reasons California wildfires have become more catastrophic include: (1) climate change; (2) more people living in combustible areas; and, (3) more fuel for fires to burn. The Legislature may wish to consider what steps the state should take in each of these categories to reduce the quantity and destruction of these wildfires, as well as how the state can influence or encourage actions at the local level for the same purpose.

For example, when considering the increase in residences in the WUI, a question arises as to what the state can do to influence local governments regarding where and how homes and communities are built in high fire risk areas.

Also, in terms of reducing fuel load, a question arises as to whether the state should reconsider the practice of only suppressing wildfires and whether there are instances or circumstances in which it may make more practical, ecological, and/or fiscal sense to manage a wildfire instead.

Prevention vs. Suppression. The Governor's budget proposal includes $235 million for forest health and fire prevention, as required by the 2018 legislative package. Nearly all of the other augmentations are for response and recovery. Annual spending on prevention activities is a fraction of the funds spent on suppression. For example, in 2018-19, costs include $300 million for prevention and $5.4 billion for suppression.

According to the LAO, fire response spending has been increasing in recent years, but without a multi-year strategy. Recent budgets – including the 2019-20 proposed budget – have increased response funding related to wildfires. The Administration, however, has not put forward a recent assessment of

state and local wildfire response capacity, potential gaps and where additional resources would be most beneficial. The Legislature may wish to consider whether it would be prudent to conduct such an assessment in order to inform a multiyear funding strategy.

The Legislature may wish to consider whether the state is adequately funding prevention activities. Should CalFire increase its activity level for prevention activities, and if so, by how much and on what types of tasks? Also, how much funding and activities for prevention is necessary to make a substantial difference in order to decrease the amount of suppression that takes place annually?

Firefighter Staffing Increase. The Governor's budget proposal includes CalFire's request for 199 additional, full-time firefighters. The department currently employs 1,927 full-time and 1,466.6 seasonal firefighters. A question arises as to what is considered a *minimum* number of firefighters needed for the department, full-time and seasonal, as well as what an *optimal* level of staffing would be.

CalFire notes that when the firefighters are not suppressing fires, they are working on prevention measures. However, CalFire has also noted that fire season is now considered year-round as opposed to a shorter period of time. Do firefighters have sufficient time to spend on forest health/fire prevention work, considering that the fire season has greatly extended in recent years?

Additional Fire Engines. The Governor's budget proposal includes 13 new engines (year-round, with additional staffing). CalFire currently has a total of 343 engines, 52 of which are year-round. CalFire had 31 more engines in the 1970s than it has now, but eight of the engines went to Orange County when it became a contract county; so the eight engines are technically still in the CalFire system. Therefore, CalFire is 23 engines short of its 1970s level (and would be 10 short if the Governor's proposal is approved).

The Legislature may wish to consider how various factors, such as circumstances, technology, and cooperation among agencies have evolved since the 1970s to help assess this proposal. For example, considering that approximately 70 cities/towns have incorporated since 1975, has the amount of land in the SRA decreased; and if so, by how much? How has the department made up for the shortage of engines over the past several decades? What has taken place since 1975 in terms of increased cooperation activity among various agencies at the local, state, and federal levels? Are there more California Conservation Corps crews or municipalities assisting in fire suppression? Does the department have a broader portfolio of equipment compared to decades past, e.g. tankers and helicopters? Has fire engine technology improved to such a degree that even though there are fewer engines, the overall firefighting capabilities have improved?

High-Speed Rail Authority

BACKGROUND

The High-Speed Rail Authority (Authority) was established by SB 1420 (Kopp), Chapter 796, Statutes of 1996, for purposes of planning and constructing a high-speed train system to connect the state's major population centers. The project was partially funded following the passage of the High-Speed Rail Passenger Bond Act (Proposition 1A) in 2008, which allowed the state to sell $9 billion in general obligation bonds for the development and construction of the high-speed rail line while imposing certain requirements on the project, such as the requirement that the system operate without a subsidy and provide specified minimum travel times along particular routes. State law also requires the public provision of a Business Plan and Funding Plans for the project. Statute requires the project to be developed in phases, with Phase I connecting San Francisco to Anaheim. A subsequent Phase II would extend the system to San Diego in the south and add a separate link to Sacramento in the north.

Project Funding Comes From Multiple Sources

The high-speed rail project is funded by a combination of federal, state, and local sources. These include federal grants, allocated in 2009 and 2010, for both planning and construction activities, voter-approved bond funds, and auction revenue from the state's Greenhouse Gas Reduction Fund (GGRF). With the exception of local funding and GGRF funds, all currently-available funding sources are either bond funds or one-time federal funds. Additionally, many of these funds have match limits, restrictions on the use of funds, or other limitations on use. State and federal funding sources are detailed below.

Funding Source	Amount Available To-Date	Requirements and Restrictions
Proposition 1A Bond Funds	$9.95 billion • $9 billion for the high speed rail project o Includes $1.1 billion for "bookends" • $950 million for connectivity projects	• 2.5 percent for Administration costs • 7.5 percent for Project Development costs • May not be used for maintenance or operating costs of trains • Requires a one-to-one match from other funds
American Recovery and Reinvestment Act (ARRA) Grant	$2.553 billion • $511 million for Project Development • $2.04 billion for Construction	• Period of performance expires on 12/31/22 • State match: $2.5 billion • Local match: $52 million
Federal FY 10 Grant	$928.6 million	• For construction only • Performance period expires 12/31/22 • State match: $359.8 million
Greenhouse Gas Reduction Fund	25 percent of annual auction revenues	• Currently only authorized for Phase I of the project

Funding Has Evolved Over Time

Despite being formed in 1996, the High Speed Rail Authority did not have a dedicated revenue stream until November 2008, when voters approved Proposition 1A, which provided funding for the system. Also known as the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, Proposition 1A allowed for the issuance of $9.95 billion in state general obligation bonds, including $9 billion to develop and construct a high-speed rail system, and $950 million for connecting intercity and commuter rail systems, typically referred to as "connectivity projects." Two years later, the State secured federal funding for the project through the American Recovery and Reinvestment Act (ARRA), which provided $2.6 billion through a matching grant. Under the terms of the grant, work on the initial segments of the project was to be completed by 2017. This deadline has since been extended to December of 2022. In 2011, the State received an additional $929 million in federal grant funding, bringing the total federal support to $3.5 billion.

SB 1029 (Committee on Budget and Fiscal Review), Chapter 152, Statutes of 2012, appropriated nearly $8 billion in federal and state funds to begin construction on the section of the project running from Madera to Bakersfield. SB 1029 included $5.8 billion for the Initial Operating Segment (IOS), $819 million for connectivity projects, and $1.1 billion for bookend projects in San Francisco and Los Angeles. State funding in SB 1029 came from Proposition 1A.

SB 862 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2016 created a continuous appropriation of 25 percent of revenues from the State's Greenhouse Gas Reduction Fund, which is funded by the State's cap-and-trade program, for the high-speed rail project. As of December 2017, this has provided the Authority $1.7 billion in cap and trade proceeds, and the 2018 Business Plan projects between $6.5 billion and $9.75 billion in cap and trade revenues through 2030.

Overall project funding, and expenditures to date, is summarized below.

Total Expenditures (As of 11/30/18)

	Total Authorized	Total Appropriated	Total Spent	Remaining Appropriation
Proposition 1A	$ 9,950,000,000	$ 5,457,197,226	$ 2,682,773,230	$ 2,774,423,996
Administration	$ 225,000,000	$ 225,000,000	$ 154,260,668	$ 70,739,332
Project Development	$ 675,000,000	$ 574,804,226	$ 483,516,207	$ 91,288,019
Bookends	$ 1,100,000,000	$ 1,100,000,000	$ -	$ 1,100,000,000
Construction	$ 7,000,000,000	$ 2,609,076,000	$ 1,346,664,355	$ 1,262,411,645
Connectivity	$ 950,000,000	$ 948,317,000	$ 698,332,000	$ 249,985,000
ARRA Grant	$ 2,552,556,231	$ 2,552,556,231	$ 2,547,171,707	$ 5,384,524
FY 10 Grant	$ 928,620,000	$ 928,620,000	$ -	$ 928,620,000
EPA Brownfields	$ 600,000	$ 600,000	$ -	$ 600,000
Rail Property Management Fund	$ 750,000	$ 750,000	$ 255,940	$ 494,060
PTA Loan	$ 57,776,000	$ 57,776,000	$ 54,094,767	$ 3,681,233
GGRF	25% Continuous Appropriation	$ 2,411,115,123	$ 601,738,752	$ 1,809,376,371
TOTAL		**$ 11,408,614,580**	**$ 5,886,034,396**	**$ 5,522,580,184**

High-Speed Rail Business Plans Required by Law

Pursuant to state law, beginning in 2012 and every two years thereafter, The Authority is required to prepare and submit to the Legislature a business plan outlining key elements of the high-speed rail project. The 2012 Business Plan outlined a framework for development of Phase I of the project at a cost of approximately $68 billion, including a southern IOS that would connect the Central Valley with the Los Angeles Basin within 10 years. The revised 2012 business plan also introduced the concept of blending—the practice of sharing existing infrastructure with other rail operators instead of constructing dedicated infrastructure for high-speed trains—which partially offset the system's rising cost estimates. The 2012 plan introduced blending into the system by sharing the corridor between San Francisco and San Jose with an existing regional carrier, Caltrain. The 2014 Business Plan maintained the project's cost estimates at $68 billion, proposed a number of potential revenue sources, and revised the Authority's ridership and revenue forecasts, but did not significantly alter the construction plan.

The 2016 business plan diverged from the earlier plans in several significant ways. It provided updated cost and schedule information informed by lessons learned through the work completed to date. In addition, it proposed significant changes to the construction plan and sequencing originally outlined in the 2012 Business Plan. Specifically, the plan switched to a northern Initial Operating Segment (IOS), from San Jose to just outside Bakersfield, provided a full funding plan for the newly-defined northern IOS, and updated cost and schedule estimates for Phase I. It also provided several

concepts for fully funding Phase I. It identified a lower total cost for Phase I, but pushed delivery of service from 2022 to 2025.

The 2018 Business Plan made further refinements to the overall project plan. First, it provided a range of potential project costs, and estimated that total costs for Phase I will be between $63.2 billion and $98.1 billion, with a baseline estimate of $77.3 billion. The plan defined an incremental approach to deliver Phase I, starting with a "Valley to Valley" segment connecting Silicon Valley to the Central Valley, including the IOS, also referred to as the "Central Valley Segment." This segment is estimated to cost between $25.13 billion and $36.84 billion, including an estimated $10.6 billion for the Central Valley Segment, and is scheduled to be delivered by 2029. The Business Plan anticipates delivery of Phase I of the project in 2033.

Additionally, the 2018 Business Plan identified the potential for intermediate train service on the system as it is under construction. The strategy for incrementally delivering the Silicon Valley to Central Valley Line would create approximately 224 miles of high-speed-rail-ready infrastructure on two different lines, one in the Central Valley and one connecting San Francisco to Gilroy. Both lines could be ready for service as early as 2027. The Business Plan notes that the Authority may consider using the newly upgraded high-speed rail track for existing San Joaquin service from Sacramento to Bakersfield, while early investments between San Francisco and Gilroy will be focused on providing two trains per hour during peak commute times and one train per hour during non-commute hours.

CURRENT STATUS

Construction Underway on Central Valley Segment

The Authority awarded the first significant construction contract for the project in 2013, a $985 million design-build contract for the construction of 29 miles in the Fresno region. This was the first contract awarded along the Initial Construction Segment, now referred to as the Central Valley Segment, a 119-mile stretch between Madera and Shafter in the Central Valley.

The Authority currently has three construction projects underway on the Central Valley Segment. Project 1 began in mid-2013, and runs from Madera to south of Fresno. This project was originally scheduled to end in mid-2019, but is now not expected to end until late 2020. Project 2/3 began in mid-2015, and runs from the southern end of Project 1 to just north of the Kings County line. This project was originally scheduled to end in mid-2020 but is now not expected to be completed until March 2022. Project 4 began in early 2016 and runs from the southern end of Project 2/3 to the town of Shafter, just north of Bakersfield. This project was originally scheduled to end in mid-2019, but is now scheduled to end in late 2019.

As of December 2018, the Authority had spent roughly $5.9 billion on the project. This includes $3.8 billion on these construction projects, in addition to $1 billion on overall project development and $218 million on Administration. The Governor's budget anticipates roughly $670 million in additional expenditures on the project in 2019-20, including $614 million in additional construction spending.

Project Delays Have Led to Higher Costs

The acquisition of parcels along the project's planned right-of-way (ROW) has been a recurring source of delay and cost increases for the project. The Authority's acquisition of the land was delayed in part by a 2011 lawsuit over whether the Authority had met legal requirements to issue bonds, which the

Authority stated it needed to do in order to purchase property. Despite knowing that the lawsuit could restrict access to its funds, the Authority initiated the request for proposals for Project 1 in March 2012 and executed its first construction contract in August 2013. The Authority signed the contract the same day that the superior court ruled against the Authority—effectively freezing its bond funds. Although the superior court's decision was eventually overturned, the delay significantly set back the construction contractor's schedule. The Authority's initial decision to enter construction contracts despite not owning the required land—as well as its subsequent inability to acquire land on schedule—directly resulted in delays to the construction schedules.

These delays in turn led to additional costs related to labor, materials, and equipment under contract but not in use. Land acquisition delays have cost $64 million for Project 1 and extended its completion deadline by 17 months. The Authority also issued change orders because of land acquisition delays in Project 2/3 and Project 4. In total, these change orders have resulted in more than $115 million in additional costs.

Additional Delay Risks Remain

The Authority has identified 1,891 parcels needed to deliver the CVS. As of December 2018, the Authority had acquired 1,381 of these parcels for construction. The Authority is currently negotiating for or pursuing eminent domain on the remaining 510 parcels. The timeline for acquiring these parcels is subject to considerable uncertainty, and could lead to further project delays. Other issues, such as failure to acquire the required environmental permits from the federal government, may add further delays.

ISSUES TO CONSIDER

Funding Shortfalls

As mentioned above, the Authority estimates the complete Phase I cost at $77.3 billion. However, total funding identified for the project, across all sources, totals only between $19 billion and $28.2 billion, depending on cap-and-trade revenues and financing availability. This amount is sufficient to complete the Central Valley Segment, but not the Valley to Valley Segment, let alone the entirety of Phase I.

As discussed above, the Authority has incrementally adopted blended options throughout the system, including between Burbank and Los Angeles and between San Jose and Gilroy. Blending has allowed the Authority to partially offset significant cost overruns for the system as a whole. A recent analysis by the State Auditor shows that the Authority's cost estimates would have increased by 111 percent since the publication of its 2009 business plan had the Authority not implemented blending; instead, overall costs have increased by 81 percent. However, the fact that the Authority has now exhausted all blending options means the Authority cannot mitigate the effects of future cost overruns through additional blending.

Effects of Blending
(in billions)

Segment	Cost: Before	Cost: After	Change: Amount	Change: Percentage
San Francisco to San Jose	$13.6	$5.6	($8.0)	-59 percent
San Jose to Gilroy	$4.4	$2.8	($1.6)	-36 percent
Burbank to Los Angeles	$2.9	$1.6	($1.3)	-45 percent

Source: California State Auditor

The 2018 Business Plan included an analysis of financing the project using cap-and-trade revenues. Under the Authority's analysis, this could provide between $3.9 billion and $11.1 billion in bond proceeds for the project, to be paid for by future cap-and-trade revenues. While this would potentially allow the Authority to access the funding necessary to deliver the Valley to Valley section by its targeted completion date of 2029, it does not provide any new funding and therefore does solve the problem of overall project funding.

The Authority stated in the 2018 business plan that it would continue to pursue all possible options for funding the project, including additional federal grants and private sector partnerships. However, these funding sources have not yet materialized. The Authority is also exploring additional funding scenarios with local governments in the cities and counties where it plans to build stations. In recognition of the expected economic impact of the new rail stations, the local governments that partner with the Authority would use future property tax revenues to help support the development of such stations within their jurisdictions. Although recent state legislation has expanded these types of funding options and the Authority has worked with cities to evaluate their feasibility, it is still in the early stages of this planning.

Proposition 1A Administrative Cap Nearly Exhausted

As detailed earlier in this report, Proposition 1A is the primary source of state funding for the project, and currently funds the majority of the project's administrative expenses. Proposition 1A caps administrative spending at 2.5 percent of total funding, or roughly $225 million. As of December 2018, the Authority has spent roughly $154 million of this $225 million, leaving roughly $71 million in remaining administrative funds. The Authority has indicated that their current budget spends roughly $45 million on administrative costs per year. At this rate, the Authority will hit the Proposition 1A administrative cap near the end of the 2020-2021 fiscal year. At that point either the administrative cap must be raised or a new source of funding must be found to cover the project's administrative expenses.

Looming Deadlines

As discussed above, the high-speed rail project received significant federal investment in 2010 and 2011. All told, the project received roughly $3.5 billion in federal funds ($2.5 billion from ARRA funds and $929 million in additional federal grants). As of July 31, 2018, the Authority had expended the entirety of the ARRA grant and none of the additional federal funds.

Under the original terms of the ARRA and additional grants, the Authority needed to complete the first useable section of the project by 2017. This includes: all relevant environmental clearances, completion of the three construction projects currently underway, the related State Route 99 Realignment, and 119 miles of track work necessary to allow train service once the three construction projects are completed. This date was later extended to December 2022. Failure to do so could result in the state having to repay $3.5 billion to the federal government. An extension of this deadline would require an act of Congress.

Following this extension, the Authority is now required to provide the necessary state match for these funds between July 1, 2017 and December 31, 2022. As of December 2018, the Authority had provided $477 million in state match, which is less than 20 percent of the required total. The Authority's straight-line liability schedule indicates that the Authority should have matched $604.1 million by this point. This suggests that the Authority has been spending more slowly than anticipated, and will have to make up lost time later in the construction process.

This is consistent with the rest of the Authority's spending patterns. In order to complete currently-budgeted work within planned schedules, the Authority currently needs to spend roughly $150 million per month. Current expenditures, however, are far short of this. The Authority spent just $75 million in November 2018, and $89.5 million in December 2018. Similar to the state match liability issue, any underspending now will eventually need to be made up later in the construction process. Further delays, for example resulting from further ROW issues or delayed environmental clearances, will only exacerbate this problem. As it stands, finishing the projects by the December 2022 deadline will require the Authority to work twice as fast over the next four years as it has since it began construction in 2013. Failure to do so will result in further project delays, and the likelihood that the state will have to repay the $3.5 billion in federal funds granted to the project.

New Administration's Plans are Unclear

The Governor's budget provided for business-as-usual on the project. However, the Administration delayed the release of the Five Year Infrastructure Plan in part to incorporate the new Administration's review of the project. The next project update is due to the Legislature in March of 2019, at which point a clearer picture should emerge of the Administration's plans for the project.

Motor Vehicle Account

BACKGROUND

The Motor Vehicle Account (MVA), part of the State Transportation Fund, is the primary fund source for the Department of Motor Vehicles (DMV) and the Department of the California Highway Patrol (CHP). The MVA supports the administration and enforcement of laws regulating the operation and registration of vehicles used on public streets and highways, as well as mitigation of the environmental effects of vehicle emissions.

The MVA receives most of its revenues from vehicle registration fees. In 2019-20, the MVA is expected to receive a total of $4 billion in revenues, with vehicle registration fees accounting for $3.4 billion (85 percent). The MVA also receives revenues from driver license fees. These revenues tend to fluctuate based on the number of licenses renewed each year. For 2019-20, the state is expected to collect $558 million from these fees. The remaining MVA revenues primarily come from late fees, identification card fees, and miscellaneous fees for special permits and certificates (such as fees related to the regulation of automobile dealers and driver training schools).

GOVERNOR'S PROPOSAL

The Governor's budget estimates the MVA will receive a total of $4 billion in revenues in 2019-20 and proposes a total of $3.9 billion in expenditures. The budget proposes a total of $3.6 billion in expenditures from the MVA for CHP, DMV, and Air Resources Board (ARB)—about 92 percent of total MVA support expenditures. A small share of MVA revenues (from miscellaneous fees) are not restricted by the State Constitution. Because they are available for broader purposes, since 2009-10 the state has transferred these revenues to the General Fund. In 2018-19, the Governor's budget assumes this transfer totals $92 million.

The Department of Finance's five-year projection (2019-20 through 2024-25) estimates that the MVA will have small and declining operating surpluses through 2021-22, at which point the fund balance will turn negative. These projections reflect expenditures already approved by the Legislature and those proposed in the Governor's budget

The five-year fund condition is detailed below.

Motor Vehicle Account Five Year Fund Condition
As of January 10, 2019
(Dollars in Millions)

	PY	CY		BY	BY+1	BY+2	BY+3	BY+4
	17-18	18-19		19-20	20-21	21-22	22-23	23-24
Beginning Reserves	**$ 462**	**$ 505**		**$ 301**	**$ 281**	**$ 139**	**$ (38)**	**$ (139)**
Revenues								
Registration Fees	$ 3,223	$ 3,325		$ 3,454	$ 3,587	$ 3,726	$ 3,868	$ 3,986
Other Fees	$ 551	$ 553		$ 558	$ 562	$ 531	$ 570	$ 574
Total Fee Revenue	**$ 3,774**	**$ 3,878**		**$ 4,012**	**$ 4,149**	**$ 4,257**	**$ 4,438**	**$ 4,560**
Transfers								
Transfers to / from Other Funds	$ (90)	$ (89)		$ (92)	$ (95)	$ (98)	$ (101)	$ (104)
Total Resources	**$ 4,146**	**$ 4,294**		**$ 4,221**	**$ 4,335**	**$ 4,298**	**$ 4,299**	**$ 4,317**
Support Expenditures								
Baseline CHP	$ 2,164	$ 2,302		$ 2,322	$ 2,510	$ 2,645	$ 2,734	$ 2,778
Anticipated CHP Dash Cam Costs						$ 14	$ 14	$ 14
Baseline DMV	$ 1,062	$ 1,129		$ 1,081	$ 1,103	$ 1,110	$ 1,107	$ 1,090
July 2018 JLBC Request		$ 17						
December 2018 Provisional Language		$ 40						
Placeholder DMV REAL ID Costs				$ 64	$ 64	$ 64	$ 64	
Baseline ARB	$ 140	$ 148		$ 147	$ 152	$ 156	$ 161	$ 166
Other	$ 256	$ 280		$ 260	$ 266	$ 270	$ 275	$ 280
Supplemental Pension Plan Payments		$ 59		$ 62	$ 64	$ 66	$ 69	$ 72
Subtotal, Support	**$ 3,622**	**$ 3,975**		**$ 3,936**	**$ 4,159**	**$ 4,325**	**$ 4,424**	**$ 4,400**
Capital Outlay Expenditures								
CHP	$ 10	$ 12		$ 3	$ 13	$ 3	$ 6	$ 13
DMV	$ 9	$ 6		$ 1	$ 24	$ -	$ -	$ -
ARB						$ 8	$ 8	$ 8
Subtotal Capital Outlay	**$ 19**	**$ 18**		**$ 4**	**$ 37**	**$ 11**	**$ 14**	**$ 21**
Expenditure Total	**$ 3,641**	**$ 3,993**		**$ 3,940**	**$ 4,196**	**$ 4,336**	**$ 4,438**	**$ 4,421**
Reserves	**$ 505**	**$ 301**		**$ 281**	**$ 139**	**$ (38)**	**$ (139)**	**$ (104)**
percent of expenditures	13.9%	7.5%		7.1%	3.3%	-0.9%	-3.1%	-2.4%

Major Proposals

As mentioned above, the governor proposes roughly $3.9 billion in total expenditures from the MVA in 2019-20. This includes roughly $2.3 billion for CHP, and roughly $1.1 billion for DMV. Major proposals include:

- Extension of REAL ID Resources: The budget includes $64 million in MVA resources to support DMVs efforts to come into compliance with the federal REAL ID Act. This Act,

which is described further below, establishes minimum security standards for license issuance and prohibits federal agencies from accepting for certain purposes licenses and identification cards that do not meet these standards. The Legislature provided DMV with two years of funding in 2017-18, anticipating future budget requests. The Administration has indicated that this is a placeholder request, and is likely to be modified as part of the Spring Finance Letter process.

- SB 1 Transportation Funding: The budget requests $8.8 million in MVA resources to support DMVs collection of certain fees authorized through SB 1 (Beall), Chapter 5, Statutes of 2017.

- In-Vehicle Communication Systems: The budget includes $18 million in MVA resources; in addition to $44.5 million in General Fund resources (discussed below) to update and modernize the in-vehicle communication systems currently installed in CHP patrol vehicles.

General Fund Support of CHP

The 2019-20 budget proposes significant General Fund resources for CHP. Specifically, the budget includes $79.8 million in General Fund resources to support several major budgetary proposals. These include:

- Equipment Replacement for Improved Emergency Response: The budget includes one-time funding to modernize and replace equipment used by the CHP as part of its emergency response efforts, including $62.4 million ($44.4 million General Fund and $18 million special fund) to replace 3,600 radio communication systems in CHP vehicles, $15 million General Fund to replace aging laptops and hand-held citation devices with multi-function tablets, and $9.5 million General Fund to replace aging information technology infrastructure and provide increased storage capacity, connectivity, and security.

- Organized Crime Task Force: The budget includes $5.8 million General Fund for two years to convene a regional property crimes task force in coordination with the Department of Justice to support local law enforcement in counties with elevated levels of property crime including organized retail theft and vehicle burglary.

Capital Outlay Proposals

As the primary funding source for both DMV and CHP, the MVA typically provides funding for capital outlay proposals at both departments, including office rehabilitations and replacements, as well as work on larger facilities such as CHP radio towers. The 2019-20 budget includes $4 million in capital outlay expenditures, $3 million for CHP and $1 million for DMV. This is significantly lower than in recent years.

Instead of MVA funding, the 2019-20 budget proposes to fund the majority of CHP's capital outlay needs by the use of lease-revenue bonds. These are bonds used to purchase capital assets, to be repaid with lease revenue the state would pay to itself. The budget includes $134 million in lease revenue bond authority at CHP for various capital outlay projects. This represents a major departure from historical capital outlay policy. Similar proposals were rejected by the Legislature in 2018-19.

ISSUES TO CONSIDER

MVA is Structurally Insolvent

As the above discussion should make clear, the MVA is structurally insolvent. The fund is projected to run a small operating deficit in 2018-19 (expenditures of $4 billion against revenues of $3.9 billion), and is expected to run a small surplus in 2019-20 (expenditures of $3.9 billion against revenues of $4 billion). However, out year costs are expected to increase significantly over the next five years, rising from $3.9 billion in 2019-20 to $4.4 billion in 2023-24. While revenues are expected to rise, they are unlikely to keep up with increasing cost pressures. This is anticipated to push the MVA into a negative fund balance in 2021-22. If unaddressed, this will require programs funded by the MVA to seek funding from other sources.

Continuing Pressure on MVA Given REAL ID, Wait Time Issues

Much of the rising cost pressures on the MVA are driven by ongoing costs related to long-running programs and previously-approved budget items. Specifically, DMV anticipates additional resources being required to complete implementation of the REAL ID Act. Passed by Congress in 2005, the REAL ID Act enacted the 9/11 Commission's recommendation that the federal government "set standards for the issuance of sources of identification, such as driver's licenses." The Act established minimum security standards for state-issued driver's licenses and identification cards and prohibits federal agencies from accepting for official purposes licenses and identification cards from states that do not meet these standards. This requires DMV to meet certain requirements for state-issued IDs by April 10, 2019. Following this, DMV anticipates significant future workload as California residents apply for REAL ID-compliant identification cards prior to the October 1, 2020 deadline. The Legislature provided two years of funding for this work in 2017-18, and the Administration put forward a placeholder estimate of $136 million over four years for the remainder of the work. There is considerable uncertainty around this estimate, however, and it could be significantly higher, creating further cost pressure on the MVA.

The major wait time issues experienced by DMV and its customers in the summer of 2018 have driven significant current year cost increases for the department. These are detailed in the fund condition statement above. While DMV has indicated that they believe they have addressed the current issues driving the long wait times, it is unclear if the root causes have been addressed. Should the wait time issues reoccur there could be potentially significant additional cost pressures on the MVA. The Governor recently appointed a "DMV Strike Team" headed by the current Secretary of the Government Operations Agency, to address ongoing managerial issues at the department.

Additionally, CHP anticipates an additional $42 million in out-year costs related to CHP dash cam installation. The Legislature provided two years of funding in 2018-19, but is expecting additional requests in future budgets.

Continuing Delays of CO Projects

The Administration has taken significant steps to relieve immediate cost pressures on the MVA in the budget year. In addition to requesting lease revenue bond authority, the Administration has delayed or canceled currently-planned capital outlay projects at DMV and CHP. This includes canceling previously-approved security fencing projects at DMV field offices. While this has helped balance the MVA in the short run, it is not a long-term solution. It does not save enough money to keep the fund

from turning negative in 2021-22, and is likely to have long-term negative impacts on DMV and CHP as their existing infrastructure continues to deteriorate.

MVA – General Fund Transfer Could be Reversed

As noted above, the budget currently transfers MVA resources to the General Fund on an annual basis. In 2019-20, this transfer is anticipated to be roughly $92 million. This transfer was originally intended to bolster the General Fund in a period of fiscal stress. However, the 2019-20 budget anticipates a healthy General Fund with ample balances. Should this transfer be reversed it would provide additional resources for the MVA and, under current assumptions, allow the fund to stay solvent through 2023-24.

SUBCOMMITTEE NO. 3

HEALTH and HUMAN SERVICES

Health

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Covered California: Health Coverage Affordability

BACKGROUND

The federal Patient Protection and Affordable Care Act (ACA) implemented significant improvements to health care coverage offered in the individual health insurance market. Beginning in September 2010, ACA individual market reforms:

1. Eliminated lifetime limits on coverage.
2. Prohibited post-claims underwriting and rescission of policies.
3. Required health plans to offer coverage to dependent children up to age 26.
4. Eliminated pre-existing condition exclusions for children.
5. Eliminated copays and other cost sharing provisions for 45 preventive services.
6. Required health plans to spend at least 85 percent of premium dollars on health expenditures or provide rebates to customers (effective January 2012).

According to federal data, by 2013, more than eight million Californians received access to no-cost preventive services and 1.4 million residents with private insurance coverage received $65.7 million in insurance company rebates.

Beginning in January 2014, the ACA implemented additional market reforms and required establishment of health benefit exchanges, which provide federally subsidized health care coverage to individuals with incomes between 138 and 400 percent of the federal poverty level (FPL). California established its own health benefit exchange, Covered California, funded by assessments on health plan premiums. Covered California offers several options for individual health care coverage negotiated for cost and quality with health plans. Enrollment occurs during an annual open enrollment period that begins November 1 and ends January 31. The ACA requires all health insurance products, with some exceptions, to cover certain essential health benefits to be considered minimum essential coverage. These benefits include:

- Ambulatory patient services.
- Prescription drugs.
- Emergency services.
- Rehabilitative and habilitative services and devices.
- Hospitalization.
- Laboratory services.
- Maternity and newborn care.
- Preventive and wellness services and chronic disease management.
- Mental health and substance use disorder services, including behavioral health treatment.
- Pediatric services, including oral and vision care.

Metal Tiers for Health Insurance Products in Covered California. Consumers purchasing coverage in the Covered California health benefit exchange may choose from different "metal tiers" that determine the level of coverage and cost-sharing amounts provided by the product. According to Covered California, the metal tiers provide coverage as follows:

- **Bronze:** On average, Bronze health plans pay 60 percent of medical expenses, and consumers pay 40 percent.

- **Silver:** On average, Silver health plans pay 70 percent of medical expenses, and consumers pay 30 percent. Certain income-eligible individuals may qualify for an Enhanced Silver plan, which provides coverage with lower cost-sharing. Individuals in these savings categories get the benefits of a Gold or Platinum plan for the price of a Silver plan. The three categories of Enhanced Silver plans pay 94, 87 or 73 percent of medical expenses.

- **Gold:** On average, Gold health plans pay 80 percent of medical expenses, and consumers pay 20 percent.

- **Platinum:** On average, Platinum health plans pay 90 percent of medical expenses, and consumers pay 10 percent.

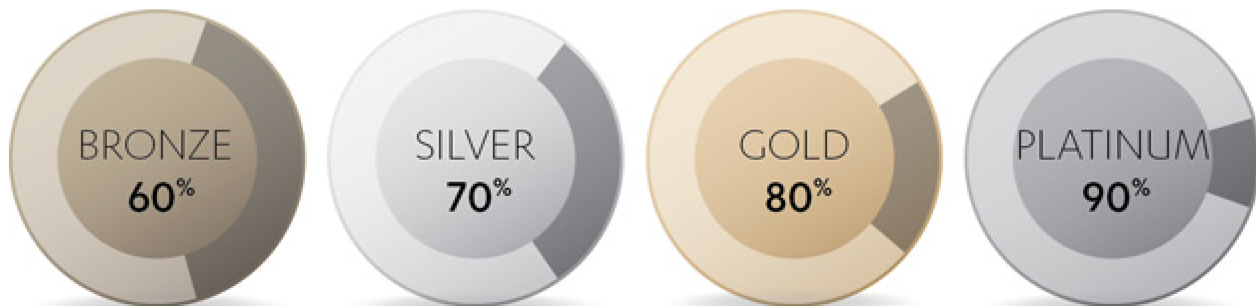

Figure 1. Metal Tiers of Coverage in Covered California Health Benefit Exchange
Source: *Covered California website: "Coverage Levels/Metal Tiers"*
https://www.coveredca.com/individuals-and-families/getting-covered/coverage-basics/coverage-levels/

Advance Premium Tax Credit Subsidies. The ACA subsidizes health care coverage purchased in health benefit exchanges, such as Covered California, for individuals between 138 and 400 percent of the FPL. The subsidies are provided in the form of advance premium tax credits (APTC), which reduce the amount of premium paid by income-eligible consumers purchasing coverage on the exchange. The amount of the APTC is linked to the cost of the second-lowest cost Silver plan in a consumer's coverage region. The APTC is meant to ensure that consumers are required to spend no more than two percent to 9.6 percent of their income for Silver plan premiums. Consumers may use the APTC subsidy amount to purchase other metal tiers of coverage that may be less expensive (e.g. Bronze) or more expensive (e.g. Gold or Platinum). According to Covered California, as of September 2018, more than 1.3 million individuals covered by exchange products received an average of $444 per month in APTC subsidies. More than 156,000 individuals receive exchange-based coverage, but are not eligible for APTC subsidies.

Individual Mandate Penalty and Cost-Sharing Reductions. In addition to individual market reforms and new coverage options, the ACA eliminated pre-existing condition exclusions for adults beginning in 2014, and imposed a requirement that individuals enroll in health plans that offer minimum essential coverage or pay a penalty, known as the individual mandate penalty. The individual mandate penalty was designed to stabilize premiums by encouraging healthy individuals to enroll in health coverage and reduce the overall acuity of health insurance risk pools. Because health plans cannot deny coverage based on a pre-existing condition, in the absence of a mandate penalty, individuals may delay enrolling in coverage until they are diagnosed with a high-cost health condition, resulting in higher overall plan expenditures, which lead to higher premiums. The ACA also limited the amount of cost-sharing that could be required of plan beneficiaries with incomes under 250 percent of the FPL. These cost-sharing reductions result in savings to beneficiaries on deductibles, copayments, coinsurance, and maximum out-of-pocket costs. Until recently, the federal government provided cost-sharing reduction subsidies to health plans to help mitigate the costs of limiting cost-sharing amounts for these beneficiaries. These subsidies were designed to maintain those cost-sharing limits while reducing higher premium costs that would otherwise be required.

Elimination of Cost Sharing Reduction Subsidies and Repeal of Individual Mandate. In October 2017, the federal Administration eliminated cost-sharing reduction subsidies that prevented premium growth due to ACA requirements that limited cost-sharing for health plan beneficiaries with incomes under 250 percent of the FPL. According to Covered California, the loss of these subsidies will result in an annual reduction of approximately $750 million of federal funds available to reduce premiums. According to the Kaiser Family Foundation, health plans imposed resulting cost-sharing reduction surcharges ranging from seven to 38 percent on premiums beginning in 2018. In addition, recently enacted federal tax legislation included a reduction to zero of the individual mandate penalty for failing to purchase health care coverage. The reduction takes effect for coverage in the 2019 calendar year.

The reduction of the federal mandate penalty led health plans participating in the Covered California exchange to prospectively increase premium rates in anticipation of lower enrollment and a resulting higher acuity risk pool. In August 2018, Covered California reported a preliminary overall weighted increase in premium rates of 8.7 percent if existing consumers renewed coverage in the same plans. The increase in premium rates net of APTC subsidies was six percent. Plans reported adding an average of 3.5 percent to premiums, with a range of 2.5 to six percent, due to reduction of the federal mandate penalty.[1]

Covered California Enrollment Slightly Lower for 2019. According to Covered California, at the end of the open enrollment period for 2019 coverage, the exchange finished with a total of more 1,513,833 plan selections, a decrease of 7,641 or 0.5 percent compared to 2018. Of these plan selections, renewals accounted for 1,217,903 of the total, which is an increase of 84,723 or 7.5 percent compared to 2018. 295,980 consumers were newly enrolled in the exchange, which is a decrease of 92,364 or 23.8 percent compared to 2018. Covered California's analysis suggests the significant decline in new enrollments, which is a greater decline than that of states with a federally-facilitated marketplace (FFM), may be due to the reduction of the federal individual mandate penalty to zero. This greater decline may be due to California's success in preventing reductions in enrollment in prior years compared to other states. Between 2016 and 2019, Covered California total enrollment has been

[1] Covered California. "Covered California's Health Insurance Companies and Plan Rates for 2019". (August 16, 2018).

between 1.5 and 1.6 million plan selections, while FFM states have declined from 9.6 million to 8.4 million plan selections, a decline of 13 percent.[2]

AB 1810 Affordability Workgroup Recommendations. AB 1810 (Committee on Budget), Chapter 34, Statutes of 2018, required Covered California to develop options for providing financial assistance to help low- and middle-income Californians with incomes up to 600 percent of the FPL access health care coverage. Covered California created the AB 1810 Affordability Workgroup composed of health care advocates, health insurance issuers, health care associations, legislative staff, and two Covered California board members. The workgroup held five meetings between October 2018 and January 2019 to discuss options for health insurance affordability, including premium and cost-sharing subsidies for various income groups, establishment of a state-based individual mandate penalty, and implementing a state-based reinsurance program offset by additional federal funding available under Section 1332 of the Affordable Care Act. The workgroup and Covered California staff collaborated with economists Wesley Yin, Ph.D., of the University of California at Los Angeles, and Nicholas Tilipman, Ph.D., of the University of Illinois at Chicago, to model the effects of each of these affordability options, alone and in combination, on enrollment, premium affordability, and consumers' out-of-pocket costs.

The workgroup issued its final report on February 1, 2019 and included the following estimates of new total enrollment and state costs for each of the potential policy options for the 2021 calendar year.

[2] Covered California. "Covered California 2019 Open Enrollment Early Observations and Analysis". (January 30, 2019)

Policy Objective	Policy Options	New Enrollment	New State Cost
Targeted improved affordability for consumers earning less than 400 percent FPL	**T1. Premium support** that lowers premium contributions for consumers earning less than 400 percent FPL	70,000	$425,000,000
	T2. Cost-sharing support that reduces out-of-pocket costs for consumers between 200-400% FPL who do not qualify for more generous federal cost-sharing subsidies	27,000	$215,000,000
Targeted improved affordability for consumers earning less than 600% FPL	**T3. Premium support** that lowers premium contributions for consumers earning between 0 and 600 percent FPL	125,000	$765,000,000
	T4. Premium support that lowers premium contributions for consumers earning between 0 and 600 percent FPL **and an individual mandate**	478,000	$891,000,000 *($482,000,000 potential offset from penalty revenue)*
Targeted improved affordability for consumers earning more than 400% FPL	**T5. Premium support** that lowers premium contributions for consumers earning between 400 and 600 percent FPL	47,000	$285,000,000
	T6. Premium support that lowers premium contributions for consumers earning more than 400 percent FPL	50,000	$324,000,000
	T7. Reinsurance that lowers gross premiums by 10 percent per year	118,000	$1,456,000,000 *($878,000,000 potential offset from 1332 reinsurance waiver)*
Targeted improved affordability for all consumers generated by reinstating the mandate penalty	**T8. Reinstate individual mandate penalty** which increases enrollment and lowers premiums by improving the risk mix in the individual market	359,000	*($526,000,000 potential penalty revenue)*

Source: Covered California. "Options to Improve Affordability in California's Individual Health Insurance Market". (February 1, 2019)

The workgroup report model indicates that implementation of a state-based individual mandate penalty would have the largest single impact on coverage, with 359,000 additional enrollments and estimated revenue to the state of $526 million. The average net premium reduction would be zero for subsidy-eligible enrollees and $24 per month for off-exchange enrollees due to the improved risk pool. Premium support that caps premiums at no more than 15 percent of income for individuals with incomes under 600 percent of the FPL would result in 125,000 new enrollments, premium reduction for subsidy-eligible enrollees of $21 per month and $14 per month for off-exchange enrollees, and result in state costs of $765 million. Reinsurance would result in 118,000 additional enrollments, a premium reduction of $70 per month or ten percent for off-exchange enrollees, and a net state cost of $578 million.

The report also modeled three options in combination: 1) premium and cost-sharing support, 2) premium and cost-sharing support with an individual mandate penalty, and 3) premium and cost-sharing support with a penalty and reinsurance.

	Option 1: Premium and Cost Sharing Support	Option 2: Premium and Cost Sharing Support with Penalty	Option 3: Premium and Cost Sharing Support, Penalty and Reinsurance
New Enrollment	**290,000**	**648,000**	**764,000**
<250% FPL	*66,000*	*120,000*	*139,000*
250-400% FPL	*153,000*	*342,000*	*358,000*
400%+ FPL	*71,000*	*187,000*	*267,000*
Individual Market Take-up Rate*	58%	67%	70%
Percent of Enrollees in Silver Coverage or Higher**	79%	77%	79%
Benefits to Existing Enrollees			
On-Exchange Number Benefitting	1,292,000	1,292,000	1,292,000
On-Exchange Average Monthly Premium Reduction	$39/m	$39/m	$39/m
Off-Exchange Number Benefitting	662,000	662,000	662,000
Off-Exchange Average Monthly Premium Reduction	$18/m	$41/m	$111/m
Spending Impacts			
New State Spending	**$2,190,000,000**	**$2,562,000,000**	**$4,201,000,000**
Premium Support	*$1,561,000,000*	*$1,886,000,000*	*$1,874,000,000*
Cost-Sharing Support	*$629,000,000*	*$676,000,000*	*$604,000,000*
Reinsurance	*None*	*None*	*$1,724,000,000*
Potential State Spending Offsets			
Penalty Revenue	None	**$441,000,000**	**$393,000,000**
Potential 1332 Funding			**$1,132,000,000**
Potential Net State Spending***	**$2,190,000,000**	**$2,121,000,000**	**$2,676,000,000**
Change in Federal Tax Credit Expenditures	$670,000,000	$975,000,000	($331,000,000)

* 51% under Affordable Care Act Baseline 2021
** 69% under Affordable Care Act Baseline 2021
*** Net State Spending assumes all offsets are applied to reduce State expenditures

Source: Covered California. "Options to Improve Affordability in California's Individual Health Insurance Market". (February 1, 2019)

Each of the three options have the same impact on subsidy-eligible enrollees, reducing premiums by $39 per month, while Option 1 reduces off-exchange premiums by $18 per month, Option 2 by $41 per month, and Option 3 by $111 per month. However, additional state costs needed per additional enrollment vary between the three options. Option 1 results in annual costs of approximately $7,552 per new enrollee, Option 2 results in annual costs of approximately $3,273 per new enrollee, and Option 3 results in annual costs of approximately $3,503 per new enrollee.

GOVERNOR'S PROPOSAL

Increase and Expand Premium Subsidies Funded by a State-Based Individual Mandate Penalty. The Governor's January budget proposes to increase premium subsidies to individuals with incomes between 250 and 400 percent of the FPL who are purchasing coverage on the Covered California health benefit exchange. All of these individuals currently receive premium subsidies from the federal

APTC. The Governor's January budget also proposes to expand premium subsidies to individuals with incomes between 400 and 600 percent of the FPL, all of whom are currently ineligible for premium subsidies from the federal APTC. The Administration proposes to fund the increased and expanded subsidies by implementing a state-based individual mandate penalty. Similar to the recently reduced federal mandate penalty, under the state-based mandate penalty, individuals would be required to purchase minimum essential coverage or face a penalty modeled on the federal requirement prior to its reduction under the federal tax bill. The Administration has not provided estimates of the revenue it expects to receive from the state-based penalty, nor the level of premium subsidies it expects to provide to individuals purchasing coverage.

ISSUES TO CONSIDER

Governor's Proposal Would Likely Improve Coverage Affordability, but Lacks Detail to Date. The Governor's proposed increase and expansion of premium subsidies is a worthwhile investment in improving the availability of adequate health care for many Californians who, despite the advances made by the ACA, still cannot afford coverage. However, the proposal lacks sufficient detail to determine what impact it would have on the consumers it proposes to assist. Without knowing the level of subsidies the Governor proposes to provide, it is impossible to estimate how the proposal will impact premiums and enrollment in the Covered California health benefit exchange. Assuming penalty revenue is consistent with the AB 1810 Affordability Workgroup report estimates of $482 million when paired with premium support, the Governor's proposal would appear to fund a premium support package that caps premiums at approximately between eight and nine percent of individuals' income between 250 and 400 percent of the FPL, and caps premiums at approximately between nine and 15 percent of individuals' income between 400 and 600 percent of the FPL.

Governor's Proposal Imposes Adverse Impacts on Lowest Income Exchange Enrollees. While the proposed state-based individual mandate penalty would apply to all individuals who do not purchase minimum essential coverage, the proposed premium supports only improve affordability for those with incomes between 250 and 600 percent of the FPL. Individuals with incomes up to 250 percent of the FPL, for whom coverage remains unaffordable even with APTC premium subsidies, will be required to pay the proposed individual mandate penalty, but would not benefit from any of the proposed additional premium subsidies to make coverage more affordable. The Berkeley Labor Center estimates that by 2020, there will be approximately 520,000 uninsured individuals eligible for APTC subsidies, with 160,000 of those individuals with incomes under 200 percent of the FPL. Under the Governor's proposal, these individuals would face a financial penalty for being unable to afford coverage. That penalty would subsequently be used to make coverage more affordable for their higher income neighbors. The Legislature may wish to consider the equity-related tradeoffs of the Governor's proposal.

State-Based Individual Mandate Penalty Funding Poses Operational Questions. The Governor's January budget proposes to fund the increased and expanded premium subsidies with revenue received from a state-based individual mandate penalty. The lack of details from the Administration regarding this funding mechanism raises questions, including how much revenue the Administration expects to receive, what level of premium subsidies that revenue would provide, and when those subsidies would be provided. If the state imposed a state-based penalty for the 2020 calendar year of coverage, revenue likely would not be received until 2021, after premium and subsidy amounts for the 2020 calendar year would already have been determined and paid. If the Administration intends to provide affordability

assistance in 2020, the amount of state-provided subsidies would need to be estimated in advance and funded by the state General Fund or another funding source prior to receipt of penalty revenue.

State-Based Individual Mandate Penalty and Premium Subsidies Are Policies in Conflict. In isolation, implementation of the state-based individual mandate penalty and providing premium subsidies to improve affordability both lead to increased enrollment and reduced premiums in the individual marketplace. However, if the Administration intends to fund the level of subsidies exclusively with revenue from the individual mandate penalty, then the desired improvements in enrollment that result from the penalty policy will undermine the structure of these interventions by gradually reducing the revenue available for premium subsidies. The Legislature may wish to consider whether the policy goal of improved affordability and enrollment would be better served by evaluating and implementing the most effective combination of policy options (e.g., premium subsidies, cost-sharing subsidies, mandate penalty, or reinsurance) and providing a stable funding source to support these options, regardless of any revenue or federal funding that may be provided to offset state expenditures.

Medi-Cal for Undocumented Young Adults

BACKGROUND

Although California has reduced its uninsured population more than any other state, from 17.2 percent in 2013 to 7.2 percent in 2017, nearly 2.8 million California residents remain without adequate health coverage.[1] In particular, approximately 1.5 million undocumented residents are expected to be uninsured by 2020, 90 percent of whom would otherwise be eligible for coverage under the Medi-Cal program, but for their immigration status.[2] The Legislature has proposed state-funded coverage for all or portions of this population several times in recent years, including a successful effort in 2015 to provide full-scope Medi-Cal coverage to income-eligible children up to age 19, regardless of immigration status.

The Governor's January budget proposes to expand full-scope Medi-Cal coverage to approximately 138,000 income-eligible young adults up to age 26, regardless of immigration status. The cost of the Governor's proposal would be partially offset by redirecting county realignment funding for indigent health care to the state. In addition, two bills currently pending in the Legislature, SB 29 (Lara and Durazo) and AB 4 (Arambula, Bonta, and Chiu), would expand coverage to all income-eligible adults, regardless of immigration status.

Medi-Cal Covers One in Three Californians. Medi-Cal covers 13.2 million Californians, including more than five million children, at a total estimated cost of $98.5 billion in 2018-19 and $100.7 billion in 2019-20. Of that amount, the federal government is expected to contribute $62.7 billion in 2018-19 and $65.4 billion in 2019-20 as a share of health care-related expenditures for Medi-Cal beneficiaries. The rate at which federal matching funds are provided to states is dependent on a state's per capita income. California has traditionally received a federal match of 50 percent, the minimum percentage allowable, due to the state's high per capita income relative to other states. Certain beneficiary populations and categories of Medi-Cal expenditures are eligible for higher federal matching rates, such as children eligible for the Children's Health Insurance Program (CHIP), adults eligible for the expansion of Medi-Cal under the Affordable Care Act, family planning expenditures, and improvements to information technology systems.

Limitations on Health Care Options for Undocumented Californians. Federal Medicaid law prohibits federal matching fund payments to states for full-scope coverage of undocumented residents. However, federal law does allow payments for emergency and pregnancy (restricted-scope) services provided to undocumented residents. According to the Department of Health Care Services (DHCS), the total cost of providing restricted-scope services was $1.6 billion in 2016-17. As of July 2018, DHCS estimates that 952,683 undocumented adults are enrolled in restricted-scope Medi-Cal. 268,811 undocumented children up to age 19 are also eligible and enrolled in state-funded full-scope Medi-Cal benefits. The state continues to be eligible for federal matching funds for emergency and pregnancy

[1] Edward R. Berchick et al., "Health Coverage in the United States: 2017". (United States Census Bureau, September 18, 2018)
[2] Miranda Dietz et al., "California's Health Coverage Gains to Erode Without Further State Action". (UC Berkeley Center for Labor Research and Education and UCLA Center for Health Policy Research, November 27, 2018)

services for this population. (For more information, see *Medi-Cal Eligibility for Children Regardless of Immigration Status*, below).

Federal law also prohibits undocumented residents from participating in the Covered California health benefit exchange established after passage of the federal Affordable Care Act. Covered California provides health care service plan coverage options in the individual market for eligible citizens and legal permanent residents. Covered California participants with incomes up to 400 percent of the federal poverty level (FPL) receive federally financed premium subsidies to make coverage more affordable. Covered California also serves as an active purchaser, utilizing its selective contracting authority to negotiate with health plans to lower premiums for California health care consumers. Undocumented residents may enroll in off-exchange coverage options similar to those negotiated by the exchange, but are ineligible for federally financed premium subsidies that make such coverage affordable.

County Indigent Health Programs Provide Coverage for the Uninsured. State law requires counties to serve as the health care provider of last resort for residents age 18 and over who cannot afford care, known as medically indigent adults.[3] The services offered and requirements for eligibility vary significantly by county. County indigent programs generally fall into two categories:

1. County Medical Services Program (CMSP)[4] – 35 mostly small and rural counties contract with Advanced Medical Management to administer a standardized benefit for limited-term health coverage for uninsured low-income, indigent adults not otherwise eligible for publicly funded health care programs. An eleven member CMSP Governing Board sets program eligibility requirements, determines the scope of covered health care benefits, and sets the payment rates paid to providers. CMSP counties include: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Modoc, Mono, Napa, Nevada, Plumas, San Benito, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba.

2. Medically Indigent Service Program – 23 counties manage their own medically indigent programs with different service delivery options and eligibility requirements. These counties include: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Merced, Monterey, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, and Ventura.

1991 Realignment Funds County Indigent Programs. County indigent health programs are generally funded by revenues received under 1991 Realignment, which shifted significant fiscal and programmatic responsibility for certain health and human services programs from the state to the counties. 1991 Realignment revenues have historically allowed county indigent health programs to provide care for the uninsured and those ineligible for other coverage. Prior to 2014, many programs covered undocumented individuals, as well as childless adults that were previously ineligible for Medi-Cal coverage.

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[3] Welfare and Institutions Code Section 17000
[4] County Medical Services Program. "Program Administration" & "Participating Counties" (http://www.cmspcounties.org/about/program_administration.html. Accessed February 9, 2019)

The federal Affordable Care Act authorizes states to expand their Medicaid programs to previously uninsured individuals. AB1 X1 (Pérez) and SB1 X1 (Hernandez), Chapters 3 and 4, Statutes of 2013, First Extraordinary Session, authorized California's optional expansion of the Medi-Cal program. The optional expansion, effective January 1, 2014, expanded eligibility for previously ineligible persons, primarily childless adults with incomes at or below 138 percent of the federal poverty level. Optional expansion beneficiaries are mandatorily enrolled in managed care for their Medi-Cal benefits.

As a result of the expansion of coverage to previously uninsured individuals through the state's Medi-Cal program, county indigent health programs were no longer responsible for providing care for this population. AB 85 (Committee on Budget), Chapter 24, Statutes of 2013, provides for the redirection of health-related 1991 Realignment revenues from counties to offset state General Fund costs to account for this shift in responsibility and health care expenditures for the Medi-Cal expansion population. The redirection of 1991 Realignment funds offsets expenditures in the California Work Opportunity and Responsibility to Kids (CalWORKs) program that were previously funded through the state's General Fund.

AB 85 requires CMSP counties to redirect 60 percent of the realignment funds they would have previously received. That legislation also gave another group of counties the option to redirect 60 percent of realignment funds or base the redirection amount on a formula that takes into account a county's cost and revenue experience. Counties with public hospitals, except Los Angeles, base redirection amounts on the cost and revenue formula. Los Angeles County adheres to a county-specific formula.

Certain County Indigent Health Programs Offer Non-Emergency Care for Undocumented. After implementation of the Medi-Cal expansion, undocumented residents are the largest proportion of the remaining uninsured for whom county indigent health programs are responsible to provide care. While all programs offer emergency care covered by Medi-Cal to undocumented residents, some counties have recently expanded the scope of coverage to include certain non-emergency, limited-scope primary care benefits.

CMSP Counties: Eligibility Expansion and Primary Care Benefit. Beginning in 2016, the CMSP Governing Board approved an expansion of eligibility requirements for its 35-county indigent health program from 200 percent to 300 percent of the FPL. In addition, the board approved the Primary Care Benefit program, a two-year pilot to provide CMSP participants, including undocumented residents, with certain non-emergency benefits for a renewable, six-month enrollment period. These benefits include[5]:

1. Up to three office visits for primary care, specialty care, or physical therapy,
2. Preventative health screenings and lab tests,
3. Prescription drugs with a five dollar co-pay and up to $1,500 in benefits, and
4. Services provided by contracting community health centers, clinics, and other providers.

[5] County Medical Services Governing Board. "CMSP All County Welfare Directors Letter 16-03: New CMSP Primary Care Benefit Program". (April 27, 2016).

Beginning in September 2018, the CMSP Governing Board authorized the Primary Care Benefit program to be permanently incorporated into the CMSP standard benefit package in its indigent health program.

Los Angeles County: My Health LA. Los Angeles County implemented My Health LA in 2014 to provide primary and specialty care services to more than 144,319 uninsured county residents.[6] The program provides primary preventive, specialty care, hospital inpatient, urgent and emergency care through county public hospitals, clinics and other providers. In addition, the program provides prescription drugs, mental health and substance use treatment services, lab tests, and other health care services.

Source: Health Access California. "Profiles of Progress: California Counties Taking Steps to a More Inclusive and Smarter Safety-Net". (May 2016)

[6] My Health LA Program. "Key Demographics and Enrollment Summary" (LA Dept of Health Services, January 31, 2019)

According to an analysis by Health Access California, the following counties also provide some non-emergency coverage for undocumented residents through their county indigent programs: Fresno, Sacramento, Contra Costa, Monterey, and Santa Clara.

Full-Scope Medi-Cal Eligibility for Children Regardless of Immigration Status. SB 75 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2015, expanded eligibility for full-scope Medi-Cal to all income-eligible children under age 19, regardless of immigration status. Undocumented children were previously only eligible for restricted-scope Medi-Cal coverage, which receives a federal match depending on the child's eligibility category, while the additional non-emergency services provided under the full-scope expansion are funded entirely by state General Fund. DHCS estimated that 250,000 undocumented children under age 19 would become eligible under the expansion. As of January 2019, a total of 268,811 undocumented children have enrolled in full-scope Medi-Cal, in two distinct populations:

1. *Previous Restricted-Scope Medi-Cal Beneficiaries:* As of January 2019, 120,614 undocumented children previously enrolled in restricted-scope Medi-Cal coverage have transitioned into full-scope Medi-Cal coverage.

2. *Not Previously Enrolled:* As of January 2019, 148,197 undocumented children who were previously eligible, but not enrolled in, restricted scope Medi-Cal have enrolled in full-scope benefits.

Full-Scope Medi-Cal Coverage for Children Regardless of Immigration Status, by County (Jan. 2019)[7]

County	Covered Children	County	Covered Children	County	Covered Children	County	Covered Children
Alameda	11,472	Kings	1,105	Placer	744	Sierra	*
Alpine	*	Lake	559	Plumas	*	Siskiyou	99
Amador	62	Lassen	*	Riverside	14,284	Solano	2,088
Butte	565	Los Angeles	97,628	Sacramento	7,838	Sonoma	2,194
Calaveras	69	Madera	1,320	San Benito	356	Stanislaus	4,447
Colusa	193	Marin	1,752	San Bernardino	11,572	Sutter	487
Contra Costa	6,416	Mariposa	*	San Diego	13,254	Tehama	404
Del Norte	*	Mendocino	730	San Francisco	4,904	Trinity	*
El Dorado	372	Merced	2,970	San Joaquin	5,038	Tulare	4,415
Fresno	6,387	Modoc	34	San Luis Obispo	1,040	Tuolumne	67
Glenn	234	Mono	101	San Mateo	6,479	Ventura	5,211
Humboldt	348	Monterey	4,886	Santa Barbara	4,250	Yolo	1,020
Imperial	732	Napa	703	Santa Clara	10,278	Yuba	370
Inyo	63	Nevada	208	Santa Cruz	1,441	**Statewide**	**268,811**
Kern	7,544	Orange	19,398	Shasta	462		

* = Value suppressed due to low enrollment totals.

[7] Research and Analytic Studies Division. "SB 75 Transitions and New Enrollees by County" (Department of Health Care Services, January 9, 2019). https://www.dhcs.ca.gov/services/medi-cal/eligibility/Documents/SB75/SB75_Enrollees_County_010219.pdf

Proposals to Expand Medi-Cal Eligibility to Remaining Uninsured Populations. Legislators and stakeholders have expressed interest in expanding Medi-Cal coverage to undocumented families and individuals not currently eligible due to immigration status, including adults up to age 26, adults ages 26 to 64 and seniors age 65 and older. Prior to approval of the 2018 Budget Act, the Assembly adopted a proposed expansion of full-scope Medi-Cal to undocumented young adults up to age 26, while the Senate adopted a proposed expansion of full-scope Medi-Cal to undocumented seniors over age 65. The 2018 Budget Act ultimately included neither proposal.

In addition, SB 29 (Lara and Durazo) and AB 4 (Arambula, Bonta, and Chiu) were introduced in the current legislative session to provide full-scope Medi-Cal coverage to all adults regardless of immigration status. These bills are awaiting their first committee hearings.

GOVERNOR'S PROPOSAL

Expansion of Medi-Cal to Young Adults Regardless of Immigration Status. The Governor's January budget proposes to expand full-scope Medi-Cal coverage to young adults up to age 26, regardless of immigration status. According to the Administration, the cost of expanding Medi-Cal coverage would be $257.1 million ($194 million General Fund, $63.1 million federal funds). The federal funds are the result of the federal match provided for emergency and pregnancy services provided to this population that would have previously been provided under restricted-scope coverage. In addition, the expansion would result in $2.2 million General Fund costs for the Department of Social Services to provide In-Home Supportive Services for newly eligible young adults with disabilities.

DHCS estimates that 137,703 young adults would be newly eligible for full-scope Medi-Cal coverage. The department's estimate includes the following assumptions:

1. 85,939 undocumented young adults currently enrolled in restricted-scope Medi-Cal would be automatically transitioned to full-scope coverage during the first month of eligibility.

2. 14,323 undocumented children who would have previously aged out of full-scope coverage under the SB 75 expansion will be eligible to continue coverage under the Governor's proposed expansion.

3. 37,441 undocumented young adults who are eligible, but not enrolled, in restricted-scope Medi-Cal will enroll in full-scope coverage in the 2019-20 fiscal year. This estimate assumes that, of 66,562 eligible but not enrolled undocumented young adults, 49,921 or 75 percent, will eventually enroll in full-scope coverage, with 37,441 or 75 percent of those individuals enrolling in the first year.

Some Costs of Expanded Coverage Offset by Redirection of County Realignment Revenue. The Governor's January budget also proposes to offset the costs for expansion of full-scope Medi-Cal by increasing the redirection amount for CMSP counties and other counties that adopted a fixed redirection formula under AB 85. The budget proposes to change the fixed proportion of redirected realignment funds from 60 to 75 percent. The counties that adopted a cost- and revenue-based redirection formula are expected to increase the proportion of realignment funds redirected to the state as those counties' indigent health costs decrease due to the expansion of Medi-Cal coverage.

According to the Administration, accounting for additional redirected revenue results in a net General Fund cost for the expansion of $133.5 million. The total expected interim redirection amounts in 2019-20 under the proposed formula are $617.7 million. For reference, the 2018-19 interim redirection amounts under the previous formula were $530.5 million.

ISSUES TO CONSIDER

Most of the Remaining Uninsured in California are Undocumented. The Governor's proposed expansion of full-scope Medi-Cal coverage to 138,000 undocumented young adults is a reasonable first step towards covering the remaining uninsured in California. However, because undocumented adults comprise such a significant share of California's remaining uninsured, particularly those who would otherwise be income-eligible for Medi-Cal, the state will not be able to achieve universal coverage without addressing this population's coverage needs. While county indigent health programs have begun to offer more primary care and other non-emergency services to undocumented adults, these programs are generally limited in the scope of services provided and likely insufficient to provide for the health needs of individuals in need of comprehensive health coverage.

Fiscal Estimates for Full-Scope Medi-Cal Expansion to All Adults. Since the release of the Governor's January budget, DHCS has provided fiscal estimates for providing full-scope Medi-Cal coverage to all undocumented adults and seniors.

Expansion to Undocumented Adults Ages 26-64. According to DHCS, expanding full-scope Medi-Cal benefits to undocumented adults ages 26 to 64 would result in costs of $2 billion ($1.5 billion General Fund and $507.6 million federal funds). These figures do not account for additional General Fund costs for In-Home Supportive Services that would be provided to newly eligible individuals with disabilities. The department's estimate expects approximately one million additional undocumented adults ages 26 to 64 would enroll in full-scope Medi-Cal coverage. The estimate includes the following assumptions:

1. 879,100 undocumented adults ages 26 to 64 currently enrolled in restricted-scope Medi-Cal would be automatically transitioned to full-scope coverage during the first month of eligibility.

2. 164,513 undocumented adults ages 26 to 64 who are eligible, but not enrolled, in restricted-scope Medi-Cal will enroll in full-scope coverage in the 2019-20 fiscal year. This estimate assumes that, of 292,468 eligible but not enrolled undocumented young adults, 219,351 or 75 percent, will eventually enroll in full-scope coverage, with 164,513 or 75 percent of those individuals enrolling in the first year.

Expansion to Undocumented Seniors Age 65 and Over. According to DHCS, expanding full-scope Medi-Cal benefits to undocumented seniors age 65 and over would result in costs of $115.3 million ($94.5 million General Fund and $20.9 million federal funds). These figures do not account for additional General Fund costs for In-Home Supportive Services that would be provided to newly eligible seniors. The department's estimate expects that 28,379 undocumented seniors would be enrolled in full-scope Medi-Cal coverage. The estimate assumes that all of these seniors are currently enrolled in restricted-scope Medi-Cal and would be automatically transitioned to full-scope during the first month of eligibility. The department's estimate assumes no new enrollment in full-scope benefits from individuals currently eligible but not enrolled in restricted-scope coverage.

County Indigent Health Programs Fill Some of the Gaps. Many counties have acknowledged the value of providing non-emergency benefits to their undocumented residents, particularly primary and preventative care services. However, the limited nature of these benefits, combined with restricted-scope Medi-Cal is an inefficient and incomplete care delivery system that leaves out many of the services considered essential health benefits under the Affordable Care Act. These limits also likely result in more expensive modes of health care delivery, including higher emergency department and hospital inpatient utilization. Because most county services are provided in county safety net systems, the financial and operational challenges of caring for undocumented individuals generally fall on public hospitals and clinics. Expanding full-scope coverage would likely reduce some of these challenges for county health programs.

Redirection of 1991 Realignment Funds as a Source of Funding Coverage Expansions. The expansion of Medi-Cal under the Affordable Care Act resulted in state- and federally-funded coverage of nearly four million previously uninsured individuals whose care was the statutory responsibility of county indigent health programs. The state's mandated redirection of a significant proportion of county realignment revenues to account for this shift in health care responsibilities was reasonable given the large population. The Governor's proposed expansion of full-scope Medi-Cal for undocumented young adults increases the fixed proportion of realignment funds redirected as the state assumes responsibility for health care coverage for this population. However, the Legislature may wish to consider whether there are limits to the use of these revenues as a funding source for coverage expansions, given the ongoing need for county indigent health programs in the absence of universal coverage.

Prescription Drug Affordability

BACKGROUND

While recent health reform efforts have led to significant expansions of health insurance coverage in California and across the United States, a complementary goal of these health reform efforts has also been to reduce the growth of health care costs. One of the primary drivers of rising health care costs has been the growth in the price of prescription drugs, which in 2017 accounted for approximately one out of every ten dollars in national health care expenditures.[1] Employer-based health plans experience even higher expenditures for prescription drugs, which make up 19 percent of employer-based health spending.[2]

California has implemented several federal and state programs designed to lower the cost of prescription drugs for state, local, and commercial health care purchasers. These programs include bulk purchasing arrangements, state and federal prescription drug rebate programs, and price transparency initiatives. In January 2019, the Governor issued an Executive Order to address the high cost of prescription drugs by directing state agencies to expand existing bulk purchasing efforts and transitioning Medi-Cal pharmacy expenditures from managed care into the fee-for-service delivery system to enhance the ability of the state to negotiate drug rebates.

Prescription Drug Coverage in California. According to the federal Centers for Medicare and Medicaid Services (CMS), California has experienced average annual growth in prescription drug expenditures of seven percent between 1991 and 2014, with total expenditures rising from $7.7 billion in 1991 to $36.9 billion in 2014.[3]

Medi-Cal, which covers 13.2 million low-income Californians, is also one of the largest purchasers of prescription drugs in the state. The Governor’s January budget estimates that Medi-Cal will spend $1.4 billion in 2018-19 and $2 billion in 2019-20 on prescription drugs in the fee-for-service delivery system. These figures are net of rebates provided by manufacturers under state and federal drug rebate programs (see *Prescription Drug Rebates in Medi-Cal*) and do not include drugs purchased on behalf of Medi-Cal beneficiaries by managed care plans.

Many other California state entities are impacted by high prescription drug spending. Total prescription drug costs for state employees and retirees covered by the California Public Employee Retirement System (CalPERS) were $1.25 billion for Basic Plans and $880.1 million

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[1] Centers for Medicare and Medicaid Services. “National Health Expenditures 2017 Highlights”. https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/highlights.pdf. Accessed February 9, 2019.
[2] Peterson-Kaiser Health System Tracker. “Retail drugs as a share of national health spending and as a share of employer health benefits, 2017”.
[3] Centers for Medicare and Medicaid Services. “Health expenditures by state of residence: summary tables, 1991-2014. Table 8: Total All Payers State Estimates by State of Residence (1991 - 2014) - Drugs and Other Non-durable Products”.

for Medicare plans in 2017.[4] Other state entities prescription drug expenditures in the 2015-16 fiscal year were as follows:

Prescription Drug Expenditures by Various State Departments, 2015-16[5]	
Department	Expenditures
California Department of Corrections and Rehabilitation: California Correctional Health Care Services	$239,454,095
Department of State Hospitals	$34,895,455
Department of Developmental Services	$8,539,096
California State Universities	$3,569,905
California Department of Corrections and Rehabilitation: Division of Juvenile Justice	$275,695

High-Cost Specialty Drugs Dramatically Increase Costs for Public Health Care Programs. One of the primary drivers in the growth of overall prescription drug expenditures is the high cost of specialty drugs. According to a Health Affairs Blog post from May 2016, specialty drugs account for a disproportionate share of overall drug spending and have a corresponding effect on spending growth. In fact, spending on specialty medicines was responsible for 73 percent of overall medicine spending growth over the past five years. Approval of these drugs by the federal Food and Drug Administration, along with the requirement of public health care programs to cover approved, medically necessary prescription drugs have placed enormous fiscal and programmatic pressures on these programs in recent years. In particular, the emergence of Sovaldi and Harvoni, specialty drugs developed by Gilead Sciences, which effectively cure individuals infected with hepatitis C, illustrate the potential for unexpected skyrocketing costs to public health programs. In response to these costs, the 2015-16 Governor's January budget reserved $300 million for the combined impact of hepatitis C treatment on California's public health programs including Medi-Cal, the Department of State Hospitals (DSH), and the California Department of Corrections and Rehabilitations (CDCR). Medi-Cal implemented a supplemental capitation payment for hepatitis C treatment for Medi-Cal managed care beneficiaries. The Governor's January budget estimates Medi-Cal will spend a total of $400.9 million in 2018-19 and $359.3 million in 2019-20 for hepatitis C treatment for managed care beneficiaries.

While hepatitis C treatment is one of the more well-known instances of high-cost specialty drugs that impact public health care programs, the population with hepatitis C is relatively small. Several other specialty drugs have been approved, or are nearing approval that could target much larger populations. Specialty drugs treating high cholesterol or other common conditions could result in increased expenditures dramatically higher than those experienced for hepatitis C treatments. The prices of specialty drugs are also growing dramatically. For example, the Memorial Sloan Kettering Cancer Center reported that the median launch price of new cancer

[4] CalPERS Pension and Health Benefits Committee. "Board Agenda Item 5c: Prescription Drugs Utilization and Cost Trends". September 25, 2018.
[5] Legislative Analyst's Office. "Department of General Services' Efforts to Control State Prescription Drug Spending". (Handout - Assembly Health Committee. February 14, 2017).

agents doubled in the last decade, from $4,500 per month to more than $10,000 per month. Similarly, the launch prices of new multiple sclerosis drugs increased from $8,000 to $12,000 per year in the 1990s to $50,000 to $65,000 per year today. Specialty drugs also often experience substantial price growth every year they are on the market. For example, the AARP Public Policy Institute's December 2016 Rx Price Watch report found that the retail prices of specialty drugs widely used by older Americans increased by almost 11 percent in 2013.

Generic Drugs Also Subject to Sharp Price Increases. Significant price increases are not limited to specialty drugs. Prices for drugs that have been on the market for decades have also seen inexplicable increases. For example, over the past 20 years, the price of human insulin produced by two major manufacturers – Eli Lilly and Novo Nordisk – rose 450 percent after accounting for inflation, according to a 2016 Washington Post analysis of data from Truven Health Analytics. A single 10-milliliter vial of Eli Lilly's Humalog insulin, which is less than a month's supply for many adults, was listed at $254.80 in 2016, compared with $20.82 in 1996.

California has implemented and participated in various efforts to bring down the price of prescription drugs, particularly for state purchasers. These efforts have included bulk purchasing initiatives, prescription drug rebate programs, and price transparency initiatives.

Statewide Pharmaceutical Program and California Pharmaceutical Collaborative. The Department of General Services (DGS) administers the Statewide Pharmaceutical Program (SPP), which coordinates the efforts of various state and local governmental entities to identify and implement opportunities for cost savings and quality improvement regarding pharmaceuticals and medical supplies. As part of the SPP, DGS is also the facilitator of the California Pharmaceutical Collaborative, a working group of state entities established to coordinate and align the development of clinical guidelines, oversee and optimize California's bulk drug procurement program, monitor California's purchasing of high cost prescription drugs, and provide coordination between California's major prescription drug purchasers.

In 2001, DGS established the Common Drug Formulary to assist state departments with health care delivery systems to identify pharmaceutical products that are the most medically appropriate and cost-effective, while assuring the continuity and standardization of medication care. Participants in the formulary are the DSH, the Department of Developmental Services, CDCR, and the California State University System. In addition to the formulary, the SPP achieves cost savings through coordinated purchasing, utilization controls, leveraged pricing agreements, and wholesaler agreements. The goal of the program is to achieve an average savings of 60 percent compared to pharmaceutical Suggested Wholesale Prices. The following chart illustrates the savings achieved by the SPP below Suggested Wholesale Price in 2017.

Source: Department of General Services. "Pharmaceutical Acquisitions Section Scorecard"

Prescription Drug Rebates in Medi-Cal. The federal Omnibus Budget Reconciliation Act of 1990 established the Medicaid Drug Rebate Program, which requires drug manufacturers to pay rebates to state Medicaid programs for drugs dispensed to Medicaid beneficiaries. These rebates are shared between states and the federal government according to the relevant federal matching rate for the beneficiaries to whom the drugs were dispensed. In addition to the federal rebate program, California law requires the Department of Health Care Services (DHCS) to enter into contracts with drug manufacturers to provide supplemental rebates for drugs dispensed to Medi-Cal beneficiaries in the fee-for-service delivery system or enrolled in county organized health systems (COHS). These rebates are in addition to those received through the federal rebate program. In 2010, the federal Affordable Care Act further extended eligibility for the federal rebate program to drugs dispensed to beneficiaries enrolled in non-COHS Medi-Cal managed care plans. However, managed care drug utilization is not eligible for state supplemental rebates.

The Governor's January budget includes General Fund savings from drug rebates of approximately $1.6 billion in 2018-19 and $1.4 billion in 2019-20 through the federal rebate program, state supplemental rebate program, from managed care beneficiaries, and beneficiaries in the Family Planning Access, Care, and Treatment (Family PACT) program and Breast and Cervical Cancer Treatment Program (BCCTP).

Medi-Cal Drug Rebates, 2019-20 Governor's January Budget		
Rebate Program	**2018-19**	**2019-20***
Managed Care (Fed only)	$(549,832,000)	$(639,218,000)
Federal Rebate Program	$(953,904,000)	$(727,582,000)
State Supplemental	$(65,385,000)	$(67,262,000)
Family PACT	$(3,067,000)	$(3,213,000)
BCCTP	$(3,166,000)	$(3,251,000)
TOTAL	**$(1,575,354,000)**	**$(1,440,526,000)**

* 2019-20 rebates deposited in the Medi-Cal Rebate Fund, which will offset General Fund expenditures

Federal 340B Drug Pricing Program Supports Safety Net Providers. The federal Veterans Health Care Act of 1992 established the 340B Drug Pricing Program (340B Program), which requires drug manufacturers that participate in Medicaid to offer significantly reduced prices to certain safety net health care providers, known as covered entities. According to the federal Health Resources and Services Agency (HRSA), which oversees the 340B Program, these discounts enable covered entities to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services. Health care organizations eligible to be covered entities are defined in federal statute and include HRSA-supported health centers and look-alikes (e.g. federally qualified health centers), Ryan White clinics and state AIDS Drug Assistance programs (ADAP), Medicare/Medicaid Disproportionate Share Hospitals, children's hospitals, and other safety net providers.

In general, federal law prohibits states from receiving federal drug rebates for Medicaid beneficiaries if the drugs dispensed were already discounted as part of the 340B Program. 340B-covered entities are also required to provide drugs purchased under the 340B program to Medi-Cal beneficiaries in the fee-for-service delivery system at the 340B price. It is unclear the extent to which Medi-Cal managed care plans, in an effort to maintain an adequate network of pharmacy providers, reimburse 340B entities at a higher rate than the 340B price. However, it is likely 340B entities receive a significant amount of revenue from the incremental difference between costs and managed care reimbursement, as this feature is the primary method utilized by the 340B program to assist safety net clinics and providers to stretch scarce funding resources to care for underserved populations.

SB 17 Increases Prescription Drug Price Transparency. SB 17 (Hernandez), Chapter 603, Statutes of 2017, was intended to provide drug cost transparency in response to the significant growth in expenditures for prescription drugs by public health care programs, commercial health plans, and the general public. These increased expenditures have been attributable to both blockbuster drugs newly brought to market, such as new treatments for hepatitis C, and existing drugs, often no longer under patent protection, for which a single manufacturer controls the drug's supply and substantially increases its price.

Significant Price Increases for Existing Drugs – Notice to Purchasers of Health Care Services. SB 17 requires a drug manufacturer to report to certain public and private sector purchasers of health care services if the price of one of its manufactured drugs increases by more than 16 percent. The required notice must be provided at least 60 days prior to the price increase and must include cumulative price increases over the prior two years, the date of the expected increase, the current price, the dollar amount of the expected increase, and information about whether a change or improvement in the drug necessitates the price increase. Prior to receiving price increase reports from drug manufacturers, a public or private sector purchaser must first register with the Office of Statewide Health Planning and Development (OSHPD), which in turn provides the list of registered purchasers to manufacturers to enable distribution of required notices of drug price increases exceeding the 16 percent threshold. These requirements took effect on January 1, 2018.

Significant Price Increases for Existing Drugs – Quarterly Reporting. SB 17 also requires, effective no earlier than January 1, 2019, drug manufacturers subject to notice requirements due to price increases over the 16 percent threshold to report quarterly to OSHPD the following information for publication:

1. A description of the factors used to make the decision to increase the price of the drug, the amount of the increase, and an explanation of how these factors explain the price increase.

2. A schedule of price increases for the drug for the previous five years, if the drug was manufactured by the company.

3. If the drug was acquired by the manufacturer within the previous five years, all of the following information:

    a. The price of the drug at the time of acquisition and the prior calendar year.
    b. The company from which the drug was acquired, the date, and the purchase price.
    c. The year the drug was introduced and the price at the time of introduction.
    d. The patent expiration date of the drug if it is under patent.
    e. If the drug is a multiple source drug, an innovator multiple source drug, a non-innovator multiple source drug, or a single source drug.
    f. A description of changes or improvements, if any, that necessitate the increase.
    g. Volume of sales of the manufacturer's drug in the U.S. for the previous year.

New High-Cost Drugs. Beginning January 1, 2019, for newly introduced drugs, SB 17 requires manufacturers to notify OSHPD within three days after release if the price exceeds the threshold set for a specialty drug for the Medicare Part D program. No later than 30 days after submitting the notification, manufacturers must provide the following information to OSHPD for publication:

1. A description of the marketing and pricing plans used in the launch of the new drug;

2. The estimated volume of patients that may be prescribed the drug;

3. If the drug was granted breakthrough therapy designation or priority review by the federal Food and Drug Administration prior to final approval; and,

4. The date and price of acquisition if the drug was not developed by the manufacturer.

Health Plan Expenditures on High Cost and High Utilization Drugs. SB 17 also requires health plans to annually file with the Department of Managed Health Care (DMHC) the following information for publication:

- The 25 most frequently prescribed drugs;

- The 25 mostly costly drugs by total annual plan spending; and,

- The 25 drugs with the highest year-over-year increase in total annual plan spending.

Large Group Expenditures on Prescription Drugs. SB 17 also requires health plans that file annual large group rate information to include the following information:

- The percent of premiums attributable to drug costs for each category of prescription drugs;
- The year-over-year increase for each category;
- The year-over-year increase compared to other components of the health care premium;
- The specialty tier formulary list;
- The percentage of the premium attributable to prescription drugs administered in a doctor's office that are covered under the medical benefit as separate from the pharmacy benefit, if available; and,
- Information on use of a pharmacy benefits manager (PBM), if any, including which components of prescription drug coverage are managed by the PBM.

GOVERNOR'S PROPOSAL

Executive Order on Prescription Drug Purchasing. On January 7, 2019, the Governor issued Executive Order N-01-19, ordering state departments to implement several directives intended to reduce the cost of prescription drugs for both public and private purchasers.

1. *Transition of Medi-Cal Prescription Drug Benefits to Fee-For-Service.* The Executive Order directs DHCS to take all necessary steps to transition all pharmacy services currently provided by Medi-Cal managed care plans into the Medi-Cal fee-for-service delivery system. The transition, which would be completed by January 2021, is intended to create additional negotiating leverage on behalf of the state's 13.2 million Medi-Cal beneficiaries. According to the Administration, this transition would standardize the Medi-Cal drug benefit, reduce confusion among beneficiaries without sacrificing quality or outcomes, and result in hundreds of millions of dollars in additional savings beginning in the 2021-22 fiscal year. There are no savings or transition costs for this purpose reflected in the Governor's January budget for the 2019-20 fiscal year.

2. *Statewide Review of Drug Purchasing Initiatives.* The Executive Order directs DHCS, in consultation with the California Pharmaceutical Collaborative (CPC), to review all state purchasing initiatives and consider additional options to maximize the state's bargaining power, including the Medi-Cal program. The review, which may include recommended changes to state law or other procurement or reimbursement processes, will be completed by July 12, 2019.

3. *Prioritization of Drugs and Implementation of Bulk Purchasing Arrangements.* The Executive Order directs DGS, in collaboration with the CPC, to develop a prioritized list of prescription drugs for future bulk purchasing initiatives or for renegotiation of existing

purchasing arrangements with manufacturers. The prioritization would be based on the level of competition for the drug in the marketplace and consideration of the 25 highest-cost drugs. The department will provide a written report to the Governor's Office by March 15, 2019.

Once DGS and the CPC have developed a prioritized list, these two entities will develop and implement bulk purchasing arrangements for high-priority drugs. The department will encourage local governments to participate in the bulk purchasing arrangement through proactive outreach and will provide a written status report to the Governor's Office by April 12, 2019. The Executive Order also directs DGS and the CPC to develop a framework for private purchasers, such as small businesses, health plans, and the self-insured to opt into the state bulk purchasing program. DGS will provide a written report recommending any necessary legislative changes to the Governor's Office by May 17, 2019.

Timeline of Deliverables in Governor's Executive Order on Prescription Drugs		
Report/Action	**Completion Date**	**Department/Entity**
Priority list of drugs recommended for bulk purchasing or renegotiation	March 15, 2019	Department of General Services California Pharmaceutical Collaborative
Status report of development and implementation of bulk purchasing arrangement for high-priority drugs	April 12, 2019	Department of General Services California Pharmaceutical Collaborative
Status report and recommended statutory changes to enable private purchasers to participate in state purchasing program	May 17, 2019	Department of General Services California Pharmaceutical Collaborative
Review of state prescription drug purchasing initiatives and recommended statutory or process changes	July 12, 2019	Department of Health Care Services California Pharmaceutical Collaborative
Transition of all pharmacy services from Medi-Cal managed care to fee-for-service delivery system	January 2021	Department of Health Care Services

According to the Executive Order, the DGS and CPC reports and updates regarding implementation of the bulk purchasing program are due to the Governor's Office on the dates referenced. It is unclear whether the Administration intends to make these documents public. The Executive Order is similarly silent regarding the publication of the DHCS and CPC review of state purchasing initiatives, stating only that the department shall complete its review by the July 12, 2019 deadline.

In addition to these deliverables, the Executive Order directs all agencies under the Governor's executive authority, and encourages all other agencies, to cooperate to the fullest extent permitted under law by providing data and other information to DGS to develop its priority list of drugs recommended for bulk purchasing or renegotiation.

ISSUES TO CONSIDER

Existing Programs Currently Leverage State Purchasing Power for Prescription Drugs. California state departments and safety net health care providers are currently part of several initiatives that serve to leverage state purchasing power or state and federal law to lower the cost of prescription drugs. These initiatives include the Medi-Cal federal and state supplemental drug rebate programs, the DGS Common Drug Formulary for non-Medi-Cal state departments, and the 340B drug discount program for safety net clinics, public hospitals, family planning clinics, and ADAP providers. The state will likely realize significant additional savings from moving Medi-Cal beneficiary drug utilization from the managed care delivery system, in which it is only eligible for federal drug rebates, to the fee-for-service delivery system, in which it will also be eligible for state supplemental rebates. However, it is unclear the extent to which making these drugs eligible for additional rebates will affect pre-rebate pricing decisions made by manufacturers.

Will Increasing Purchasing Power Alone Make A Significant Impact? The Governor's Executive Order to establish a bulk purchasing program differ in key ways from the programs currently administered by DGS. In particular, the Executive Order directs DGS to encourage local governments to participate in the program and to develop a framework to allow private purchasers to participate, as well. These features will increase the number of covered individuals for whom the bulk purchasing program will negotiate prescription drug prices, which is likely to help reduce costs. However, the Administration has not described how this program would contend with the cost of drugs under patent protection or otherwise without a generic alternative. Bulk purchasing programs are generally successful when they are empowered to deny coverage for a particular drug unless the manufacturer is willing to negotiate a reasonable price. It is unclear how the Administration's proposal would approach negotiations with sole-source manufacturers, which are often among the highest-cost prescription drugs, without compromising access to those drugs. The Legislature may wish to consider whether other, more effective options exist to address the availability of sole-source drugs, particularly generics or brand name drugs that are no longer patent-protected.

Impacts on Existing Prescription Drug Programs. While the proposed transition of Medi-Cal pharmacy services from managed care to the fee-for-service delivery system would likely result in significant state rebates, there may be a significant negative impact on safety net providers in California that rely on revenue received by providing drugs through the 340B program to Medi-Cal managed care beneficiaries. In evaluating the Governor's proposal, the Legislature may wish to consider how to address these negative impacts, as these providers deliver a significant portion of the care provided to Medi-Cal beneficiaries and other low-income or uninsured Californians.

Safety Net Reserve Fund

BACKGROUND

Assembly Bill 1830 (Committee on Budget), Chapter 42, Statutes of 2018, created the Safety Net Reserve within the state treasury. The intent is to build a specific reserve for both CalWORKs and Medi-Cal. These programs are often the most needed and heavily utilized during an economic downturn, yet often face severe cuts during those times. The Safety Net Reserve will provide additional resources in a recession to mitigate this effect and avoid cutting these programs when most needed.

California Work Opportunities and Responsibilities to Kids (CalWORKs). CalWORKs is the state's version of the federal Temporary Assistance for Needy Families (TANF) program and provides cash assistance and welfare-to-work services to eligible low-income families with children. The program offers various supportive services, including child care, subsidized employment, and housing support and homeless assistance.

CalWORKs is funded through a combination of the federal TANF block grant, the state General Fund (including the Single Allocation, which funds employment services, eligibility, administration, and Stage 1 Child Care), other various funding allocations from the state, realignment funds (including the Child Poverty and Family Supplemental Subaccount, which funds Maximum Aid Payment (MAP) increases, and the repeal of the Maximum Family Grant (MFG) rule), and other county funds. The current year revised budget includes $4.9 billion in federal, state and local funds for the program, and estimates an average monthly caseload of 391,161 (a decline of 7.6 percent from the previous fiscal year).

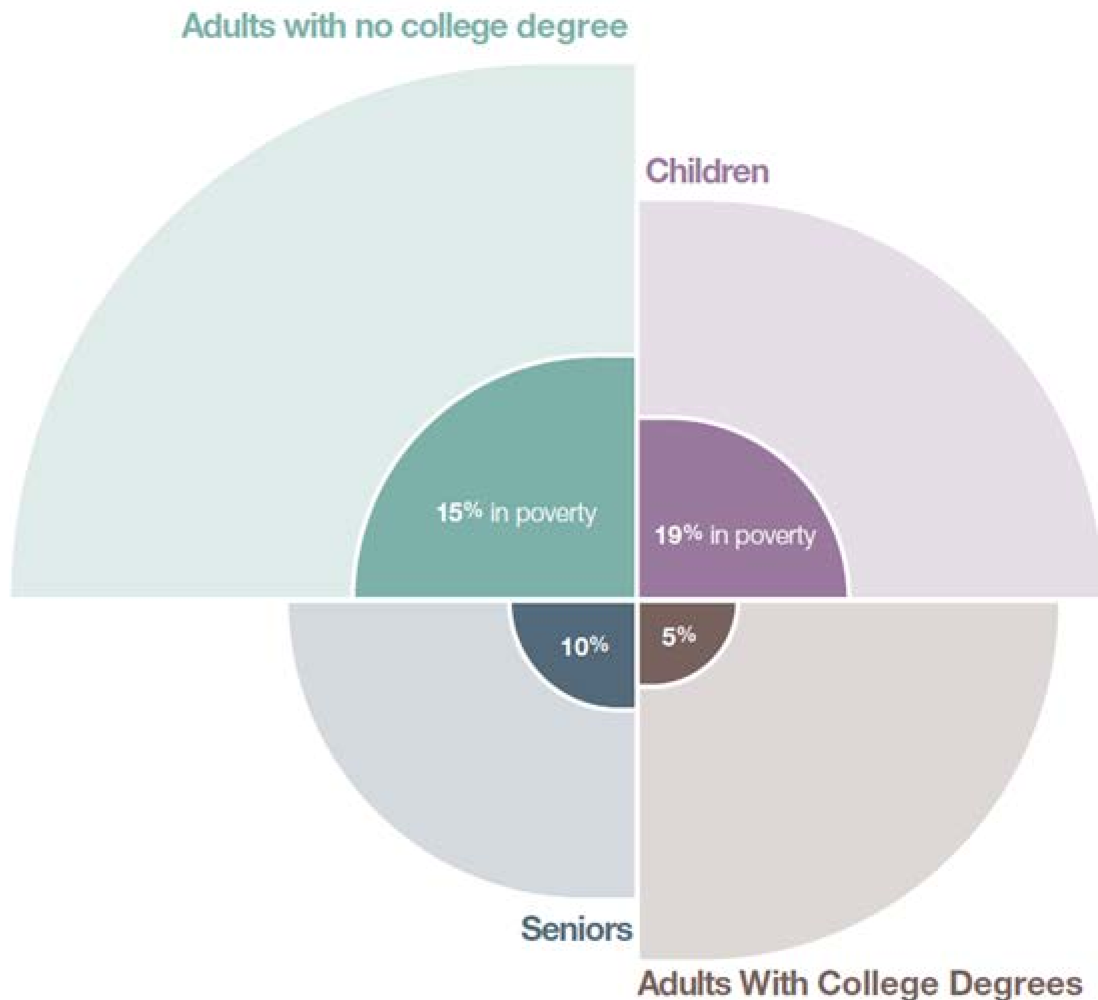
Adults eligible for CalWORKs are subject to a lifetime limit of 48 months of assistance. Unless exempt for specified reasons, such as disability or caregiving for an ill family member, adults must participate in work and other welfare-to-work (for example, educational) activities. Children are generally eligible if their families are low-income and they are legal residents. In more than half of CalWORKs cases (called "child-only" cases), the state provides cash assistance on behalf of children only and does not provide adults with cash aid or welfare-to-work services. There is no time limit on aid for minors. In these "child-only" cases, the adults in the family are ineligible to receive grants. The current maximum CalWORKs grant is $785 a month for a family of three.

Medi-Cal. Medi-Cal is California's Medicaid health care program. The program pays for a variety of medical services for children and adults with limited income and resources. The state and federal government fund Medi-Cal equally, with the federal government covering at least half of the total financing for the program through matching funds for qualified expenditures. While the Safety Net Reserve is meant as a reserve for both Medi-Cal and CalWORKs, the rest of this overview will specifically focus on the human services perspective through CalWORKs, and not Medi-Cal.

Poverty in California. Nearly one in five Californians live at or near the poverty line – or close to eight million residents[1]. In 2017, the U.S. Census Bureau and the Bureau of Labor Statistics released estimates

[1] Public Policy Institute of California. "Just the Facts: Poverty in California." July 2018. https://www.ppic.org/publication/poverty-in-california/

of poverty based on the Supplemental Poverty Measure (SPM), which takes into account the effects of government programs designed to assist low-income families, including refundable tax credits and other in-kind public benefit programs, necessary expenses that may affect family resources, such as out-of-pocket medical expenses and childcare costs, and geographic differences in housing costs.[2] According to 2017 U.S. Census Bureau figures, California's current official poverty measure is 13.4 percent; under the SPM, its poverty rate over 2015-2017 averaged 19 percent—the highest of any state in the nation except for the District of Columbia. The figure below shows how poverty is concentrated among specific populations in California.



Source: Legislative Analyst's Office. "CalFacts." December 6, 2018. https://lao.ca.gov/reports/2018/3905/calfacts-2018.pdf

Poverty rates vary significantly across California's counties, due to differences in the cost-of-living. Using the California Poverty Measure (CPM), which accounts for the cost-of-living and a range of family resources, including social safety net benefits, the table below shows the poverty rates across counties.

[2] Liana Fox. "The Supplemental Poverty Measure: 2017." *U.S. Census Bureau, Economics and Statistics Administration.* September 2015. https://www.census.gov/content/dam/Census/library/publications/2018/demo/p60-265.pdf

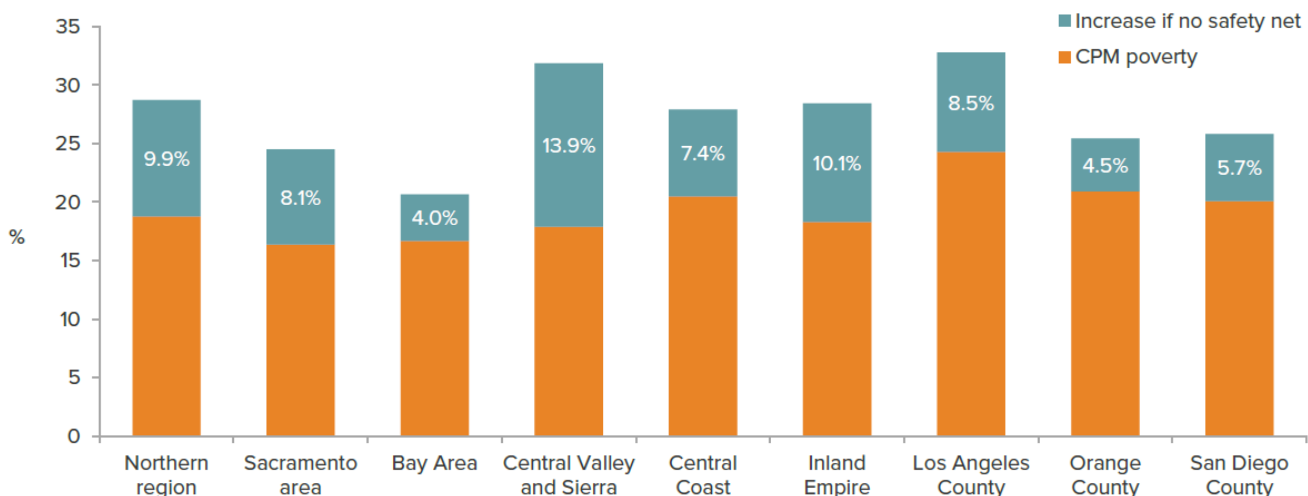
In estimates from 2014-2016, Placer County had the lowest poverty rate (12.9 percent), and Los Angeles had the highest (24.3 percent) [3].

Poverty rates vary widely across California's counties

County	Poverty rate (%)	County	Poverty rate (%)	County	Poverty rate (%)
Alameda	16.7	Madera	16.6	San Luis Obispo	18.5
Alpine, Amador, Calaveras, Inyo, Mariposa, Mono, Tuolumne	13.4	Marin	17.0	San Mateo	16.6
Butte	20.6	Merced	18.4	Santa Barbara	23.0
Colusa, Glenn, Tehama, Trinity	17.2	Monterey, San Benito	19.3	Santa Clara	16.0
Contra Costa	14.8	Napa	16.7	Santa Cruz	23.8
Del Norte, Lassen, Modoc, Plumas, Siskiyou	15.5	Nevada, Sierra	17.2	Shasta	17.8
El Dorado	11.8	Orange	20.9	Solano	15.6
Fresno	19.6	Placer	12.9	Sonoma	17.1
Humboldt	19.6	Riverside	18.3	Stanislaus	15.7
Imperial	20.3	Sacramento	17.3	Sutter, Yuba	16.4
Kern	18.9	San Bernardino	18.2	Tulare	20.3
Kings	16.8	San Diego	20.1	Ventura	18.3
Lake, Mendocino	21.6	San Francisco	18.9	Yolo	20.2
Los Angeles	24.3	San Joaquin	15.8		

Source: Estimates from the 2014–2016 CPM combined.

The Role of Safety Net Programs in Reducing and Alleviating Poverty. Research has shown that safety net programs can aid those living in poverty significantly. The graph below shows, by region, the estimated percentage of individuals who would be in poverty if it were not for these programs. At a larger state level, the Public Policy Institute of California found that in 2016, social safety net programs, in combination with low-income tax programs, kept 7.8 percent of Californians out of poverty.



[3] Public Policy Institute of California. "Just the Facts: Poverty in California." July 2018. http://www.ppic.org/wp-content/uploads/JTF_PovertyJTF.pdf

Poverty has negative consequences not only for those living in poverty but also for the state as a whole. By reducing poverty, safety net programs can also benefit the economy of the state. Children growing up in poverty are much more likely to have low earnings as adults, which negatively effects the workforce.[4] A report by the Center for American Progress found that nationally, each year, childhood poverty: 1) reduces productivity and economic output by about 1.3 percent of gross domestic products (GDP); 2) raises the costs of crime by 1.3 percent of GDP; and 3) raises health expenditures and reduces the value of health by 1.2 percent of GDP. The report emphasizes that these estimates likely underestimate the true costs of poverty to the economy.

Recession and Cuts to Safety Net Programs. In times of recession and economic downturn, programs designed to provide resources to low-income Californians, many of which rely on the General Fund, are often the first to be cut. During the most recent recession, and several years after, state policymakers made extensive cuts to many programs, including CalWORKs and Medi-Cal. From 2007-08 to 2011-12 General Fund spending was cut from $103 billion to $86.5 billion – a drop of 16.6 percent. In 2009, the annual cost-of-living adjustment for CalWORKs that increased grant levels to keep pace with inflation was eliminated. That same year grants were reduced by four percent. In 2010, CalWORKs grants were further reduced by eight percent, a reduction to monthly levels of cash assistance that would leave a family of three below the deep poverty threshold of 50 percent of the federal poverty line. According to the California Budget and Policy Center, the cumulative impact of these cuts amounted to $3.3 billion between 2008-09 and 2011-12.[5] Some of these grant amounts were restored in subsequent years. The Governor's 2019-20 budget proposal seeks to raise grant levels to 50 percent of the federal poverty level (see section on Governor's Proposal).

Creation of the Safety Net Reserve. Due to the reality that safety net programs are often cut during economic downturns, the Senate proposed the creation of the Safety Net Reserve during the 2018-19 budget process. The proposal recommended creating both Medi-Cal and CalWORKs subaccounts, with an initial deposit of $1 billion in the CalWORKs subaccount. The final budget deal approved a deposit of $200 million in the CalWORKs subaccount and directed the Department of Finance (DOF), in consultation with the Legislative Analyst's Office (LAO), the Department of Health Care Services and the Department of Social Services, to develop a methodology for calculating caseload savings and depositing a portion of those savings into the reserve. The department has until May 1, 2019, to present this methodology to the Legislature.

GOVERNOR'S PROPOSAL

The 2019-20 Governor's budget proposes a deposit of $700 million into the Safety Net Reserve, bringing the total funds to $900 million. The proposal also seeks to eliminate the CalWORKs and Medi-Cal subaccounts and the requirement to establish a caseload savings and cost per case contribution methodology.

The Governor also proposes to raise the maximum grant level for a family of three from $785 to $888 a month, effective October 1, 2019, which will bring grant levels to 50 percent of the projected 2019

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[4] Center for American Progress. "The Economic Costs of Poverty in the United States." January 2007. https://cdn.americanprogress.org/wp-content/uploads/issues/2007/01/pdf/poverty_report.pdf

[5] California Budget Project. "Falling Behind: The Impact of the Great Recession and the Budget Crisis on California's Women and Their Families." February 2012. https://calbudgetcenter.org/wp-content/uploads/120201_Falling_Behind.pdf

federal poverty level. The budget includes $347.6 million General Fund in 2019-20 for this purpose. Full year costs of the proposed grant increase are estimated to be $455.4 million. The proposed budget includes $5.3 billion total funds for the core CalWORKs programs, an increase of $390.3 million over the 2018-19 revised budget.

ISSUES TO CONSIDER

AB 1830 required the DOF, along with the LAO, to present a methodology to the Legislature to determine future transfers to and distributions from the fund, with a focus on caseload savings, by May 1, 2019. The Governor proposes to eliminate the requirement for the DOF to develop this methodology. This proposal raises the question as to how future deposit amounts into the reserve will be determined. Even if this requirement were not eliminated, with a required date of May 1, would the Legislature have an adequate amount of time to review and understand the methodology before budget negotiations are complete?

The Governor's proposal also intends to eliminate the CalWORKs and Medi-Cal subaccounts of the reserve. While elimination of the subaccounts may allow funds to be used more flexibly between the two programs, a question arises as to whether one program will be favored over the other during a downturn. Without specified rules and conditions on future deposits and what program those deposits should go towards, one program could be preferred over the other, potentially harming recipients of the other program.

Services for Individuals with Developmental Disabilities

BACKGROUND

The Department of Developmental Services (DDS) oversees the provision of services and supports to persons with developmental disabilities and their families, pursuant to the provisions of the Lanterman Developmental Disabilities Services Act, also known as the Lanterman Act (Division 4.5 of the California Welfare and Institutions Code). The Lanterman Act establishes an entitlement to services and supports for Californians with developmental disabilities.

For the majority of eligible recipients, services and supports are coordinated through 21 private, non-profit corporations, known as regional centers (RCs) that contract with DDS to provide or coordinate services. State-operated institutions – developmental centers (DCs), one state-operated community-based facility, or four Stabilization, Training, Assistance and Reintegration (STAR) homes – serve the remaining recipients.

Eligibility. To be eligible for services and supports through a regional center or in a state-operated facility, a person must have a disability that originates before their 18th birthday, is expected to continue indefinitely, and which presents a substantial disability. As defined in Section 4512 of the Welfare and Institutions Code, this includes an intellectual disability, cerebral palsy, epilepsy, and autism, as well as conditions found to be closely related to intellectual disability or that require treatment similar to that required for individuals with an intellectual disability. Infants and toddlers (age 0 to 36 months) who are at risk of having a developmental disability or who have a developmental delay may also qualify for services and supports.

Regional Center System. A locally established board of directors directs the policies and decisions of each RC. However, the department provides necessary oversight through its contractual relationship with each regional center. It is the responsibility of the department to ensure that services and supports are provided in the most effective and efficient means possible, and that the tenets of the Lanterman Act and other relevant state and federal requirements are met.

RCs coordinate a broad range of services for consumers that fall into several budgeting categories:

- **Community Care Facilities**. RCs contract with vendors of facilities licensed by the Department of Social Services to provide 24-hour residential care to children and adults with developmental disabilities who are in need of personal services, supervision and/or assistance essential for self-protection and sustenance of daily living activities.

- **Medical Facilities.** RCs contract with Intermediate Care Facilities – Developmentally Disabled (ICF-DD) and Continuous Nursing Care, to provide services for consumers not eligible for Medi-Cal.

- **Day Programs**. Day program services may be at a fixed location or out in the community. Services available through a day program include developing and maintaining self-help and self-care skills, behavior management, and developing community integration skills.

- **Work Services Programs.** Work Services programs include work activity programs and supported employment programs. Work activity programs include paid work, work adjustments, and supportive habilitation services typically in a sheltered workshop setting. Supported employment programs provide opportunities for individuals with developmental disabilities to work through either integrated group or individual settings and with support services provided by community rehabilitation programs.

- **Transportation Services.** Transportation services are provided so persons with a developmental disability may participate in programs and/or other activities. Transportation services may include help in boarding and exiting a vehicle as well as assistance and monitoring while being transported.

- **Support Services.** These services include a broad range of services to assist adults who choose to live in homes they own or lease in the community. Services may include assistance with selecting and moving into a home, choosing personal attendants and housemates, and common daily living activities.

- **Respite Services.** Respite services (in-home or out-of-home) include intermittent or regularly scheduled, temporary non-medical care and/or supervision services provided in the consumer's home or licensed residential and day care facilities.

- **Health Care Services.** These services include those that are medical and/or health care-related.

- **Miscellaneous Services.** This category includes a wide range of services identified in a consumer's individualized plan. The services cannot be classified in the other categories due to the wide variety and their often unique qualities. Services in the category can include behavior interventions, early intervention programs, translators, and tutors.

Regional center staff perform outreach and community education, intake and assessment, eligibility determination, resource development, and on-going case management services. They also vendor and pay the 423,276 service providers who provide services to approximately 332,738 RC consumers. The state funds RCs through the DDS and RCs are legally required to provide or secure services in the most cost-effective way possible before using any RC funds. The RC budgets are divided into two parts, Purchase of Service (POS), which provides funding to pay the many service providers in the community, and Operations (OPS), which provides funding to pay all the expenses associated with operating the RCs. In the 2016-17 fiscal year, 78 percent of all RC consumers received some RC-funded service.

Developmental Centers. The budget for the 2015-16 fiscal year announced the planned closure of the remaining DCs. These remaining DCs included Sonoma Developmental Center, Fairview Developmental Center, and the Porterville Developmental Center – General Treatment Area (Porterville GTA). The secure treatment program at Porterville will remain open. The plan projected the closure of Sonoma by the end of the 2018 calendar year. The last resident moved out of Sonoma on December 17, 2018. Both Fairview DC and Porterville GTA are scheduled to close by the end of 2021.

Safety Net Plan. With the closure of the DCs, the department released its Plan for Crisis and Other Safety Net Services in the California Developmental Services System, otherwise known as the "Safety Net Plan." The Safety Net Plan includes the expansion of state-operated services as well as vendor-operated services. Specifically, the expansion of state-operated services includes the development STAR acute crisis services in both Northern and Southern California. Individuals served in the STAR residences are court-ordered to DDS for treatment and are provided mental health treatment for stabilization. Services and supports also prepare them for transition to a less restrictive environment within 13 months. The Safety Net Plan also proposed a state-operated mobile crisis service. The Crisis Assessment Stabilization Teams (CAST), housed at both North and South STAR, provide these mobile services. The CAST is designed to provide partnerships, assessments, training and support to individuals continuing to experience crises after regional centers have exhausted all other available crisis services in their catchment areas.

The expansion of vendor-operated services in the Safety Net Plan includes the development of step-down homes and intensive transition services for individuals transitioning into the community from the Porterville Developmental Center Secure Treatment Program (PDC STP) and from Institutions for Mental Diseases (IMD) and for those at risk of being placed in an IMD. The step-down homes will serve individuals who have been in these highly restrictive settings and would benefit from more structure and continued skill development before transitioning back to their home community. The intensive transition services will provide individuals in the PDC STP and IMDs a higher level of support during their transition into the community, regardless of whether they are moving to a step-down home or to a permanent home in their community of origin. All the step-down homes are currently under development. Both the intensive transition services for individuals transitioning from PDC STP, as well as for individuals transitioning from IMDs, launched in November 2018.

GOVERNOR'S PROPOSAL

As summarized in the chart below, the Governor's budget proposes a total of $7.8 billion ($4.8 billion General Fund) for the department in 2019-20. The number of individuals with developmental disabilities in the community served by RCs is expected to reach 349,606 in 2019-20. The number of individuals who will reside in state-operated facilities is estimated to be 323 on July 1, 2019.

Department of Developmental Services Funding Summary (dollars in thousands)

	2018-19	2019-20	Difference	Percent Change
Community Services	$6,892,600	$7,398,803	$506,203	7.3%
Developmental Centers	394,383	309,462	-84,793	-21.5%
Headquarters Support	70,895	84,793	13,898	19.6%
Total	**$7,357,878**	**$7,793,058**	**$435,180**	**5.9%**
General Fund				
Community Services	$4,087,869	$4,450,177	$362,308	8.9%
Developmental Centers	306,682	265,834	-40,848	-13.3%
Headquarters Support	42,314	53,217	10,903	25.8%
Total	**$4,436,865**	**$4,769,228**	**$332,363**	**7.5%**

A significant proposal in the Governor's budget provides $8.1 million ($6.5 million General Fund) for a restructuring of the department. The intent of the proposal is to provide expanded leadership and expertise for mission critical functions and to unify resources for proactively governing the service delivery system. Major components of the proposal include:

- A new chief deputy position to lead and manage a redesigned and expanded Program Services Branch;
- A new office in Southern California within the Community Operations Division;
- A total of seven teams, composed of three individuals each, that will liaison with and provide oversight of the 21 RCs;
- Dissolution of the Developmental Center Division;
- And a new Office of Legislation, Regulations, and Public Affairs.

The proposed budget does not include any proposals to change rates for services providers.

ISSUES TO CONSIDER

Other Service Needs. In 2015, the California Health and Human Services Agency developed a task force on the future of DCs. The department's plan for closure of the DCs incorporated the recommendations of this task force. One of the recommendations of the DS Task Force was to increase access to and availability of mental health, medical, crisis, housing, employment, transportation, and social recreational services for individuals in the community. While the department and regional centers have worked to increase crisis services and housing options for individuals in the community, as can be seen with the Safety Net Plan, it does not seem as if RCs and the DDS have focused on the other services in the task force's recommendations.

Advocates have voiced concerns that these other services are difficult to obtain in the community. An example of a type of service that some consumers have difficulty obtaining is dental services. In a 2018 report by the Legislative Analyst's Office (LAO), several issues with the availability and utilization of dental services by individuals with developmental disabilities was examined[1]. The LAO found that the Denti-Cal benefit and rate structure limits DDS consumers' access to services, and that too few dental providers are willing and able to serve these individuals. Many RC consumers need extra time for dental appointments as well as specialized equipment. They may also require sedation during routine dental procedures. Most dentists that provide services in the community are not trained to work with this population or to meet their unique needs.

One of the recommendations by the DS Task Force was to create regional medical clinics and mobile health clinics with specialized services for individuals to utilize after leaving the DC. At least two regional centers are working with community health care organizations to build federally qualified health centers (FQHCs) with the equipment and personnel necessary to provide individuals with developmental

[1] Legislative Analyst's Office. "Improving Access to Dental Services for Individuals with Developmental Disabilities." September 27, 2018. https://lao.ca.gov/Publications/Detail/3884

disabilities with community-based services. Other than the recent LAO report, there is little data on the need for and utilization of these specialized services. However, advocates and consumers have repeatedly expressed concerns about the limited availability of services in the community. Perhaps the Legislature should direct the department or LAO to investigate this question and to assess the need for these services in the community.

Headquarters Restructuring. There may be more movement on service development, or an examination of service gaps, with the proposed restructuring of the DDS headquarters. According to the proposal, the expanded Community Services Division will proactively engage in monitoring RCs and comprehensive data analysis. During the budget subcommittee hearings the Legislature may wish to inquire as to what type of data will be examined and whether this will include an examination of service gaps. In addition, the current proposal does not include much detail about the restructuring. With such a substantial proposal, more detail is required. The Legislature should delve more into the specifics of this proposal during the subcommittee hearings.

Provider Rates. California's existing POS rate system is incredibly complex and has become more so over time as rates have been frozen, reduced, and augmented selectively in varied targeted approaches. Many service providers have expressed that the complex rate system and frozen rates have contributed to the lack of service availability. In 2016, the Legislature approved a rate study addressing the sustainability, quality, and transparency of community-based services for individuals with developmental disabilities. The study is due to the Legislature by March 1, 2019. The study may provide a recommendation to increase or change rates, therefore incentivizing more providers to come into the system and increase service availability. However, with the study due in March, the Legislature will have a limited amount of time to review the study. The Legislature may want to consider if and what actions can be taken within the budget to address the issue of complex rates, as well as think about what actions to take as a result of the study once released.

Long-Term Services and Supports in California

BACKGROUND

Demographic projections by the Department of Finance and others estimate that the proportion of California residents over age 65 will grow substantially over the coming decades. This "silver tsunami" is likely to have significant impacts on the delivery systems that provide care to seniors, particularly those with disabilities or in need of assistance with activities of daily living (ADLs). The state's programs that provide long-term services and supports such as Medi-Cal, In-Home Supportive Services (IHSS) and various Medicaid waiver programs, as well as the vast population of unpaid family caregivers, will bear the financial and operational impacts of increased need and utilization of services represented by this population.

Long-Term Services and Supports. Long-term services and supports (LTSS) refers to services and care provided to individuals who have difficulty performing daily activities, generally due to age, physical, cognitive, developmental, or chronic health conditions, or other functional limitations. LTSS can be provided in the home by family caregivers or paid in-home health workers, in other community-based settings such as assisted living homes, or in institutional settings such as skilled nursing facilities. LTSS may include assistance with ADL, which are routine, daily personal care activities such as eating, bathing, mobility, toileting, and dressing. LTSS may also include instrumental activities of daily living, which are more complex skills necessary for living independently, such as medication management, cooking, money management, transportation, and housework.

Aging Population in California. According to demographic projections by the Legislative Analyst's Office (LAO), the population of California seniors, defined as adults aged 65 and older, will increase from roughly 5.3 million in 2017 to 13.4 million in 2060. The LAO report, titled "A Long-Term Outlook: Disability Among California's Seniors," projects that for California, the growth in the senior population will be primarily driven by the aging Baby Boomer cohort and the largest growth will be for seniors over 85 years old. While the increasing population of seniors is a national trend, California is unique in that the senior population is projected to shift from being majority white to majority nonwhite by 2030.

Although the majority of seniors from 2015-2060 are not projected to have disabilities, the LAO estimates that the number who do will jump 270 percent, from one million in 2015 to 2.7 million in 2060. Between 2015 and 2019, of the population of seniors that are 65 and older 52 percent are considered "high need," meaning they need help with two or more daily activities or have severe cognitive impairment. The LAO also projects that seniors turning 65 between 2015 and 2019 will spend 4.5 years, or 19 percent of their remaining life, with a disability. Of these seniors, nonwhite seniors and seniors without a college degree will live more years with a disability. Women in this cohort will live even more years with a disability, as they live longer than their male counterparts, on average. Unfortunately, they are less likely to have the financial resources to pay for care.

LTSS is provided to those in need through several sources, including the state and federal government, private insurers, and individuals. In California, Medi-Cal and Medicare are two of the primary public sector payers for LTSS; generally, the federal government pays for one-half of most Medi-Cal costs.

Medi-Cal generally pays for a broader array of LTSS than Medicare, which covers some LTSS services on a short-term basis. Medi-Cal covers hospital inpatient, outpatient, and institutional long-term care services. Optional services include Home and Community-Based Services (HCBS). However, the SCAN foundation points out that nearly two-thirds of older adults with LTSS needs living at home receive all help from unpaid caregivers, typically family and friends.

LTSS costs often exceed what individuals and families can afford given other personal and household expenses. According to the SCAN Foundation, 53 percent of LTSS costs are covered out-of-pocket, 42 percent are covered by Medicaid, and the other five percent are covered through private long-term care insurance. Institutional settings, such as nursing facilities and residential care facilities, are the most costly. In 2017, the annual private pay cost for a nursing facility was $97,367.[1] Generally, HCBS are less expensive than institution-based LTSS, but may still represent a major financial burden for individuals and their families. In 2015, the median costs for one year of home health aide services (at a $13.06 median hourly wage) was $39,000 and adult day services totaled $20,020.

LONG-TERM SERVICES AND SUPPORTS PROGRAMS IN CALIFORNIA

The primary California programs that provide LTSS services to seniors, which are most likely to be impacted by the expected aging of the state's population, are administered by three state departments: the Department of Social Services (DSS), the California Department of Aging (CDA), and the Department of Health Care Services.

Department of Social Services

In-Home Supportive Services. DSS oversees the In-Home Supportive Services (IHSS) program. The IHSS program provides personal care services to over 500,000 qualified low-income individuals who are blind, aged (over 65), or who have disabilities. Services include feeding, bathing, bowel and bladder care, meal preparation and clean-up, laundry, and paramedical care. These services help program recipients avoid or delay residing in more expensive and less desirable institutional care settings. County social workers determine IHSS eligibility and perform case management after conducting a standardized in-home assessment of an individual's ability to perform ADLs. Based on authorized hours and services, IHSS recipients are responsible for hiring, firing, and directing their IHSS provider(s). According to DSS, around 73 percent of providers are relatives, or "kith and kin." The program is funded with federal, state, and county resources. Federal funding is provided pursuant to Title XIX of the Social Security Act, which governs Medicaid expenditures. Caseload growth and wage increases for IHSS providers are the two primary drivers of steadily increasing IHSS service costs in recent years.

California Department of Aging

CDA administers community-based programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term care facilities throughout the state. The department is the federally-designated State Unit on Aging, and administers funds allocated under the federal Older Americans Act, the Older Californians Act, and through the Medi-Cal program.

[1] AARP Public Policy Institute. "Across the States 2018: Profile of Long-Term Services and Supports in California" August 27, 2018. https://www.aarp.org/content/dam/aarp/ppi/2018/08/california-LTSS-profile.pdf

CDA contracts with a statewide network of 33 Area Agencies on Aging (AAAs), which directly manage federal and state-funded services. Each AAA provides services in one of the 33 designated Planning and Service Areas (PSAs). Examples of AAA services include supportive and care management services, in-home services, congregate and home delivered meals, legal services, employment services, family caregiver support, and elder abuse prevention.

CDA also contracts directly with agencies that operate the Multipurpose Senior Services Program (MSSP) through the Medi-Cal home and community-based waiver for the elderly (see *Multipurpose Senior Services Program Waiver* below).

Community-Based Adult Services (CBAS). CDA certifies CBAS centers, which provide services as a managed care benefit for those eligible for the Medi-Cal program. CBAS offers services to eligible older adults and/or adults with disabilities to restore or maintain their optimal capacity for self-care and delay or prevent inappropriate or personally undesirable institutionalization. Under an interagency agreement between the Department of Health Care Services (DHCS) and the CDA, CDA administers the CBAS Program and certifies providers for participation in CBAS. Prior to participation as CBAS Medi-Cal waiver providers, CBAS providers must be licensed to operate adult day health care (ADHC) centers by the California Department of Public Health (CDPH).

Long-Term Care Ombudsman. CDA also administers funding for the Long-Term Care Ombudsman, which recruits volunteers and other staff to investigate and resolve community complaints made by, or on behalf of, individual residents in long-term care facilities. The program seeks to advocate for the rights of all residents in long-term care facilities.

Department of Health Care Services (Medi-Cal)
Medicaid Home- and Community-Based Services Waiver Programs. The Medicaid HCBS waiver program is authorized in Section 1915(c) of the Social Security Act. The program permits states to furnish an array of home- and community-based services that assist beneficiaries to live in the community and avoid institutionalization. States have broad discretion to design waiver programs to address the needs of the waiver's target population. Waiver services complement or supplement the services that are available to participants through the Medicaid state plan and other federal, state and local public programs, as well as the supports that families and communities provide.

California operates several home- and community-based services waivers for Medi-Cal beneficiaries.

Home- and Community-Based Alternatives Waiver. The Home- and Community-Based Alternatives (HCBA) Waiver provides Medi-Cal beneficiaries with long-term medical conditions, who meet the acute hospital, adult or pediatric subacute or nursing facility Level of Care (LOC), with the option of returning to or remaining in their home or home-like settings in the community in lieu of institutionalization. DHCS contracts with waiver agencies to perform waiver administration functions and to direct comprehensive care management waiver services. The care management services are provided by a multidisciplinary care team comprised of a nurse and social worker. The waiver agencies are responsible for functions including: participant enrollment, LOC evaluations, plan of treatment and person-centered care and service plan review and approval, waiver service authorization, utilization management, provider enrollment and network development, quality assurance activities and reporting to DHCS, billing the fiscal intermediary, and provider claims adjudication.

DHCS received approval of the HCBA Waiver in May 2017 with a January 2017 effective date. The budget includes costs of $6.7 million ($3.4 million General Fund and $3.4 million federal funds) in 2018-19 and savings of $1.6 million ($790,000 General Fund and $790,000 federal funds) in 2019-20 for Waiver expenditures and offsetting savings from transitioning beneficiaries from skilled nursing facilities into a home- or community-based care setting. DHCS expects the waiver renewal will serve up to 8,964 participants by the end of the five year waiver term.

Assisted Living Waiver. The Assisted Living Waiver (ALW) pays for assisted services and supports, care coordination, and community transition in 15 counties (Sacramento, San Joaquin, Los Angeles, Riverside, Sonoma, Fresno, San Bernardino, Alameda, Contra Costa, San Diego, Kern, San Francisco, San Mateo, Santa Clara and Orange). Waiver participants can elect to receive services in a Residential Care Facility for the Elderly (RCFE), an Adult Residential Facility (ARF), or through a home health agency while residing in publicly subsidized housing. Eligibility into the ALW is based on a qualifying skilled nursing level of care which is captured through the assessment tool used by care coordination agencies to assess potential participants.

In October 2018, DHCS received federal approval for a waiver amendment to expand the ALW by 2,000 slots from 3,744 to 5,744 between July 2017 and June 2020 to accommodate current and anticipated need. According to DHCS, a reserve capacity will be set for new enrollments, which will require that 60 percent of all new enrollments be reserved for individuals transitioning from institutional settings after residing in them for a minimum of 90 consecutive days. The budget includes savings of $14.8 million ($7.4 million General Fund and $7.4 million federal funds) in 2018-19 and $42.7 million ($21.3 million General Fund and $21.3 million federal funds) in 2019-20 for ALW expansion. The costs of ALW services are offset by a higher level of savings from transitions of individuals from skilled nursing facilities into community settings under the ALW.

In-Home Operations Waiver. The In-Home Operations (IHO) Waiver serves either: 1) participants previously enrolled in the Nursing Facility A/B Level of Care (LOC) Waiver who have continuously been enrolled in a DHCS administered HCBS waiver prior to January 1, 2002, and who require direct care services provided primarily by a licensed nurse, or 2) those who have been receiving continuous care in a hospital for 36 months or longer and who have physician-ordered direct care services that are greater than those available in the Home and Community Based Alternatives Waiver, for the participant's assessed LOC. CMS approved the IHO waiver renewal from January 1, 2015 through December 31, 2019. DHCS indicates it will not renew the IHO Waiver at the expiration of the current waiver term. At the point of annual reassessment for each participant, DHCS will offer the option of transitioning to the Home- and Community-Based Alternatives Waiver. All IHO Waiver participants will be given sufficient notice of the waiver expiration and provided options to transition prior to the expiration of the IHO Waiver.

Multipurpose Senior Services Program (MSSP) Waiver. Under the MSSP Waiver, the California Department of Aging contracts with local agencies to provide social and health care management for frail elderly clients who are at risk of placement in a nursing facility, but who wish to remain in the community. The MSSP arranges for and monitors the use of community services to prevent or delay premature institutional placement of these individuals. Clients eligible for the program must be 65 years of age or older, live within an MSSP site service area, be able to be served within MSSP's cost limitations, be appropriate for care management services, be currently eligible for Medi-Cal, and be certifiable for placement in a nursing facility. Services provided by MSSP include adult day care and support center

services, housing assistance, household and personal care assistance, protective supervision, care management, respite, transportation, meal services, social services, and communication services. Under the approved waiver, beginning July 1, 2014 through June 30, 2019, capacity of unduplicated recipients is as follows:

- Waiver Year 1: 12,000
- Waiver Year 2: 11,684
- Waiver Year 3: 11,684
- Waiver Year 4: 11,684
- Waiver Year 5: 11,684

The MSSP Waiver expires on June 30, 2019. DHCS indicates it intends to submit a renewal application for the Waiver on March 1, 2019. The department is currently engaging with stakeholders in advance of the renewal submission.

HCBS Waiver for Persons With Developmental Disabilities (DD Waiver). The DD Waiver, administered by the Department of Developmental Services (DDS), provides home and community-based services to persons with developmental disabilities who are Regional Center consumers as an alternative to care provided in a facility that meets the federal requirement of an intermediate care facility; in California, this includes intermediate care facility-developmental disabilities-type facilities (ICF-DD), or a state developmental center.

Medi-Cal State Plan Benefit - Long-Term Care. In addition to the home- and community-based waiver programs, Medi-Cal beneficiaries certified as meeting a skilled nursing level of care are eligible for long-term care services in a skilled nursing facility. These benefits are offered under the state's Medicaid State Plan. The budget includes $3.4 billion ($1.4 billion General Fund, $1.7 billion federal fund, and $220.7 million special funds and reimbursements) in 2018-19 and $3.3 billion ($1.5 billion General Fund, $1.7 billion federal fund, and $127.3 million special funds and reimbursements) in 2019-20 for long-term care for seniors and persons with disabilities in the fee-for-service delivery system.

While the programs listed above are the primary ones that provide services to California's seniors, there are many other state programs that support California seniors. A sample is shown in the table below.

Sample of Other State Programs that Support California Seniors

Olmstead Advisory Committee	The Olmstead Advisory Committee, comprised of advocates, consumers and other stakeholders, advises on issues related to the state's implementation of the U.S. Supreme Court's Olmstead decision.[2] The California Health and Human Services Agency (CHHS) houses the committee.
Alzheimer's Disease and Related Disorders Advisory Committee (ADRDAC)	The ADRDAC provides ongoing advice and assistance to the Administration and the Legislature on the program needs and priorities of individuals affected by Alzheimer's disease or related disorders. CHHS houses the committee.
Program for All-Inclusive Care for the Elderly (PACE)	PACE provides medical and supportive services to individuals who are age 55 or older, and who are certified to need nursing home care, but who are able to live safely in the community at the time of enrollment. The program is available in limited areas of the state. DHCS oversees programs throughout the state.
California Aging and Disability Resource Connections (Cal-ADRCs)	ADRCs assist individuals with disabilities and/or chronic conditions in accessing health care, medical care, social supports, and other LTSS. ADRCs offer enhanced information and referral, long-term care options counseling (one-on-one decision support across all networks), short-term service coordination (when there is an urgent need for support until a longer term arrangement can be made), and access to information. They are available in seven counties.
California Commission on Aging	The California Commission on Aging serves as the state's principal advocate for older adults. Its primary purpose is to advance issues fundamental to ensuring healthy, purposeful and dignified longevity for all Californians.
Caregiver Resource Centers (CRC)	CRCs provide information and referral, short-term counseling, respite care, education, training and support to families and caregivers of persons with Alzheimer's disease, stroke, Parkinson's disease, and other disorders at eleven centers throughout the state.
Alzheimer's Disease Program	The Alzheimer's Disease program, administered by CDPH, provides services to persons and families afflicted with Alzheimer's disease and related disorders.

GOVERNOR'S PROPOSAL

Funding for programs that provide LTSS to seniors is spread across various state departments and agencies, as mentioned above.

[2] In 1999, the U.S. Supreme Court ruled in the case of *Olmstead v. L.C.*,1 finding that the unnecessary institutionalization of people with disabilities is a violation of the Americans with Disabilities Act of 1990 (ADA).

Department of Social Services (In-Home Supportive Services). The Governor's budget includes $12.7 billion ($4.2 billion General Fund) for the IHSS program. Average monthly caseload in this program is estimated to be 564,000 recipients in 2019-20, and the average annual cost of services per IHSS client is estimated to be approximately $19,000.

The Governor's proposed budget also includes significant adjustments to IHSS, including:

- Restoration of the 7-percent across-the-board service hours reduction. Due to enactment of the managed care organization tax, a 7-percent across-the-board reduction in IHSS service hours enacted during the Great Recession was restored for the duration of the managed care organization tax. Under current law the tax will expire on July 1, 2019. The budget proposes to restore the 7-percent reduction, no longer tying the restoration to the tax. The cost to restore the 7-percent reduction is estimated to be $342.3 million General Fund in 2019-20.

Department of Aging. The proposed budget includes $206.3 million ($36.7 million General Fund) for the department. More specifically, the budget includes $23.2 million ($21.6 million General Fund) for MSSP, and $5.3 million ($2.4 million General Fund) for CBAS. The budget also includes $11.9 million ($3.9 million General Fund) for the Ombudsman's office.

Medi-Cal Long-Term Care Services. The proposed budget includes $100.7 billion ($22.9 billion General Fund) for Medi-Cal in 2019-20, with a projected caseload of approximately 13.2 million Californians. DHCS estimates that Medi-Cal will spend $3.4 billion ($1.4 billion General Fund, $1.7 billion federal fund, and $220.7 million special funds and reimbursements) in 2018-19 and $3.3 billion ($1.5 billion General Fund, $1.7 billion federal fund, and $127.3 million special funds and reimbursements) in 2019-20 on long-term care for seniors and persons with disabilities in the fee-for-service delivery system.

ISSUES TO CONSIDER

Changing Demographics. The rapid growth and changing demographics of California's senior population is unique among the states. Rapid growth raises questions about system capacity and the financial impact of LTSS on personal and state finances. The changing demographics bring a challenge for the state. How has the state begun to address the impact these changing demographics will have on the LTSS system? What have California's LTSS programs done to prepare for the increase in LTSS utilization and the resulting fiscal and programmatic impacts from the coming increase in California seniors?

Data Gaps. The LAO report cited above describes data gaps, specifically the lack of California specific projections for utilization and financing of LTSS. The 2018 Budget Act included budget bill language and General Fund expenditure authority of $3 million to address the need for data that assesses the use of and demand for LTSS in California. This funding will allow the addition of LTSS screening questions and a 15 minute follow-on survey to the 2019-20 and 2023-24 cycles of the California Health Interview Survey (CHIS), in-person, in-depth qualitative interviews with 100 Californians with LTSS needs in 2021, and the continuation of a module of caregiver questions in CHIS during the 2023-24 cycle. While this information is much needed, it may be years before the data is fully gathered and analyzed. In the meantime, what is the state doing to address the issue? Additionally, what is the state prepared to do with

this information once gathered and analyzed? Will the state use this data to inform the LTSS programs it manages?

Coordination within the LTSS system. As is evident from the background section, the LTSS system in California involves many different agencies, departments, and other entities. California's current LTSS system was developed one program at a time over many years through a mixture of federal mandates and state innovation. As such, LTSS programs were implemented and funded in a variety of departments that operate independently of each other – not by design, but by historical circumstance. While all these programs are valuable to California seniors, many have overlapping responsibilities and duties. The LTSS system is often confusing for seniors and their families when trying to obtain services. There is a need for coordination, collaboration, and possibly consolidation, within the LTSS system. How this consolidation and/or coordination would happen and who would organize it is open for debate, but it seems clear that it is needed. Several advocate groups have proposed a so-called "Aging Czar" within CHHS or the Governor's office who would be responsible for aging issues, and presumably, help coordinate the many different LTSS options into one cohesive system.

Caregiver Support. The incoming "silver tsunami" affects not only California's seniors, but also those who provide care for them – especially informal, unpaid caregivers. How will the increase in the senior population affect the proportion of care delivered by unpaid family caregivers? Caregivers are often ill-prepared to provide care, and are thrust into a caregiving role unexpectedly. Additionally, many caregivers continue to provide care to others while also suffering from poor health themselves. What state services are currently available to assist and support these essential care providers?

State Plan on Aging. All of the above issues raise concerns about the state's readiness to address the needs of current and future seniors in California, and all of the challenges to come. A state plan on aging may be the first step in preparing for this. While the CDA publishes a state plan for aging regularly, that plan focuses on expenditures, and does not include the many other departments and agencies that have responsibility for aging issues. There is a need for a complete, comprehensive plan on aging for California. The plan should address the issues listed above, as well as other issues identified by advocates, seniors, the Legislature, and the Administration.

SUBCOMMITTEE NO. 4

STATE ADMINISTRATION and GENERAL GOVERNMENT

State Administration and General Government

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Affordable Housing and Homelessness

BACKGROUND

Homelessness in California is no longer confined to urban corridors. It pervades both urban and rural communities across the state and puts stress on local resources, from emergency rooms to mental health and social services programs to jails. Recent federal data estimates the state's homeless population at 134,278 in 2017, or 25 percent of the nation's homeless population. While national homelessness has decreased by 13 percent since 2010, homelessness in California has increased by nine percent in the same period.

For decades, and for a variety of reasons, too little housing has been built to accommodate all those who wish to live here. This lack of home building has driven a rapid rise in housing costs. Of the estimated 200,000 units of housing that are needed annually merely to keep up with population growth, only 113,000 units were permitted in 2017. Since 2007, fewer than 750,000 units were permitted, accounting for only 40 percent of the projected need. While California's median income has just recently surpassed pre-recession levels, median rent has continued to rise. Statewide, half of all renters are rent-burdened, meaning more than 30 percent of their income goes to housing, and nearly a third of all renters are severely rent-burdened, with more than half of their income going to housing. Over 80 percent of low-income renters in the state are rent-burdened.

This lack of affordable housing has complicated efforts to respond to the state's homelessness crisis. According to analysis by the National Low Income Housing Coalition, California has only 22 affordable and available rental homes for every 100 extremely low-income households. Affordability in this case means total housing costs are at or below 30 percent of area median income. In other words, the state is short more than a million rental units that are affordable and available to extremely low-income Californians. This lack of affordable housing makes it more difficult to prevent extremely low income Californians from falling into homelessness in the first place, and makes it more difficult and expensive to climb back out of homelessness and into permanent housing.

2017 Housing Package

In 2017, the Legislature passed a package of 15 bills aimed at increasing the affordability of housing in California. The package included proposals to place a general obligation bond on the November 2018 ballot, create a permanent funding source for affordable housing by levying a transaction fee on new real estate transactions, and enact a variety of regulatory reforms to speed up development and construction of new housing. The bills included in the package are detailed below.

2017 Housing Package Statutes

Statute	Housing Package Component
Dedicated Housing Funding	
SB 2 (Atkins), Chapter 364, Statutes of 2017	Create a permanent source of funding for affordable housing with a document recording fee on real estate transactions.
SB 3 (Beall), Chapter 365, Statutes of 2017	Invest in a $4 billion housing bond with $3 billion for affordable housing and $1 billion for veterans housing.
Streamlining Housing Development	
SB 35 (Wiener), Chapter 366, Statutes of 2017	Streamline multifamily housing developments with an affordable component in infill areas across the state.
SB 540 (Roth), Chapter 369, Statutes of 2017	Establish Workforce Housing Opportunity Zones to streamline development in priority areas.
AB 73 (Chiu), Chapter 371, Statutes of 2017	Form Housing Sustainability Districts to streamline development in infill areas.
Accountability and Enforcement	
AB 72 (Santiago), Chapter 370, Statutes of 2017	Allow for interim housing element monitoring; enforce existing housing laws through collaboration with the Attorney General.

AB 879 (Grayson), Chapter 374, Statutes of 2017	Improve local reporting on housing outcomes; conduct a fee reasonableness study to evaluate local development fees.
AB 678 (Bocanegra), Chapter 373, Statutes of 2017	Strengthen the Housing Accountability Act.
SB 167 (Skinner), Chapter 368, Statutes of 2017	
AB 1515 (Daly), Chapter 378, Statutes of 2017	
SB 166 (Skinner), Chapter 367, Statutes of 2017	Secure "No Net Loss" in housing element sites inventory.
AB 1397 (Low), Chapter 375, Statutes of 2017	Promote feasibility of sites included in sites inventory.
AB 1505 (Bloom), Chapter 376, Statutes of 2017	Clarify that local governments may adopt inclusionary ordinances that require affordable housing set-asides.
AB 1521 (Bloom), Chapter 377, Statutes of 2017	Strengthen preservation requirements on rent-restricted affordable housing units.
AB 571 (Eduardo Garcia), Chapter 372, Statutes of 2017	Support farmworker housing by easing access to tax credit financing and allowing extensions for seasonal housing centers.

Recent Legislative Investments

The Legislature has made several recent investments in addressing the state's affordable housing and homelessness crisis. SB 2 (Atkins), Chapter 364, Statutes of 2017, provided an ongoing source of revenue for affordable housing and homelessness programs, providing an estimated $289 million per year for a variety of programs. The 2018 budget included $500 million in one-time General Fund resources for the Homeless Emergency Aid Program, which provides funds to address homelessness directly to the state's 11-largest cities and 43 Federally-designated Continuums of Care (CoCs). In 2018, voters also approved a $4 billion bond issuance for affordable housing and homelessness issues.

Additionally, 20 percent of state cap-and-trade revenues are continuously appropriated to the Affordable Housing and Sustainable Communities program. These investments are detailed below.

2018-19 Budget Act
(Dollars in millions)

	SB 2	General Fund	Total
Housing for a Healthy CA/NHTF (HHC, HCD)	$ 63		**$ 63**
Homelessness Coordinating & Financing Council STAFF (HCD)		$ 1	**$ 1**
Homeless Coordinating and Financing Council BLOCK GRANTS (CoCs to cities, counties, JPAs)		$ 500	**$ 500**
California Emergency Solutions and Housing (CESH, HCD)	$ 63		**$ 63**
Homeless Youth and Exploitation Program (CalOES)		$ 1	**$ 1**
Domestic Violence Shelters and Services (CalOES)		$ 10	**$ 10**
CalWORKs Housing Support Program (CDSS)		$ 24	**$ 24**
CalWORKs Homeless Assistance Program (CDSS)		$ 8	**$ 8**
Home Safe (CDSS)		$ 15	**$ 15**
Homeless Mental Illness Program (DHCS)		$ 50	**$ 50**
SB-2 Planning Program (HCD)	$ 125		**$ 125**
Total	**$ 250**	**$ 609**	**$ 859**

This package included $500 million for the Homeless Emergency Aid Program (HEAP), which provided block grants directly to federally-designated Continuums of Care (CoCs) and large cities with populations over 330,000, so they may provide immediate emergency assistance to people experiencing homelessness or those at imminent risk of homelessness. Eligible uses include, but are not limited to the following:

- Homelessness prevention activities.

- Criminal justice diversion programs for homeless individuals with mental health needs.
- Establishing or expanding services meeting the needs of homeless youth or youth at risk of homelessness.
- Emergency aid.

The parameters of the program are intentionally broad to allow local communities to be creative and to craft programs that meet the specific needs they have identified.

$62.5 million in SB 2 funding was provided to the Housing for a Healthy California program (HHC), which creates supportive housing for individuals who are recipients of, or eligible for, health care provided through the California Department of Health Care Services' Medi-Cal program. The goal of the HHC program is to reduce the financial burden on local and state resources due to the overutilization of emergency departments, inpatient care, nursing home stays and use of the corrections systems and law enforcement resources as the point of health care provision for people who are chronically homeless or homeless and high-cost health care users. An additional $62.5 million in SB 2 funds were provided for the California Emergency Solutions and Housing program (CESH), which funds five primary activities: housing relocation and stabilization services (including rental assistance), operating subsidies for permanent housing, flexible housing subsidy funds, operating support for emergency housing interventions, and systems support for homelessness housing delivery systems.

GOVERNOR'S PROPOSAL

The Administration has recognized that housing is a statewide issue and a lack of affordable housing directly contributes to the increased homelessness seen across the state. To address these crises, the Administration proposes to make significant investments through a multi-pronged approach that includes incentives to increase housing production and additional resources to provide access to shelter and services to individuals and families with immediate needs. In total, the Governor's Budget includes $7.7 billion across multiple departments and programs to address housing and homelessness throughout the state. Most of these are ongoing funds provided by SB 2 or recently-passed bond acts, with roughly $2 billion being new one-time spending. These totals are detailed below.

Affordable Housing and Homelessness Funding
(Dollars in Millions)

Department	Program	2019-20	
Department of Housing and Community Development	Housing Planning and Production Grants	$ 750	
	Veterans and Affordable Housing Bond Act Programs (SB 3)	*$ 526*	
	No Place Like Home Program	*$ 400*	
	Building Homes and Jobs Fund Programs (SB 2)	*$ 277*	
	Federal Funds	*$ 228*	
	Legislative Housing and Homelessness Priorities	$ -	
	Infill Infrastructure Grant Program Reappropriation	$ -	
	Housing for Veterans Funds	$ 75	
	Multifamily Housing Program - AB 1831 Funds	$ -	
	Multifamily Housing Program - Supportive Housing	$ -	
	Office of Migrant Services	$ 6	
	Housing Related Parks Program Reappropriation	$ -	
	Various	$ 15	
California Housing Finance Agency[1/]	Single Family 1st Mortgage Lending	$ 2,000	
	Mixed-Income Loan Program	$ 500	
	Multifamily Conduit Lending	$ 300	
	Multifamily Lending	$ 120	
	Mortgage Credit Certificates	$ -	
	Single Family Down Payment Assistance	$ 113	
	Special Needs Housing Program	$ 20	2/
Homeless Coordinating and Financing Council	Planning and Progress Grants to Address Homelessness	$ 500	
	Emergency Homeless Aid Block Grants	*$ -*	
Strategic Growth Council[3/]	*Affordable Housing and Sustainable Communities*	*$ 395*	
Tax Credit Allocation Committee	*Low Income Housing Tax Credits (Federal)*	*$ 299*	4/
	Low Income Housing Tax Credits (State)	$ 600	
	Farmworker Housing Assistance Tax Credits	$ 1	
Department of Veterans Affairs	CalVet Farm and Home Loan Program	$ 220	
Department of Social Services	CalWORKS Housing Support Program	$ 95	
	Housing and Disability Advocacy Program	$ 25	
	CalWORKS Homeless Assistance Program	$ 16	
	Senior Home Safe Program	$ -	
	CalWORKS Family Stabilization, Housing Component	$ 4	5/
Department of Health Care Services	Whole Person Care Pilots - Housing Investment	$ 100	
	Project for Assistance in the Transition from Homelessness	$ 9	
	Homeless and Mental Illness Program	$ -	
	Whole-Person Care Pilot Program, Health Homes Program, Mental Health Services Act Community Services and Supports, California Community Transitions Program	N/A	6/
Board of State and Community Corrections	Adult Reentry Grant Program	$ -	
	Legislative Priorities Related to Homelessness	$ -	
Office of Emergency Services	Domestic Violence Housing First Program	$ 19	
	Transitional Housing Program	$ 19	
	Domestic Violence Shelters and Services	$ 54	
	Specialized Emergency Housing	$ 10	
	Homeless Youth and Exploitation Program	$ 1	
	Youth Emergency Telephone Network	$ 1	
	Homeless Youth Emergency Services	$ -	
California State University	Basic Needs Funding - Student Hunger and Homelessness Program	$ 15	
University of California	Basic Needs Funding - Student Hunger and Homelessness Program	$ 15	
Department of Public Health	HIV Care Program	$ 6	
	Housing Opportunities for Persons with AIDS (HOPWA)	$ 4	
	Housing Plus Program	$ 1	
California Department of Corrections and Rehabilitation	Integrated Services for Mentally-Ill Parolees	$ 4	
	Specialized Treatment of Optimized Programming, Parole Service Center, Day Reporting Center, Female Offender Treatment and Employment Program	N/A	6/
Total		**$7,743**	

[1/] Amounts are based on lending activities from 2017-18 trends.
[2/] This amount represents a voluntary allocation of Proposition 63 funds from 16 participating counties.
[3/] The Affordable Housing and Sustainable Communities program amount reflects 20 percent of projected Cap and
[4/] This amount represents the 9 percent tax credits allocated in 2018-19 and an estimated figure for 4 percent credit awards based on 2015-2017 averages. This figure does not include the approximately $4 billion of tax-exempt bond debt allocation that is available for award from the California Debt Limit Allocation Committee.
[5/] This amount represents an estimate of the portion of the program associated with housing and homelessness
[6/] The state provides a number of wrap-around supportive services through these programs, including housing support and application assistance, which cannot be separated from the Department of Health Care Services' and Department of Corrections and Rehabilitation's general budgets.

ISSUES TO CONSIDER

Overall Strategy and Interaction with Recent Investments
The Administration's proposal is ambitious and wide-ranging. At the same time, the overall framework guiding these investments is unclear, particularly in light of recent legislative investments in this space. Previous legislative investments focused on immediate solutions to homelessness (HEAP and CESH), as well as planning support for local jurisdictions (one half of the first year of SB 2 revenues are devoted to local planning grants). The Governor's proposal provides $750 million for housing planning and production grants ($250 million of which is intended to directly support planning activities). The proposal also makes $500 million available to jurisdictions with regional homelessness plans for emergency shelters and supportive housing. While these investments are worthwhile, it is unclear how they complement already-existing programs such as CESH or HEAP, or how they will coordinate with those programs to continue to provide support where it is needed.

It is worth noting that the two grant programs described above are not fully dedicated to either housing production or homelessness. In both proposals a portion of funds ($500 million for housing planning and production, and $200 million for homelessness) would be awarded to local jurisdictions for "general purposes" once certain performance milestones are met. The Administration has indicated that these are intended to be an incentive for local jurisdictions to deliver on actions that build affordable housing and provide support for homeless populations. There is merit to this approach, but it also means that the majority of the funding in these programs is not targeted at housing production or homelessness. The Legislature should determine whether this is an appropriate approach and if it is, if this is the appropriate proportion of directly targeted funds to incentives.

Homelessness and Affordable Housing Are Closely Related…
As noted above, the state's lack of affordable housing has complicated efforts to respond to the state's homelessness crisis. Households are more likely to fall into homelessness due to an unforeseen expense, such as unexpected medical bills, if they are extremely rent-burdened. At the same time, it is difficult to find available, affordable housing for such households if there is a serious shortage of affordable housing. Put another way, individuals who fall into homelessness are likely to stay homeless, or regularly cycle between being housed and homeless, unless there is affordable housing readily available.

… But Cannot Be Treated With a Single Policy Solution
Homelessness is indeed a housing problem, first and foremost, but the homeless population often has a range of issues to overcome, which may include as mental illness, drug abuse, and domestic abuse. These issues often interfere with the ability of homeless individuals to get and stay housed, and require specific policies and services to address. As such, simply building new affordable housing will not fully address homelessness issues.

The balance of the Administration's investments provide services targeting populations suffering from these specific issues, including middle-income homebuyers, those suffering from mental illness, recent parolees, and victims of domestic violence. All of these programs have merit, and are meeting the needs of a specific population. However, the Legislature should consider how these investments complement or duplicate one another, and if there are other populations equally in need of support that may not be otherwise supported.

The Legislature may also want to consider to what extent this package addresses existing gaps in funding and services. While the state has invested in emergency solutions to homelessness, permanent supportive housing, and affordable housing development, it has not provided to same level of support to interim housing solutions that keep people housed and prevent them from falling into homelessness. Such services, which may include operating subsidy/rental assistance for deeply-targeted affordable housing and legal assistance for tenants at risk of eviction, are necessary to move individuals from homelessness into permanent housing. The Legislature may want to consider the extent to which such investments are necessary and desirable.

Choice of Policy Vehicle Matters

The Governor proposes to invest an additional $500 million (in addition to the current $100 million) in the state's Low Income Housing Tax Credit (LIHTC) program, which provides tax credits to developers of affordable housing projects. This includes $300 million for the existing LIHTC and $200 million in a new middle-income tax credit that is designed to pair with CalHFAs new Mixed Income Loan Program. These programs are designed to complement the roughly $299 million in federal tax credits made available to the state each year.

Two federal credits are provided for the state to allocate, the nine percent credit and the four percent credit, which are provided annually over 10 years. The nine percent program is competitive and provides approximately 70 percent of a project's total costs. In its two funding rounds per year, the program has been historically oversubscribed, with twice as many applicants as awards. The four percent program, which is currently underutilized, is non-competitive and provides approximately 30 percent of a project's total costs.

The Administration has indicated that the expanded LIHTC is intended to bolster the federal four percent tax credit, which is currently underutilized. While the LIHTC is a valuable tool for encouraging affordable housing development, it has limitations. The rates used to determine the total amount of the state tax credit (representing all four years of allocation) are 30 percent of the eligible cost of a project that is not federally subsidized and 13 percent of the eligible cost of a project that is. Combining federal four percent credits (which amounts to roughly 30 percent) with state credits (which amounts to 13 percent) only covers 43 percent of a project's eligible cost. While this is a necessary support for many affordable housing developments, it may not be enough to make certain projects financially viable if they require more than 43 percent of their eligible cost to be subsidized. Simply expanding the supply of state LIHTC does not address this fact, and therefore may not result in an expansion of LIHTC-supported affordable housing development. The Legislature should consider whether this proposal is the best approach to expanding affordable housing development, or if policy changes, expanding available loan funding programs, or another approach would better meet the state's policy goals.

Office of Digital Innovation

BACKGROUND

Information technology (IT) touches our everyday lives. As IT consumers, for example, we expect emails to be sent securely and addressed promptly, to be able to pay in a preferred method of choice, and for state licensing applications to be reviewed in a timely manner. In order for state government to operate, the State of California invests significant IT resources annually to protect public safety and the integrity of the data it collects, and to deliver services.

The California Department of Technology (CDT) is the state's central IT coordinator, provides project oversight, and delivers IT solutions. Currently, CDT has independent project oversight of 27 reportable projects for a total of $2.95 billion.[1] However, not all IT projects fall under direct-CDT oversight. Departments, which successfully receive internal Agency and control agency approvals, are authorized to identify and pursue IT solutions, as long as the project costs fall within a department's specified threshold, and receive internal Agency oversight. Under this structure, the oversight of day-to-day project implementation activities are often left to the department and internal project management staff. For example, under the Health and Human Services Agency (CHHSA), which serves as the central administrator and coordinator for state and federal public health, health care, and social services programs for 13 offices and departments, has its own Office of Systems Integration (OSI). The OSI, which was established in 2005, collaborates with CDT on reportable projects. Its project portfolio ranges from the single Statewide Automated Welfare System (SAWS), Child Welfare Services/Case Management System (CWS/CMS) to the Appeals Case Management System (ACMS).[2] The OSI Agency also has its own internal project management staff, which vets health and human services projects they move forward to CDT.

Project Approval Lifecycle. Before the state shifted to its current agile methodology and encouraged modular development, California used a Stage/Gate, or waterfall, process, for IT projects, in which products or developed in distinct stages and separated by "gate" decision points. Often, projects procured and developed through Stage/Gate experienced significant delays, due to contracting-out work, project cost overruns. Sometimes, the initial solution became outdated technology during project implementation and becomes one of the many piecemeal solutions for its users. Over time, the state shifted to the Project Approval Lifecycle (PAL).

The start of a state IT project begins when a department or Agency conducts its business analysis, which identifies the problem and establishes a business case for an IT solution. CDT assists in assessing the sponsoring department's organizational readiness for an IT development. The second step involves the alternatives analysis, in which the department conducts market research to identify possible solutions and develops a project timeline. Stage 3 is demarcated by developing the solicitation package for vendors; and Stage 4 requires that the business project costs and solution are provided to Department of Finance, and then, to the Legislature for approval.

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[1] To review independent project oversight review (IPOR) projects, visit CDT's website, https://cdt.ca.gov/policy/it-project-tracking/

[2] For more detail about OSI portfolio, visit the website, http://www.osi.ca.gov/

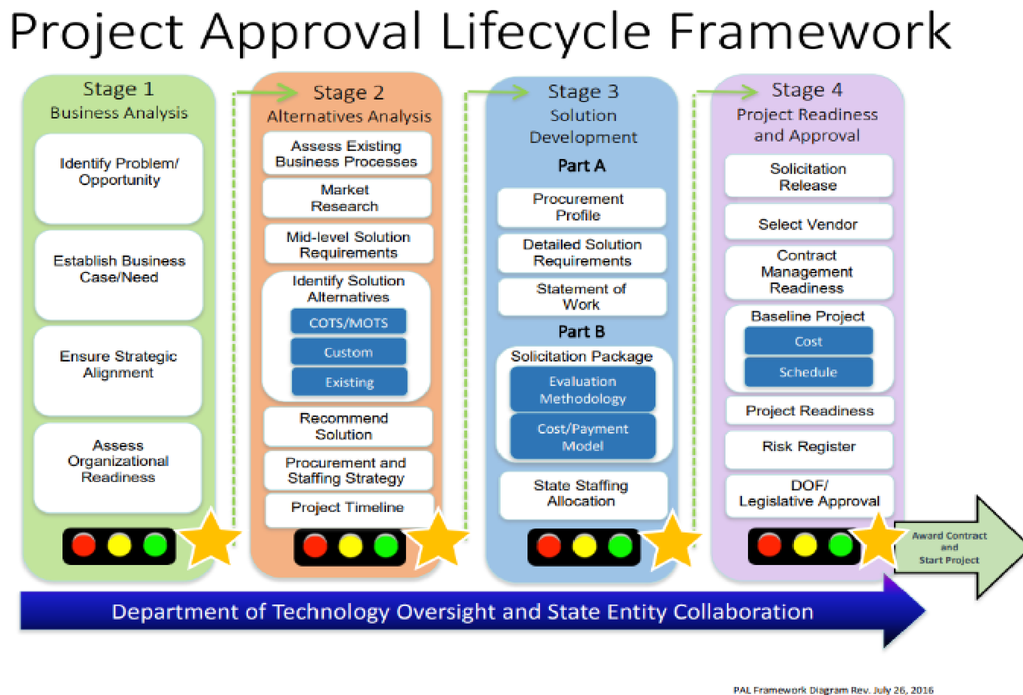

Figure 1: California Department of Technology, https://cdt.ca.gov/wp-content/uploads/2017/02/PAL_Framework_Rev_2016-0726.pdf

Project Management Office. The 2014-15 Budget Act (Senate Bill 852, Chapter 25, Statutes of 2014) provided CDT two positions and $208,000 (General Fund) to establish a statewide project management office (PMO). Under a centralized PMO, it was envisioned that information sharing would be easier, training could be applied uniformly, and the personnel deployed for project management services would be experienced, highly-skilled professionals who could handle complex projects. In 2015-16, the Governor proposed, and the Legislature adopted, 11 additional positions (13 total) and $1.5 million (special fund) to further develop the PMO. The 2017-18 Budget provided the PMO with 14 positions and $2.5 million (special fund).

Health and Human Services – Innovation Office. The Health and Human Services Agency established its Innovation Office to create a culture of sustained innovation across CHHSA to demonstrate how government can be more responsive. With executive leadership and sponsorship, the CHHSA and Office launched twelve innovation use case teams with over 120 change agents across departments. Each of the teams collaborate across silos and are encouraged to "test small, fail small, and scale big." The use case team tenets – customer-oriented, data-driven decision-making, and sustainable agency-wide benefits – show a maturity that appears identical to what the Governor's budget proposes.

GOVERNOR'S PROPOSAL

The Governor's budget includes initial costs of $36.2 million ($33.7 million General Fund), $14.6 million ($9.6 million General Fund) ongoing, and 50 positions to establish the Office of Digital

Innovation within the Government Operations Agency (Office). The Administration intends for the Office to transform government service-delivery, reengineer business processes, and be more user-centered. Specifically, the budget proposes the Office create a scalable Innovation Academy – mandatory for state supervisors, managers, and executives – on process improvement, change management, and executive sponsorship. In addition, the budget proposes additional information technology training, broadly, on modular procurements and agile project development. The budget also proposes one-time funding of $20 million (Innovation Fund) for the Office to provide technical assistance to departments in modernization efforts.

ISSUES TO CONSIDER

Managing expectations and sustaining long-term culture change. California is home to the Silicon Valley and the startup industry. The Governor's budget makes clear its expectation to modernize state IT operations, evoking the same language characteristic of startups: innovative, iterative, and transformational. In addition, the Administration seeks to actively establish customer service benchmarks, instead of building IT solutions in reaction to statutory mandates. However, the state is inherently different from a startup, and many IT requirements are codified in existing law. Public dollars fund state programs, and the state is responsible for judiciously using those funds. To do so, control agencies develop, and perpetuate a culture of, processes to keep an IT project "on-track", often marked by dollar amounts and needing to know detailed out-year projections. However, these same guardrails may inadvertently undermine a project from pivoting at critical junctures; and, if a project does fail to meet a deadline, its budget is scaled back, which could hamper further development. For example, most projects assume some upfront lead-time to procure contracts; however, these often take longer to solicit and review. These delays, in turn, cause projects to fall behind before they even start. In addition, IT projects are funded on a traditional budget-track (January and May Revision), which do not necessarily align with procurement schedules. As the state shifts to more agile and modular procurements, does it make sense to require a project to know its development operations schedule three to four years in the future? What is the state's tolerance level of risk? The Legislature may wish to discuss what metrics are best to assess a project's performance in an agile process, while retaining its fiscal oversight role.

Human-centered design and training. The budget proposes one-time $20 million (Innovation Fund) for the Office to assist departments to prioritize needs, and requires state supervisors, managers, and executives to attend the to-be-developed Innovation Academy. Training curriculum for human-centered design is a critical element to the successful deployment and maintenance and operations (M&O) of any large-scale project. Departments may think automation can quickly solve problems; however, users – people – drive the project's success. While Californians are the end-consumer of the product, how state civil servants do their day-to-day job functions are important to designing a solution that is efficient and intuitive. How an end-recipient interfaces with state IT should be the central focus – how they can check their licensing status online or have their benefits uploaded securely on their EBT card. The Legislature may wish to discuss whether one-time funding for innovation is enough to implement – and sustain – meaningful culture change.

Modeling best practices. Within the Administration, there have been many different start-stops to revamping IT. The CHHSA provides a mature model to how state government can implement change on a scalable way. For example, CHHSA already implemented its data de-identification guidelines, implemented across all of its departments, over two years ago, and wrote a data playbook that is only now being picked up by the Government Operations Agency. The CHHSA also has been long

committed to open data initiatives, launching its Open Data Portal[3], which has over 382 datasets, and dashboard[4], provides participation data related to seven health and human services programs, including CalWORKs, CalFresh, In-Home Supportive Services, foster care, Medi-Cal, Women, Infants and Children, and Development Services. The Legislature may wish to ask how the Administration plans to engage with existing CHHSA Innovation Office work, particularly its use case teams; and to apply lessons-learned from how large projects, like FI$Cal, employed change management practices.

Attracting and retaining high-quality staff. Governor Brown's Reorganizational Plan Number 1 set out for the California Department of Human Resources (CalHR) to undergo a review of civil service classifications. Since June 1, 2014, CalHR's Personnel Management Division (PMD) abolished 1,063 civil service classifications. Many IT classifications were abolished, including information officer, information systems analysts and supervisors, and information technicians and specialists. On June 2018, CalHR established its revised information technology series, now comprised of nine different IT classifications and job qualifications.[i] While IT professionals can receive higher pay in the private sector, the Legislature may wish to first compare whether state IT projects experience similar attrition rates as the private sector, and (2) explore what incentives, such as flexible working hours or working from home, could make the state more competitive to attract and retain talent. In addition, the Legislature may wish to explore the Administration's expectations regarding the hiring of state staff versus contracting with vendors, as vendors may be appropriately skilled to handle short-term projects or jobs that are more specialized.

Exploring costs to participation. Departments, including those charged for PMO services, pay for services, which are deposited into the Technology Services Revolving Fund (TSRF). The service rates are largely due to project manager salary and benefits, but do not include administrative responsibilities and other services such as the development of frameworks, methodologies, and other tools. The Legislature may wish to get further detail about the Innovation Academy, including how departments and agencies will be billed for participating in the Academy or how the training content will be developed.

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[i] http://www.calhr.ca.gov/state-hr-professionals/pages/1400.aspx

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[3] https://data.chhs.ca.gov/
[4] https://data.chhs.ca.gov/dataset/health-human-services-program-dashboard

Earned Income Tax Credit

BACKGROUND

According to research by the California Budget and Policy Center, state Earned Income Tax Credits (EITCs), like California's, are important tools for boosting economic security among working families. By piggybacking on the federal EITC, these state credits further boost families' incomes, helping them to better make ends meet. In addition, state EITCs may enhance the federal EITC's well-documented benefits to children, families, and communities. Research shows that the federal EITC reduces poverty, encourages work, may improve families' health, boost children's school achievement, increase children's future earnings, and boosts California-based businesses and the state's economy.

In SB 80 (Committee on Budget and Fiscal Review), Chapter 21, Statutes of 2015, the Legislature created the EITC, a state refundable tax credit for wage income that is intended to benefit very low-income households. Specifically, the program builds off the federal EITC and established a refundable credit for tax years beginning on or after January 1, 2015. The credit is applied to personal income tax liabilities associated with earned wage income. The program provides for a credit amount during a phase-in range of earned wage income according to specified percentages based on the number of qualifying children.

SB 106 (Committee on Budget and Fiscal Review), Chapter 96, Statutes of 2017, expanded California's EITC. This legislation expanded the state EITC to allow previously ineligible self-employed workers to qualify for the state EITC, and raised the credit's income eligibility limits so that workers higher up the income scale would qualify. This legislation better aligned California's EITC with the federal EITC and ensured that the state credit incentivizes all types of paid work.

SB 855 (Committee on Budget and Fiscal Review), Chapter 52, Statute of 2018, expanded the EITC to working individuals who are aged 18 to 24 or over age 65, by revising the age range for the definition of an "eligible individual." Additionally, SB 855, expanded the qualifying income range for the EITC so that employees who have one or more dependents, and who are working up to full-time at the 2019 minimum wage of $12 per hour, would qualify for the credit. Approximately $420 million in EITC is expected to be granted to over two million households this year. The following chart shows state EITC claims and aggregate credits for each year that the credit has been available.

EITC Claims and Amounts		
Tax Year	**Claims**	**Amount**
2015	386,000	$200 million
2016	386,000	$205 million
2017	1.5 million	$348 million
2018 (estimated)	2.2 million	$420 million

As displayed on the chart below, for the 2018 tax year, the credit is available to California households with adjusted gross incomes of up to $16,750 if there are no qualifying children, and up to $24,950 if there is one or more qualifying children.

Number of Qualifying Children	CA Maximum Income	CalEITC (up to)	IRS EITC (up to)
None	$16,750	$232	$519
1	$24,950	$1,554	$3,461
2	$24,950	$2,559	$5,716
3 or more	$24,950	$2,879	$6,431

[1]

You qualify for the state's EITC for the 2018 tax year if you meet all of the following requirements:

- You have wages, self-employment income and adjusted gross income within certain limits.
- You, your spouse, and any qualifying children each have a Social Security Number issued by the Social Security Administration that is valid for employment.
- You do not use the "married/RDP filing separately" filing status.
- You lived in California for more than half the tax year.

Outreach and Tax Preparation Efforts. EITC outreach has been an increasing focus of the program. Some reasons for this include that: 1) estimates have shown that every year California leaves $2 Billion of unclaimed EITC money on the table; 2) research suggests that outreach around state-level EITCs increases uptake of the Federal EITC; 3) about one-third of the EITC eligible population turns over each year; 4) workers move into and out of eligibility based on changes in their marital, parental and financial status; 5) three out of five who receive the credit use it temporarily, for one or two years; and 6) you must claim the credit to receive it. Over 50,000 working people filed California taxes in 2017 and failed to claim the credit. Many people who qualify for the credit and are eligible for up to $6,000 fail to simply file taxes because they make below the required income threshold.[2]

Additionally, data has shown that the majority of families who've claimed the CalEITC have not received the full benefit of the credit because they've paid commercial tax preparers to file their taxes. In 2017, 56 percent of families claiming the CalEITC paid a preparer (not including families who purchased software to file), according to the Franchise Tax Board (FTB). CalEITC recipients' high reliance on commercial preparers is not surprising considering that nearly two-thirds of Californians who claim the federal EITC pay to file — the second-highest share in the nation, according to the Brookings Institution. Expanding free tax preparation services would allow more families to receive their full tax refunds and better target California's investment in the CalEITC to the families it's intended to reach.[3]

[1] https://www.ftb.ca.gov/individuals/faq/net/900.shtml

[2] https://caleitc4me.org/eitc-facts/

[3] California Budget and Policy Center, Expanding Access to Free Tax Preparation Services Is Essential to Making the CalEITC a Success, Alissa Anderson May 3, 2018

The Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) volunteer programs provide free assistance to individuals who need help completing federal and state income tax returns. Assistance is limited to full-year residents because nonresident and part-year resident returns can be complex. Assistance is generally available from February 1 through April 15th. The VITA program specializes in assisting taxpayers with disabilities, those with low to limited income, and non-English speaking taxpayers. The TCE program provides free income tax assistance for middle- or low-income taxpayers, giving special attention to those aged 60 and older.

In recognition of the need for outreach efforts, the Legislature and the Governor provided $2 million in 2016-17 and 2017-18, for a CalEITC outreach grant program to reach the 10 target counties with the estimated highest potentially eligible number of households, as well as one small rural and one statewide grant pool. In total, there were 15 grantees with grants ranging from $55,000 to $300,000.

In order to increase outreach capabilities, the 2018-19 budget included $5 million for increased awareness, $4.9 million for free tax preparation assistance to eligible families and individuals, and $100,000 for evaluation of the most effective outreach strategies.

In its outreach efforts, FTB has collaborated with a wide breadth of government and nongovernmental agencies to develop a detailed communication plan to reach California taxpayers who might qualify for both the federal and state credits. Efforts included compilation and analysis of demographic information regarding the targeted population, web support activities, a direct mailer campaign to California taxpayers who did not have a state filing requirement but may qualify for the new California EITC credit, and educational outreach to taxpayers, tax professionals, legislative staff, and other groups.

GOVERNOR’S PROPOSAL

The Governor’s budget proposes to more than double the size of the current program and rename it the "Working Families Tax Credit." The Governor’s budget proposal includes the following components:

- An additional $500 credit for families with children under the age of six.
- Increasing the maximum eligible earned income so that workers working up to full-time at the 2022 minimum wage of $15 per hour will be eligible for the credit.
- Changing the phase-out formula so that taxpayers earning income at the upper end of the credit structure will receive significantly higher credit amounts.
- Exploring how to allow workers to receive a portion of their "Working Families Tax Credit" in monthly payments, as opposed to receiving the credit in one lump sum at the end of the year.
- $5 million one-time through the Office of Planning and Research to provide matching funds to nonprofits, community-based organizations, or governmental entities that provide increase awareness of the state’s EITC and free tax preparation assistance to eligible families and individuals.

These changes are expected to provide $600 million in additional benefits and to allow 400,000 additional families to benefit from the credit. In total, the expanded program is expected to provide $1 billion in credits to 2.4 million families.

To pay for this expanded program, the Administration is proposing conformity to several federal tax law changes mainly impacting business income. In 2017, the federal government adopted sweeping changes to the tax code for corporations and individuals. The Administration proposes taking into consideration federal law changes and how differences between California law and federal law may create unnecessary administrative burdens to both taxpayers and the FTB. Differences between federal and state systems can be especially difficult for individuals and small businesses. The Governor's budget proposes conformity to several key provisions that on either administrative burden or policy grounds are beneficial to California. These provisions include flexibility for small businesses, capital gains deferrals and exclusions for Opportunity Zones, and limitations on fringe benefit deductions, like-kind exchanges, and losses for non-corporate taxpayers, among others. These conformity provisions are expected to generate $1 billion in 2019-20.

ISSUES TO CONSIDER

Further Expansion to the State EITC. The Governor's budget proposal will provide a significant boost to low-income working Californians and should be given strong consideration by the Legislature. However, advocates continue to point out that there remains a group of working Californians that do not have access to the credit — immigrants who file taxes with a Social Security Number or Individual Taxpayer Identification Number (ITIN). Numerous advocacy groups have pointed out that immigrants contribute about one third of California's gross domestic product and are vital to California's economy, yet many low-income working immigrant families who are struggling to make ends meet are excluded from the state EITC. Immigrants who use a federally assigned ITIN to file their tax returns are not currently eligible. Additionally, those who lose immigration relief, such as Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status, due to federal action against immigrants will no longer qualify for the EITC. This exclusion can negatively impact adults and children alike, as many immigrants live in mixed-status households with U.S. citizen children who may not benefit from the CalEITC because of their parents' immigration status.

Periodic Payments. Previous staff critiques of the EITC have discussed periodic payments. Specifically, it has been noted that there are drawbacks to the annual payment approach. While the program may force savings, it does so at the expense of consumer preferences, preventing a participating household from relying on the subsidy for regular budgeting purposes. The annual payment also facilitates an outflow of benefits to commercial tax preparers that charge interest on refund anticipation loans on EITC participants' tax filings. Periodic payments, such as monthly, would smooth payments and help recipients cover ongoing expenses such as food and housing.

However, staff has also noted that periodic payment methods come with more complexities. An overarching issue regarding periodic payments is which entity would best be in a position to effectively administer a periodic payment program. This could be the FTB but could equally be assigned to an agency with more specific knowledge of the identified population. An effective periodic payment system would require addressing the following administrative components:

- **Enrollment.** Enrollment entails identifying and recruiting potential participants in an EITC periodic payment program and then verifying their eligibility to participate based on a set of objective factors.

- **Disbursement.** Disbursement involves identifying the entity responsible for the disbursement (e.g. financial institution or tax agency) as well as the frequency of the payments to the participating individual.

- **Communication.** Communication ensures that inaccuracies inherent in an income supplement program (such as income changes or "life" changes) can be corrected midstream, thus minimizing the monetization of these errors.

- **Reconciliation.** Reconciliation involves the year comparison of advanced payments and final credit amount eligibility, which could occur in conjunction with the filing of the annual tax return with the FTB.

These Administrative issues notwithstanding, advocates have pointed to the outcomes of an EITC Periodic Payment Pilot in Chicago in which participants were given most of their EITC quarterly through a mailed check or direct deposit. A 2015 Center for Economic Progress report detailing the pilot concluded that:

- The monthly injections of cash were used mainly on necessities.

- Periodic payments helped people save money.

- Nearly all participants preferred regular payments.

Continued Outreach and Free Tax Preparation. While the Governor's proposal includes a $5 million investment for increased EITC awareness and Free Tax Preparation Services, ongoing funding would maximize the benefit of resources in these areas by allowing the programs that deliver these services to plan for and sustain the desired level of services. It is of note that FTB is evaluating efforts to increase program take-up. Given the funding that has been added by the Legislature the last few years and the FTB's efforts, the Legislature may wish to specifically focus in on outreach and tax preparation as part of this year's budget deliberations to ensure that program goals are being realized.

Funding the State's EITC. The Legislative Analyst's Office (LAO) has pointed out that attempting to offset revenue losses from an expanded state EITC through a package of conformity actions, as the Administration is proposing, would be problematic. According to the LAO, estimates of the revenue impacts of expanding the state EITC and possible conformity actions are subject to significant uncertainty. In addition, the impacts of these different changes likely would deviate from each other over time. For example, the cost of the EITC could vary based on the economy. Additionally, the LAO suggests that revenues raised by conformity actions could change as taxpayers respond to any new incentives. The Legislature should consider whether tying expansion of the state EITC to tax conformity is a necessary and viable approach. If the Legislature determines that the Governor's approach is prudent, consideration should be given to ensure the program isn't harshly impacted by future variations in the realization of revenue from any of the conformity changes.

Cannabis Tax Revenue

BACKGROUND

The statutorily authorized use of medical cannabis was approved in California in 1996 when voters approved Proposition 215, the Compassionate Use Act (CUA). The CUA provided certain Californians the right to obtain and use cannabis for medical purposes, as recommended by a physician, and prohibited criminal prosecution or sanction against physicians who make medical cannabis recommendations. In 2003, Senate Bill 420 (Vasconcellos), Chapter 875, Statutes of 2003, established the Medical Cannabis Program under the California Department of Public Health, and created a medical cannabis identification card and registry database to verify qualified patients and primary caregivers.

In subsequent years, advocates, patients, and local governments recognized deficiencies in the oversight of medical cannabis and called for additional safety regulations. In June 2015, Governor Brown signed the Medical Marijuana Regulation and Safety Act, comprised of Assembly Bill 243 (Wood), Chapter 688, Statutes of 2015; Assembly Bill 266 (Bonta), Chapter 689, Statutes of 2015; and Senate Bill 643 (McGuire), Chapter 719, Statutes of 2015. The act was later renamed the Medical Cannabis Regulation and Safety Act (MCRSA). Together, these bills established the oversight and regulatory framework for the cultivation, manufacture, transportation, storage, and distribution of medical cannabis in California.

With California having the largest economy of any state in the U.S., many advocates called for the legalization of recreational use of cannabis, predicting an increase of hundreds of millions of dollars in state revenue. In November 2016, voters approved Proposition 64, or the Adult Use of Marijuana Act (AUMA). AUMA legalized nonmedical, adult use of cannabis in California. Similar to MCRSA, the act creates a regulatory framework for the cultivation, manufacture, transportation, storage and distribution of cannabis for nonmedical use.

The primary goals of the AUMA were to: 1) end the illicit market for marijuana in California; 2) put in place protections to prevent access for minors and diversion out of state; 3) provide revenue to fully fund oversight responsibilities and critical programs (prevention, treatment, job training); and, 4) allow regulators and the Legislature flexibility to make changes going forward.

Initiative Component - Tax

AUMA established a weight-based tax on the commercial cultivation of marijuana (which is $9.25 per ounce of flower or $2.75 per ounce of leaves), as well as a 15 percent excise tax (which is in addition to the standard sales tax). The initiative also eliminated the standard sales tax on medical marijuana patients with a state ID card; but recreational cannabis is subject to existing state and local sales tax. Lastly, locals have discretion on setting additional taxes on cannabis activity. Tax revenues will primarily be used for youth substance abuse treatment, education, and prevention, law enforcement training, and environmental cleanup. The following chart from the Legislative Analyst's Office (LAO) outlines the tax structure under AUMA.

Measure Allows for Certain Marijuana Taxes

Type of Tax	Type of Marijuana Taxed	Rate
Existing state and local sales tax	Nonmedical only.	Rates vary across the state but average around 8 percent.
New state retail excise tax	Both medical and nonmedical.	15 percent of retail price.
New state tax on growing	Both medical and nonmedical.	$9.25 per ounce of dried marijuana flowers and $2.75 per ounce of dried marijuana leaves.[a]
Existing and future local taxes	Subject to local government decisions.	Subject to local government decisions.

[a] Marijuana flowers contain relatively more of the psychoactive ingredient in marijuana than leaves.

Revenues from the new taxes are deposited into a new special fund, the California Cannabis Tax Fund. The fund is first used to reimburse state agencies for cannabis-related regulatory costs, and the remaining funds are to be distributed as follows:

- $10 million annually, until 2028-29, to evaluate effects of recreational cannabis use.
- $3 million annually, until 2022-23, to develop methods to determine whether an individual is driving impaired.
- $10 million in 2018-19, with a $10 million increase annually until 2022-23, and $50 million annually afterward for a grant program to provide services to communities most affected by past drug policies.
- $2 million annually to study the hazards and values of medicinal cannabis.
- After the above allocations, remaining funds would be apportioned as follows: 60 percent for youth programs, 20 percent to mitigate environmental damage from cannabis cultivation, and 20 percent for programs to reduce impaired driving and a grant program to reduce negative public health impacts.

Proposition 64 mandates that by January 1, 2020, the LAO must include in a report recommendations for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and ensuring sufficient revenues are generated.

Owners of a business in California that sells cannabis and/or cannabis products, must register with the California Department of Tax and Fee Administration (CDTFA) for a seller's permit and regularly file sales and use tax returns. In addition to a seller's permit, distributors of cannabis and/or cannabis products must register with the CDTFA for a cannabis tax permit and regularly file cannabis tax returns.

Cannabis distributors are required to calculate and collect the cannabis excise tax from cannabis businesses. In an arm's length transaction, meaning the consideration received reflects the fair market value between two parties under no requirement to participate in the transaction, the distributor calculates the cannabis excise tax based on the "average market price," which is computed by applying the CDTFA's predetermined mark-up rate (currently at 60 percent) to the wholesale cost of the cannabis and cannabis products sold or transferred.

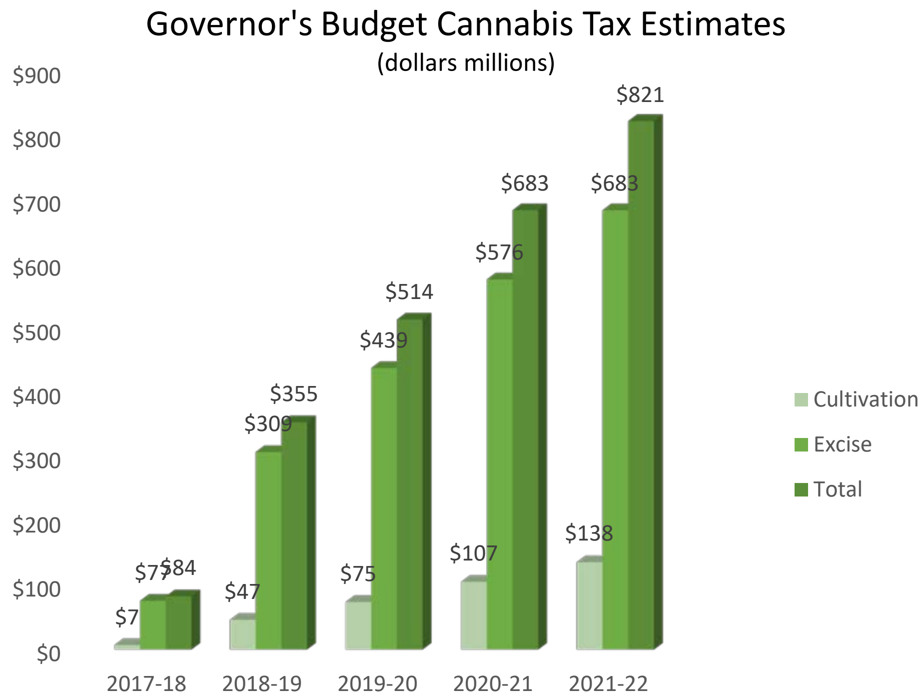
Cannabis Tax Collections to Date

In a November 2018 blog post, the LAO noted that the Administration's estimates for retail excise tax revenue was $77 million and cultivation tax revenue was $7 million in 2017-18, for a total of $84 million. This amount is $101 million below the projection in the June 2018 budget package, which assumed that 2017-18 revenue would be $185 million and that 2018-19 revenue would be $630 million.

The LAO reported that in the first quarter of 2018-19 (July through September), retail excise tax revenue was $52 million and cultivation tax revenue was $12 million, for a total of $64 million, which was substantially more than was collected in any quarter of 2017-18. They noted that, at the time of their reporting, cannabis tax revenue had grown at an average quarterly rate of 33 percent and projected that if revenue continued to grow at this rate through the end of the fiscal year, the 2018-19 total would be roughly $410 million.

GOVERNOR'S PROPOSAL

Citing the uncertainty of the newly created market, the Governor's budget forecasts that the cannabis cultivation and excise taxes are expected to generate $355 million in 2018-19 (approximately $47 million from the cultivation tax and approximately $309 million from the excise tax) and $514 million in 2019-20 (approximately $75 million from the cultivation tax and approximately $439 million from the excise tax). Although projections have changed significantly from the June 2018 budget assumptions ($630 million in 2018-19), this is the first forecast that has incorporated real tax data. The following chart displays the Governor's budget forecast for cannabis tax revenue.



As discussed above, pursuant to Proposition 64, revenues generated from the cannabis taxes are allocated for various purposes outlined in the Act. Funds loaned by the General Fund to jump-start cannabis-related activities will also need to be repaid. Given the timing of tax receipts, the Administration is deferring allocations for Proposition 64 programs until the May Revision, when more updated revenue data will be available.

Lastly, the Governor's budget includes an additional $2.9 million for the California Department of Tax and Fee Administration for a cannabis tax enforcement program, to increase cannabis tax compliance.

ISSUES TO CONSIDER

Rate of cannabis tax revenue growth. Initial state forecasts for cannabis tax revenue projected that California would bring in approximately $812 million in cannabis tax revenue in 2019-20 and just under $900 million in 2020-21. The Governor's budget estimates are approximately 37 percent below initial projections in 2018-19 and 24 percent below for 2019-20. As mentioned above, some of this can be attributed to the fact that the Governor's budget projections are the first to incorporate actual data. However, there are numerous factors that have contributed to the underperformance in cannabis tax receipts, including:

- **Short timeline to stand-up the regulatory framework.** Proposition 64 essentially allowed state regulatory entities one year to put a licensing structure in place. For all of the complexities involved in transitioning a multi-billion dollar black and gray market to a legal market within the confines of the proposition, the timeline was simply unrealistic. As the regulatory structure continues to take shape and grow, cannabis tax revenue will likely grow accordingly.

- **Black market size.** One of the primary goals of Proposition 64 was to prevent the illegal production or distribution of cannabis, or diversion of cannabis to the illegal market. One of the main policy objectives from authorizing a legal cannabis marketplace in California should be to substantially reduce the size of the black market, with its elimination as the ultimate objective. However, currently, this does not appear to be occurring at a sufficient rate. In fact, current revenue estimates assume that approximately 69 percent of cannabis consumption in California will take place outside of the regulated marketplace in 2019-20.

- **Complexity of the regulatory framework.** Although primarily dictated by Proposition 64, the requirements for becoming a licensed cannabis operator in California may be too onerous for a lot of individuals who may desire to participate in the legal marketplace. From local licensing requirements related to zoning, environmental mitigation, and even local taxes and fees, to state licensing requirements, the barriers to entry may be keeping some folks out of the legal market. Additionally, as noted above, competing with the black market currently creates an extra burden for those who are participating in the legal marketplace.

In addition, there have been suggestions that California's effective tax rate on cannabis is too high when considering the combined effects of the cultivation, excise, sales, and local taxes. Exacerbating this issue is the fact that cannabis is still illegal at the federal level and classified as a Schedule 1 controlled substance. Because of this, legal cannabis businesses in California cannot deduct ordinary and necessary expenses from their federal taxes as other businesses can.

A bill in the current session, AB 286 (Bonta, Cooley, Jones-Sawyer, Lackey) would reduce the excise tax rate to 11 percent, until June 1, 2022, and would suspend the imposition of the cultivation tax until June 1, 2022. In addition, as mentioned above, the LAO is required to report by January 1, 2020 on recommendations for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and ensuring sufficient revenues are generated.

Of note, three other states that implemented legal cannabis regulatory structures prior to California – Colorado, Washington, and Oregon – all revised their tax structures after their initial experiences. For example, Washington lowered and simplified the cannabis taxes that were called for in the state's authorizing initiative (Initiative-502) by eliminating the three-tiered system (25 percent at three different stages) and, instead, imposing a single tax of 37 percent on retail sales only.

Distribution of cannabis tax revenue. As previously mentioned, revenue from the state's cannabis taxes is scheduled to be apportioned pursuant to the dictates of Proposition 64. The Governor's budget defers the allocations for Proposition 64 programs until the May Budget Revision. And, although the initiative charges entities within the Administration (Department of Health Care Services, Department of Fish and Wildlife, Department of Parks and Recreation, Highway Patrol, and the Board of State and Community Corrections) with administering funds that fall under the priority three bucket, many stakeholders have asked whether the Legislature may be able to influence distribution of these funds in any way. The following chart is a more detailed display of how cannabis tax revenue will be distributed.

Cannabis Tax Fund Overview

Priority 1: Regulatory and Administrative Expenditures	
Department/Entity	Purpose
Regulatory: Bureau of Cannabis Control* Cannabis Control Appeals Panel* Department of Food and Agriculture* Department of Public Health* Oversight/Administration: California Department of Fee and Tax Administration State Controller Department of Finance Legislative Analyst's Office Other Regulatory Licensing: State Water Resources Control Board Department of Pesticide Regulation Department of Fish & Wildlife Labor: Department of Industrial Relations Employment Development Department	Reasonable costs to implement, administer, and enforce the Cannabis Act.
Priority 2: Specified Allocations for Research and Other Programs	
Department/Entity	Purpose
A public university or a university in California	$10 million annually through FY 2028-29 to research and evaluate the implementation and effect of the Cannabis Act, and make recommendations to the Legislature and Governor regarding possible amendments to the Act.
California Highway Patrol	$3 million annually through FY 2022-23 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including best practices to assist law enforcement agencies.
Governor's Office of Business & Economic Development	$10 million in FY 2018-19, increasing by $10 million annually until it reaches $50 million to administer a community reinvestment grants program to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies.
University of San Diego Center for Medicinal Cannabis Research	$2 million annually to study the efficacy and adverse effects of medicinal cannabis.
Priority 3: Percentage of Remaining Tax Revenue Allocations**	
Account	Purpose
Youth Education Prevention, Early Intervention and Treatment Account	60 percent of remaining tax revenues to the Department of Health Care Services to administer youth programs to educate, prevent, and treat substance use disorders.
Environmental Restoration and Protection Account	20 percent of the remaining tax revenues to the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage from cannabis cultivation. Funding may be distributed for the stewardship and operation of state-owned wildlife habitat areas and state park units, including the watershed and multiagency task force, to prevent illegal cannabis related activities on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal activities.
State and Local Government Law Enforcement Account	20 percent of the remaining tax revenues to the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence, including by cannabis. Funding would also be allocated to the Board of State and Community Corrections for grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Cannabis Act.

*Cost recovery of these departments is allowed through 2022-23.
**Allocations are based on actual revenue collected in the prior fiscal year after funding Priority 1 and 2 costs. Consequently, the Administration estimates that Priority 3 programs will not receive funding until 2019-20 based on the amount of taxes collected in 2018-19 after Priority 1 and 2 costs are funded in 2018-19.

Given that this third priority bucket should eventually provide significant funding to address important issues of statewide concern, the Legislature may wish to examine ways to participate in discussions regarding the allocation of this funding and/or exercise oversight accordingly. As an illustration, below is a chart that provides a rough estimate of the amount of funding that could flow to each bucket based on the Governor's budget revenue forecast.

Example of Potential Prop 64 Revenue Allocation Dollars in Millions						
	2019-20		**2020-21**		**2021-22**	
Total Tax Revenue	**356**		**$ 514**		**$ 683**	
Less CDTFA and other regulatory costs[1]	**$ 261**		**$ 463**		**$ 615**	
GoBIZ - Community Reinvestment Grant		$ 20		$ 30		$ 40
UC Research - Effects of Measure		$ 10		$ 10		$ 10
CHP - Impaired Driving		$ 3		$ 3		$ 3
UC Research - Effects/Risks of Med Cannabis		$ 2		$ 2		$ 2
60 Percent—Youth Education, Prevention, Early Intervention and Treatment		$ 136		$ 251		$ 336
20 Percent—Environmental Restoration and Protection		$ 45		$ 84		$ 112
20 Percent—State and Local Government Law Enforcement		$ 45		$ 84		$ 112
Total Program Expenditures		**$ 261**		**$ 463**		**$ 615**

[1]Assumes rough estimate of 10 percent for regulatory costs and the repayment of $59 million to the GF in 2019-20.

State-Regulated Cannabis

BACKGROUND

Within the last 25 years, both the voters and the Legislature created a myriad of cannabis-related policies. For example:

- In 1996, California voters approved Proposition 215, known as the Compassionate Use Act, which statutorily authorized the use of medical cannabis, and provided protections for physicians who made medical cannabis recommendations.

- In 2003, Senate Bill 420 (Vasconcellos), Chapter 875, Statutes of 2003, established the voluntary Medical Marijuana Program under the California Department of Public Health, which provided access to medical cannabis for qualified patients and primary caregivers and created a medical marijuana identification card and registry database.

- Nearly two decades later, in June 2015, Governor Jerry Brown signed the Medical Marijuana Regulation and Safety Act, comprised of Assembly Bill 243 (Wood), Chapter 688, Statutes of 2015; Assembly Bill 266 (Bonta), Chapter 689, Statutes of 2015; and Senate Bill 643 (McGuire), Chapter 719, Statutes of 2015. Together, these bills established the oversight and regulatory framework for the cultivation, manufacture, transportation, storage, and distribution of medical cannabis in California.

- In 2016, California voters approved Proposition 64, the Control, Regulation and Tax Adult Use of Marijuana Act, which authorized adults aged 21 years or older to legally grow, possess, and use marijuana for non-medical purposes, under specified restrictions. Proposition 64 also provides that revenue from cannabis taxes would support youth programs, environmental protection, and law enforcement.

- In 2017, the Legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) that harmonized these bills and created a single-comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing and sale of both medicinal and adult-use cannabis.

Taxes on Cannabis. State and local governments currently collect sales tax on cannabis. A small number of cities also impose additional taxes specifically on medical marijuana. Starting on January 1, 2018, the state began issuing licenses for commercial cannabis activity and implementing two new cannabis taxes: a cultivation tax on harvested cannabis that enters the commercial market and a 15 percent excise tax on cannabis product purchases. For more information, please see page 22, Cannabis Tax Revenue.

Application, licensing, and renewal process and fees. An applicant for any type of state cannabis-related license must first submit electronic fingerprints to the Department of Justice and provide evidence of the legal right to occupy and use the proposed location. Under state law, each licensing authority must establish a scale of application, licensing, and renewal fees. The licensing and renewal fees are calculated to cover the costs of the program administration, and are set on a scaled basis depending on

the size of the business. All fees are deposited into an account specific to that licensing authority, which is within the Cannabis Control Fund.

Penalties and violations. State law authorizes a civil penalty of up to three times the amount of the license fee for each licensing violation, and the court may order the destruction of the cannabis associated with the violation. Civil penalties are deposited into the General Fund.

Local control and planning. Local governments have the authority to regulate commercial cannabis activity through local ordinances and regulations, and existing law prohibits state licensing authorities from granting licenses if they violate those local ordinances and regulations. As part of the application process, state licensing authorities must notify local officials if the state is reviewing an application within their jurisdiction. Local officials have 60 days to notify the state whether applicants are in compliance with their local ordinances and regulations, based upon which an application may continue to proceed or be denied.

Reporting requirements. Starting March 1, 2023, each licensing authority must prepare and submit an annual report to the Legislature about its activities, including: (1) the amount of funds spent for licensing, enforcement, and administration, (2) the number of licenses issues, renewed, denied, suspended, or revoked, (3) the average time for processing applications, (4) number and type of enforcement activities conducted, and (5) the number, type, and amount of penalties, fines, and other disciplinary actions taken.

State and local governance. The Bureau of Cannabis Control under the Department of Consumer Affairs and other state entities are responsible for regulating cannabis standards for labelling, testing, and packaging products and to develop a system to track such products from production to sale. Local governments continue to have the ability to regulate where and how cannabis businesses operate.

Cannabis Industry Regulated by Multiple State Agencies

Regulatory Agency	Primary Responsibilities
Bureau of Cannabis Control	License cannabis distributors, transporters, testing facilities, and retailers.
Department of Food and Agriculture	License and regulate cannabis growers.
Department of Public Health	License and regulate producers of edible cannabis products.
State Water Resources Control Board	Regulate the environmental impacts of cannabis growing on water quality.
Department of Fish and Wildlife	Regulate environmental impacts of cannabis growing.
Department of Pesticide Regulation	Regulate pesticide use for growing cannabis.

New Cannabis Regulations. On January 16, 2019, the Bureau of Cannabis Control, CDFA, and CDPH released final approved state regulations for cannabis business across the supply chain.[1] Changes included: clarifying provisions impacted by recent statutory changes, such as expanding locations that temporary cannabis events can be held at and preventing the sale and transport of cannabis goods

[1] On December 7, 2017, the Bureau of Cannabis Control adopted emergency regulations to implement MAUCRSA. On June and July 2018, the Bureau re-adopted emergency regulations and issued a notice of proposed rulemaking. The 2019 regulations supersede the previous emergency regulations. https://cannabis.ca.gov/cannabis-regulations/

mislabeled as alcoholic beverages, and clarifying which individuals in a multi-layer business structure must be disclosed as owners or finance interest holders on a commercial application. The regulations also:

- Update late renewal application fees in order to further disincentive licensees from routinely submitting late renewal forms. The Bureau anticipates its licenses will generate revenue anywhere from $160,000 to $80 million dollars. Licensing fees are scaled to reflect the operations of the license.

- Amend a section related to temporary licenses to codify and reflect that the Bureau's authority to issue temporary licenses ended on January 1, 2019.

- Modify licensing fees to now be based on estimated revenue, specifically gross revenue for the 12-month period, which is a calculation more easily performed by applicants and licensees and verified by the Bureau.

- Revise, from 10 business days to 14 calendar days, the timeframe in which the Bureau can cancel a license. The additional time would ensure that the Bureau is apprised of changes but provides a reasonable time period for licensees to reach out regarding their closure, quitting, or abandoning of the licensed premises.

- Add clarification as to what licensees are allowed to do with cannabis goods on a licensed premise, in the event that a license is terminated for any reason, in order to minimize potential for illegal diversion of cannabis goods. Clarify that cannabis goods in the possession of the former licensee may be destroyed.

- Prohibit licensees from selling or transporting cannabis goods that are labeled as beer, wine, liquor, spirts, or any other term used to create an impression that the product is an alcoholic beverage.

- Include a process by which a licensee can get branded merchandise approved.

- Revise track and trace system reconciliation from every 14-calendar days to every 30-calendar days.

GOVERNOR'S PROPOSAL

The Governor's budget forecasts that cannabis excise taxes, which are deposited into the Cannabis Tax Fund, will generate $355 million in 2018-19 and $514 million in 2019-20. The budget includes $200.6 million from this fund and the Cannabis Control Fund, which receives revenues from cannabis licensing fees, for cannabis-related activities, which were approved by previous budgets. The Governor's budget proposes $2.9 million for 2019-20 to augment funding for the Department of Tax and Fee Administration to increase cannabis tax compliance, which brings the total funding level in the Governor's budget for cannabis-related activities to $203.5 million. Below is a breakdown of the funding for cannabis-related activities at various state entities:

State Funding for Cannabis-Related Activities	
Department	**Governor's Budget**
Cannabis Control Appeals Panel	$2,648,000
Department of Consumer Affairs	$74,356,000
Department of Public Health	$29,011,000
Department of Food and Agriculture	$43,717,000
Governor’s Office of Bus, Econ Development	$20,000,000
Department of the California Highway Patrol	$3,000,000
Department of Fish and Wildlife	$9,207,000
Department of Pesticide Regulation	$2,282,000
State Water Resources Control Board	$7,395,000
University of California	$2,000,000
Employment Development Department	$2,520,000
Department of Tax and Fee Administration*	$7,319,000
Total Cannabis Control & Tax Fund	$203,455,000

**Includes $2.9 million proposed in Governor’s Budget for increased cannabis tax compliance.*

ISSUES TO CONSIDER

State and local control: enforcement. Advocates and government agencies continue to monitor and deliberate how to create a commercial cannabis system that protects the public health and safety, while ensuring that barriers for small-business entry into the marketplace are managed. The Legislature may wish to deliberate as to how to improve local and state enforcement efforts, as the underground economy appears to maintain a competitive financial advantage. For operations that go through the extensive licensing process, competing with unlicensed businesses presents a disincentive to compliance with state and local regulations.

Monitoring the federal landscape. Under federal law, cannabis use or possession, including for medical use, remains illegal. The U.S. Supreme Court ruled in 2005 that federal agencies could continue to prosecute individuals under federal law who possess or use marijuana for medical purposes even if legal under a state’s law. According to the Bureau of Cannabis Control Cannabis Advisory Committee’s 2018 Annual Report, “California faces inherent challenges to regulating an industry that has not been federally decriminalized and has only been newly regulated in other states.” The federal 2018 Agriculture Improvement Act, known as the Farm Bill, (H.R. 2) legalizes industrial hemp, which is a variety of the cannabis sativa plant with no more than 0.3 percent of tetrahydrocannabinol (THC) concentration, and which can be refined into materials such as paper, clothing, biodegradable plastics, and textiles. However, any products derived from a cannabis plant with a THC concentration of more than 0.3 percent are considered a Schedule 1 controlled substance under the federal Controlled Substances Act. The Legislature may wish to consider how these federal policies may influence, and in some cases create tensions, in how local cities, counties, or law enforcement view and enforce cannabis enterprises under the new regulations.

California Cannabis Advisory Committee Annual Report. Existing law requires the Bureau of Cannabis Control to convene an advisory committee to advise licensing authorities on the development of standards and regulations, including best practices and guidelines that protect public health and safety.

The Cannabis Advisory Committee, comprised of 22 appointed members from different sectors, held 10 statewide meetings, starting November 2017, and released its first 2018 Annual Report based on its meetings.[2] The report outlined several significant global concerns, citing that those concerns could not be remedied without legislative action. Specifically, the Advisory Committee noted:

> "The overarching reality after one year of legal cannabis sales is that the regulatory process to licensure insufficiently incentivizes unlicensed businesses to seek licensure and insufficiently de-incentivizes the illegal unlicensed underground market…" A variety of issues contributing to this include:
>
> - Equity: Efforts to promote participation in the new legal industry by members of communities disproportionately impacted by the War on Drugs enforcement have been unsuccessful.
>
> - Regulatory Burden and Fragmentation: Small businesses are having difficulty emerging from their historically underground status due to the dual nature of state and local licensing, patchwork ordinances at the local level.
>
> - Banking: There is a continued lack of access to banking, which presents public safety issues from having to rely on a cash economy.
>
> - Taxation: Cumulative tax burdens may be in excess of 35 percent and could de-incentivize licensure.

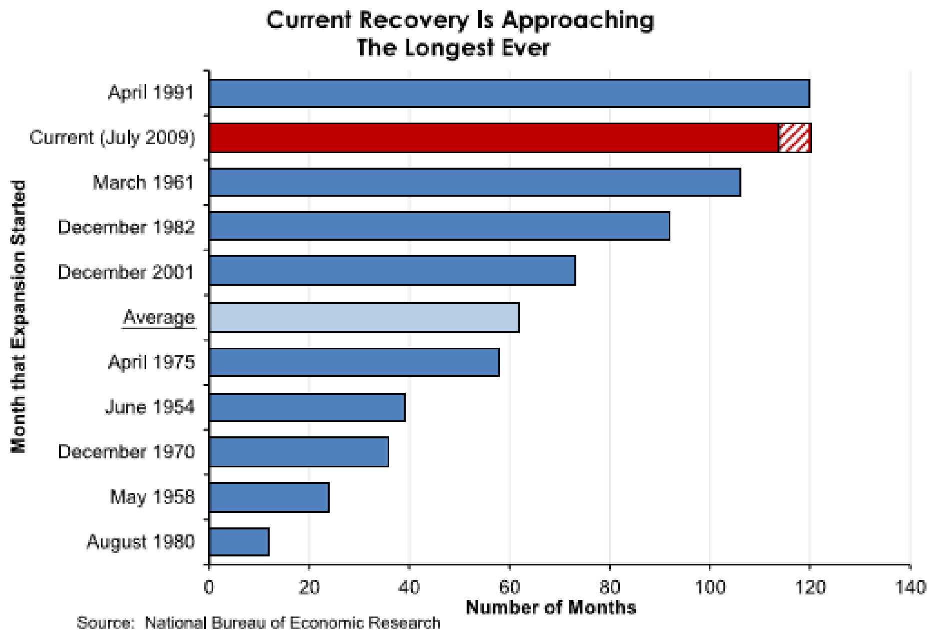
The Legislature may wish to consider these findings when deliberating about proposals that affect cannabis-related policies.

[2] https://www.bcc.ca.gov/about_us/documents/cac_annual_report_2018.pdf

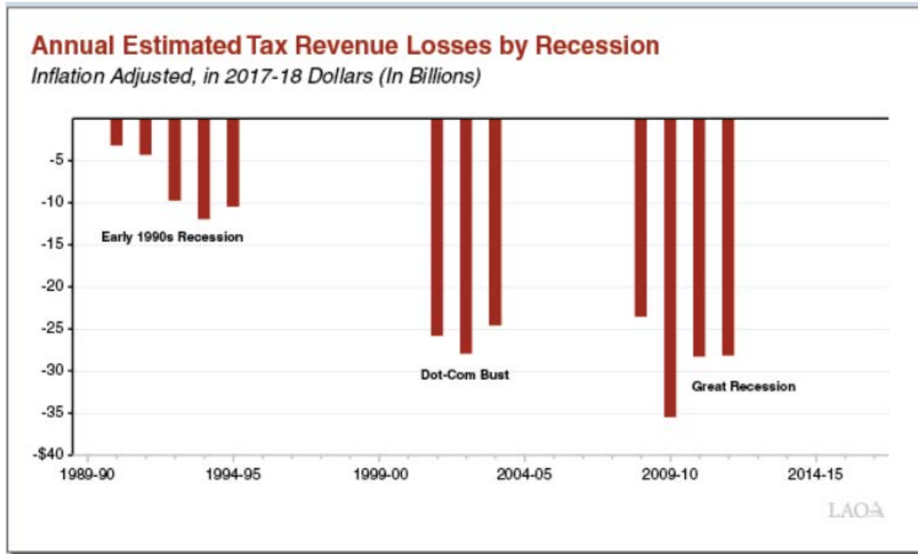
Reserve Deposits and Debt Payments

BACKGROUND

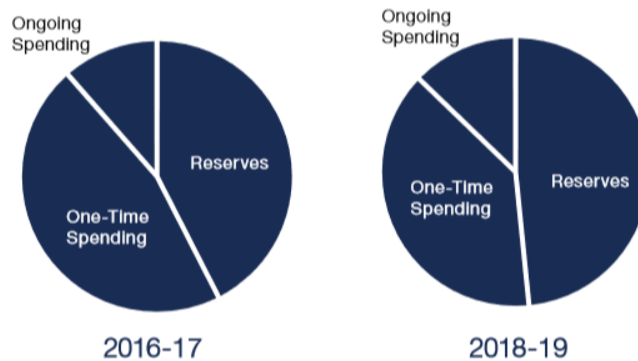
As many commentators have noted the last couple of years, the nation's economic expansion has exceeded and continues to exceed norms and expectations. In fact, as the Governor's budget points out (displayed in the below chart from the Governor's budget), by the time the budget year starts, the nation will have experienced 10 straight years of economic expansion—matching the longest economic expansion in modern history. As the state recovered from the last recession and through this expansion, California has built a strong fiscal foundation to mitigate the impacts of future economic downturns.



Even though California has strengthened our budgetary resiliency and restored many programs that were severely impacted during the last recession, we still must consider various uncertainties when planning for the state's financial future. Climate change, has factored into recent disasters that will continue to have financial implications and which continues to create threats. Uncertainty around federal policies, and the recent volatility in the stock market are some of the major threats to our state's continued economic expansion. Although the Governor's budget assumes modest growth throughout the forecast period, it does also present a recession scenario. That scenario demonstrates that a one-year recession in 2019-20 that is larger than the 2001 recession, but milder than the 2007 recession, could result in a nearly $70 billion revenue loss and a $40 billion budget deficit over three years. For context, the Legislative Analyst's Office (LAO) has estimated (as displayed in the LAO's chart below) that revenue losses from prior recessions, in inflation-adjusted terms, totaled roughly $40 billion in the 1990s (averaging $8 billion per year across five years), $80 billion in the early 2000s ($26 billion per year across three years), and about $115 billion during and after the Great Recession ($30 billion per year across four years).



As such, the Governor has proposed a budget for the 2019-20 fiscal year that emphasizes resiliency and paying down debts and liabilities while at the same time focusing on one-time investments and limiting the amount of ongoing spending. This approach is similar to approaches in recent budgets. The following chart from the LAO displays approaches taken in two recent budgets.



Overall, the Governor's proposed 2019-20 budget includes $147.4 billion in General Fund revenues and other resources and $144.2 billion in total General Fund expenditures ($88.9 billion in non-Proposition 98 and $55.3 billion in Proposition 98 funds). The proposed budget would provide for a $1.8 billion[1] unencumbered reserve balance in the Special Fund for Economic Uncertainties (SFEU), a $900 million Safety Net Reserve, and reflect $15.3 billion in the Budget Stabilization Account (BSA) (including a

[1] The Department of Finance has revised this amount from the amount presented with the 2019-20 Governor's Budget, $2.283 billion, due to the recognition of the need to reflect $475.3 million of a proposed settle-up payment as an expenditure against the prior year, pursuant to the Legislative Analyst's Offices observation in their overview of the Governor's Budget.

$1.8 billion deposit in the budget year). The Governor's proposed 2019-20 budget strategically targets significant one-time investments while committing $3 billion to new expenditures on an ongoing basis.

Budget Stabilization Account (Rainy Day Fund)

The BSA, commonly referred to as the Rainy Day Fund, was created with the passage of Proposition 58, the California Balanced Budget Act, in 2004. Proposition 58 required that three percent of General Fund revenues be deposited into the BSA each fiscal year until the account reached $8 billion or five percent of General Fund revenues, whichever was greater. However, Proposition 58 allowed this annual transfer to be suspended or reduced for a fiscal year by an executive order issued by the Governor. No deposits into the BSA were made pursuant to Proposition 58 until the 2014-15 fiscal year, when the state deposited $1.6 billion. At the time that this 2014-15 deposit was planned, the Legislature had already approved the placement of Proposition 2, the Rainy Day Budget Stabilization Fund Act, on the ballot.

Proposition 2, which revised the state's BSA, was approved by the voters in November 2014. The measure changed the way the state sequesters money in reserves, as well as how it pays down debts and liabilities. Key components of Proposition 2 include that it:

- Requires the annual transfer of 1.5 percent of General Fund revenues to the BSA.
- Requires the additional transfer of personal capital gains tax revenues exceeding eight percent of General Fund revenues to the BSA and, under certain conditions, a dedicated K–14 school reserve fund.
- Requires that half of the BSA revenues be used to repay state debts and unfunded liabilities.
- Caps the BSA at 10 percent of General Fund revenues; directs the remainder to infrastructure.
- Established new conditions for withdrawing funds from the BSA. Specifically, the Governor has to call a budget emergency in situations where estimated resources are insufficient to maintain spending levels or in response to a disaster.
- Requires a "true-up" when the BSA deposit amount is reevaluated twice, once in each of the two subsequent budgets.

Required BSA deposits, pursuant to Proposition 2, began in the 2015-16 fiscal year. As the BSA's balance has increased since then and approached the constitutional maximum amount of 10 percent of General Fund revenues, the Legislature and Governor have elected to deposit additional or "supplemental" amounts into the BSA, above the constitutionally required minimums ($2 billion in 2016-17 and $2.6 billion in 2018-19).

The 2018-19 supplemental deposit was made to bring the balance of the BSA to the threshold of 10 percent of General Fund revenue (approximately $13.8 billion). In addition, an associated trailer bill appropriated the required infrastructure spending that would be triggered by reaching this threshold for three years, beginning in 2019-20. The funds were specifically dedicated to state capital outlay, rail projects, and multifamily housing. However, based on a Legislative Counsel opinion, the Governor's budget assumes that the constitutional maximum amount in the BSA has not been reached because the

supplemental deposits do not count toward this amount. As such, the budget does not assume any funding is available for infrastructure from the BSA until 2022-23.

State Fund for Economic Uncertainties (SFEU)
The 1980-81 Budget Act established the Reserve for Economic Uncertainties within the General Fund. In 1985, the fund was renamed the SFEU. The SFEU is the state's discretionary reserve and is the difference between spending and available resources in any given fiscal year. Article IV of the California Constitution prohibits the Legislature from enacting a budget bill that would appropriate more in General Fund expenditures than are available in resources. This means that, at the time the budget is passed, the estimated balance of the SFEU cannot be lower than zero.

While healthy balances in the SFEU provide the state with a buffer to address unexpected issues in any given fiscal year, such as response and recovery related to the recent wildfires, there are two statutorily triggered reductions in the state's sales tax rate if balances in the SFEU reach a certain threshold. Under either statute, the state's sales tax rate would automatically decline by one-quarter cent for one calendar year. Under the first statute, the trigger would occur if the Director of Finance projects the SFEU to exceed about four percent of General Fund revenues in the prior and current year. Under the second statute, the trigger would occur if: 1) the General Fund reserve exceeds about three percent of revenues and 2) actual General Fund revenues between May 1st and September 30th exceed the Administration's forecasted amounts.

Safety Net Reserve
A budget trailer bill, AB 1830 (Committee on Budget), Chapter 42, Statutes of 2018, associated with the 2018-19 budget established the Safety Net Reserve. Specifically, AB 1830 established the Safety Net Reserve Fund in the State Treasury, created the Medi-Cal and CalWORKs subaccounts within the Safety Net Reserve Fund, and transferred $200 million from the General Fund to the CalWORKs subaccount. The trailer bill also specified that, upon appropriation by the Legislature, the Safety Net Reserve Fund and the Medi-Cal and CalWORKs subaccounts shall be utilized for purposes of maintaining existing program benefits and services for Medi-Cal and CalWORKs programs during economic downturns when caseload and cost-per-case related to these programs increase and state revenues decline. Finally, AB 1830 directed the Department of Finance to develop 1) a methodology, as specified, to calculate savings attributable to caseload and cost-per-case for funding the subaccounts, and 2) a process for the distribution of funds. As part of the Governor's budget, the Administration is proposing changes to the structure of the Safety Net Reserve, which are discussed below.

The purpose of the Safety Net Reserve is to provide another layer of protection for programs that are relied upon by the citizens of our state and are "counter-cyclical" in nature – meaning that as the economy and state revenues decline, caseload growth and overall demand increase.

Budgetary Debt
By the close of 2010-11, the Department of Finance (DOF) indicates that a total of $34.7 billion in loans and deferrals had accumulated and remained unpaid. This amount largely represents the debt overhang from prior year budgets adopted under the previous Administration and was formerly referred to as the "wall of debt." The DOF no longer formally calculates the "wall of debt"; however, the Governor's budget would pay-off the remaining amount from outstanding special fund loans, deferrals and settle-up that were included within the calculation.

Some of these obligations required repayment in specified years due to constitutional requirements or due to scheduled bond debt service. Other debt payments have been more flexible and have been or can be repaid over time depending upon the budget condition, as long as borrowing does not interfere with the activities that a special fund loan supports.

GOVERNOR'S PROPOSAL

Budget Resiliency and Paying Down Retirement Liabilities – The Governor's proposed 2019-20 budget allocates $13.1 billion (including debt payments and BSA reserve deposits) to building budgetary resiliency and paying down the state's unfunded pension liabilities. This includes $4 billion to eliminate debts and reverse deferrals, $4.3 billion to build reserves, and an additional $4.8 billion to pay down unfunded retirement liabilities (these are discussed in more detail in the next section). These investments are intended to better enable the state to protect funding for schools and other core programs that serve the state's neediest individuals during the next economic slowdown.

The debt and deferral payments include:

- $2.4 billion to pay off the state's budgetary debts, including the elimination of all outstanding loans from special funds and transportation accounts. This would mark the first time in over a decade that the state would have completely paid off these debts. It is of note that the Governor plans to make these payments utilizing General Fund resources instead of continuing the use of Proposition 2 debt payment funds.

- $1 billion to eliminate the annual payroll deferral. The one-month deferral of the June payroll provided a one-time budget savings that was used to help balance the budget nine years ago. The state has been deferring this payment ever since; this action eliminates this long-standing practice.

- $700 million to eliminate the deferral of the fourth-quarter payment to the California Public Employees' Retirement System (CalPERS). Similar to the payroll deferral, this action reverses a one-time budget savings that was used to help balance the budget over a decade ago.

BSA Proposal

In order to continue to build the state's budgetary reserves, the Governor's budget assumes an additional $1.8 billion transfer to the BSA in the budget year. The following chart outlines the Governor's BSA assumptions for the budget year.

Proposal for Proposition 2 – Rainy Day Fund
(Dollars in Millions)

	2019-20
1.5% of General Fund (GF) Revenues	
GF Revenues and Transfers (before BSA transfer)	$144,385
1.5% of GF Revenues and Transfers	**$2,166**
Capital Gains Revenues	
GF Tax Proceeds	$145,415
Personal Income Taxes from Capital Gains	13,845
Percent of GF Tax Proceeds from Above Line	9.5%
8% of GF Tax Proceeds	11,633
Excess of 8% from PIT Capital Gains	2,212
Prop 98 Share of Capital Gains above 8%	845
Non Prop 98 Share of Capital Gains above 8%	**$1,367**
Total Available	$3,533
Debt Repayment (50%)	1,767
Deposit to Rainy Day Fund (50%)	1,767
Discretionary Balance	***3,530***
Mandatory Balance	***11,772***
Cumulative Balance	**$15,302**

In addition to the reserve deposit, the Governor's budget proposes $1.8 billion in debt and liability payments pursuant to Proposition 2, as displayed in the following chart.

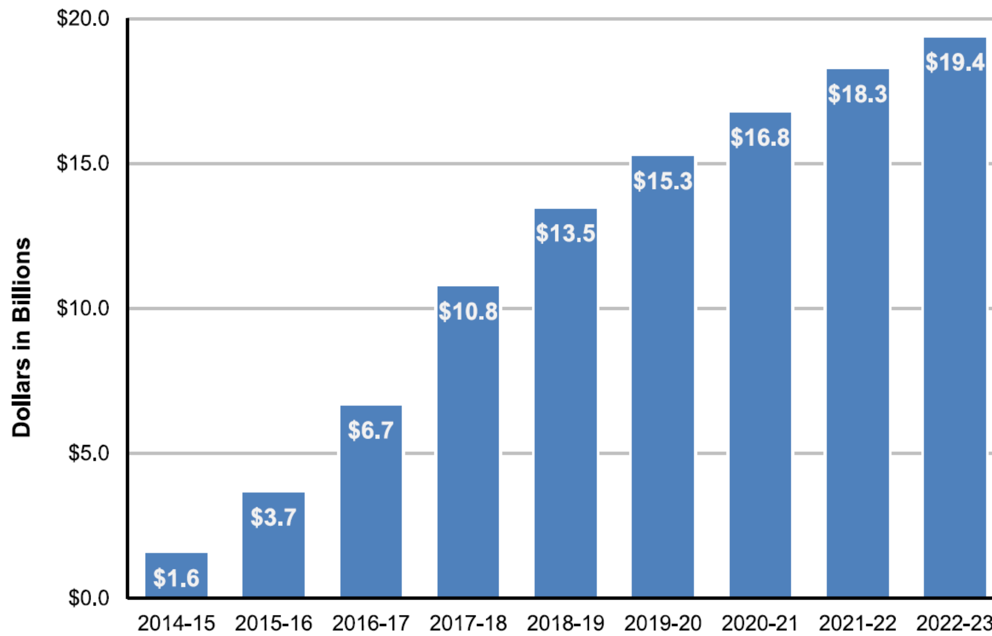
Proposal for Debts and Liabilities Payments
(Dollars in Millions)

Category	Amount Beginning of 2019-20	Payment in 2019-20
Retirement Liabilities		
State Retiree Health	$91,008	$260
State Employee Pensions	58,765	390
Teacher Pensions[1]	103,468	1,117
Judge's Pensions	3,277	0
Grand Total	**$256,518**	**$1,767**

[1] The state portion of the unfunded liability is $35.3 billion.

Beyond the budget year, the Governor's budget assumes an additional $4.1 billion over the remainder of the forecast period, bringing the Rainy Day Fund to $19.4 billion by 2022-23.

As noted above, of significance and per a legal opinion, the budget assumes that supplemental payments made in prior years do not count toward calculating the limit of 10 percent of General Fund tax revenues set in the Constitution. Consistent with this opinion, the budget continues to make required deposits in the Rainy Day Fund. The following table from DOF displays projected BSA balances under the Governor's budget proposal.



Safety Net Reserve

In addition to the BSA deposit, the Governor's proposed budget also adds $700 million to the Safety Net Reserve created in the 2018 Budget Act, bringing the total in this reserve to $900 million. This reserve sets aside funds specifically to protect safety net services during the next recession. The Governor has also proposed trailer bill language that would abolish the Medi-Cal and CalWORKs Subaccounts within the Safety Net Reserve, eliminate duties imposed upon DOF, and specify that use of funds in the account are subject to appropriation by the Legislature for purpose of maintaining existing program benefits and services for the Medi-Cal and CalWORKs programs during economic downturns.

Finally, the budget reserves $1.8 billion in the SFEU to address emergencies and unforeseen events.

ISSUES TO CONSIDER

How prepared is California to face an economic downturn? As the LAO pointed out in their December 2018 report, *The Great Recession and California's Recovery*, California entered the Great Recession with effectively no reserves. This situation increased the need to rely on budget solutions that included devastating cuts to essential programs and services and/or created out-year cost pressures. In large part due to the extreme measures that were taken to address the budget shortfall, the state took action to address California's budgetary structure. These changes included Proposition 2 and the creation of the BSA.

As highlighted above, since 2014-15, the state has steadily increased the amount of funds set aside in the BSA. This includes making supplemental deposits above the constitutionally required deposits at times. As building the state's reserves has been a priority, California is now in a much stronger fiscal position than a decade ago. The Governor's budget's total reserve level of approximately $18 billion provides for a healthy backstop to offset impacts of an economic downturn and prevent an experience similar to the devastation of the Great Recession. However, it is important for the Legislature to consider the extent to which current reserve levels will offset revenue declines and areas where California could still improve its fiscal resiliency.

In its November 2018 Fiscal Outlook, the LAO found that adding $3 billion in ongoing spending as part of the 2019-20 budget (the Governor has proposed ongoing spending that grows to $3.5 billion) would be feasible under certain recession scenarios if the state entered the recession with $25 billion in reserves. This means that, absent setting aside another $7 billion in reserves, the state may not be positioned to avoid cuts under LAO's recession scenarios. Additionally, the LAO has pointed out that, although school districts may keep reserves, there have been no deposits to the state's K-14 school reserve. This means that there is no dedicated funding source to offset a decrease in Proposition 98 funding that would naturally occur during a recession – a situation that could create additional pressure on the BSA.

Structure of the debt payment proposals. In its report, *the 2019-20 Budget: Structuring the Budget: Reserves, Debt, and Liabilities*, the LAO points out that many of the special fund loans that the Governor's budget proposes to pay-off in 2018-19 have lower carrying costs than other debts. As such, they recommend that the Legislature may wish to prioritize higher-interest debts such as retirement liabilities, thus saving the state money in the future. Likewise, the LAO points out that undoing the deferrals (payroll and fourth quarter CalPERS payment) may not be prudent because they provide an annual budgetary savings.

While the LAO raises good points, both the Governor's debt payment and deferral proposals undo significant actions that were taken during the Great Recession. Paying off these debts and undoing the deferrals are additional signals that the state is on solid fiscal footing and strengthen the state's fiscal resiliency. These are significant positive signs and benefits, which the Legislature should weigh when considering the merits of the proposals.

SUBCOMMITTEE NO. 5

CORRECTIONS, PUBLIC SAFETY, AND THE JUDICIARY

Corrections and Public Safety
- Incarceration, Criminal Records, and Employment 5-1
- Reorganizing the Division of Juvenile Justice 5-16
- Substance Use Disorder Treatment in Prisons 5-29

Labor
- CalPERS and CalSTRS 5-37
- Paid Family Leave 5-48

Incarceration, Criminal Records, and Employment

BACKGROUND

Employment carries significant meaning and importance, especially for those coming from vulnerable and disadvantaged communities. Employment provides emotional, financial, and mental stability, promotes self-esteem and self-sufficiency, and aids in recovery from mental illness, reintegration from prison, and/or physical/developmental disabilities. This report focuses on two populations who face difficulties in finding employment in California and across the United States: people who have criminal records and the subset who have criminal records and served sentences in county jails or state prisons. Barriers to employment for people who have criminal records and/or have been incarcerated can be significant. At the same time, there are shortages of labor in key fields that could provide opportunities for these individuals to fill critical needs.

People with criminal records are disproportionately shut out of employment opportunities. In addition to those who served time in prison, those with criminal records face difficulties finding employment. According to the Institute for Justice (IJ), one in three Americans has a criminal record and "one out of every five" Americans needs a license to work. As recently as July 2018, the Prison Policy Initiative reported that the unemployment rate for people with criminal records is more than 27 percent, five times higher than the overall U.S. unemployment rate, or higher than the unemployment peak during the Great Depression. Their report also shows that disparities exist among racial lines: black women with criminal records rank at the top of that unemployment list (43.6 percent) and white men with criminal records rank at the bottom (18.4 percent).[1] The Center for Economic and Policy Research estimates that there were between 14 and 15.8 million working-age people with felony convictions in 2014, of whom between 6.1 and 6.9 million were former prisoners. In total, the barriers to employment for those with criminal records or who served prison sentences account for a loss of 1.7 to 1.9 million workers.[2] A large segment of the American population has a criminal record but cannot find stable employment because of their record.

The employment prospects are stark for reentry populations. A critical subset of those with criminal records are formerly incarcerated people who reenter local communities from prison. Reentry refers to the transition of individuals who are incarcerated in prisons or jails back into the community after release. Annually, approximately 600,000 people nationally and 50,000 people in California reenter communities. [3]

A 2014 report from the National Research council investigated the causes of, and consequences to, the rising prison population in the United States. The staggeringly high prison population is attributed to the disproportionate incarceration of people of color. Though African-Americans and Hispanics make up approximately 32 percent of the U.S. population, both groups comprised 56 percent of all incarcerated

[1] Lucius Couloute and Daniel Kopf. "Out of Prison & Out of Work: Unemployment among formerly incarcerated people," Prison Policy Initiative. https://www.prisonpolicy.org/reports/outofwork.html.
[2] Cherrie Bucknor and Alan Barber. "The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies," Center for Economic and Policy Research. http://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf.
[3] E. Ann Carson, Ph.D. "Prisoners in 2016." Bureau of justice Statistics. https://www.bjs.gov/content/pub/pdf/p16.pdf

people in 2015—with African-Americans constituting 34 percent of the correctional population.[4] The statistics suggest that the labor barriers will significantly impact people of color re-entering communities.

Upon re-entry into communities, formerly incarcerated people often face a range of challenges.[5] Many have low levels of education and literacy, limited prior attachment to the legal workforce, reduced ties to family and community, and histories of substance abuse and mental health problems. Other challenges include lack of basic documentation, such as a current driver's license, the use of criminal background checks by employers, and state laws and licensing requirements for jobs in certain fields that impede their ability to gain employment. Research has shown that large numbers of prisoners are released into a disproportionate number of vulnerable communities, causing instability and reduced social cohesion within these neighborhoods.[6]

California has among the highest recidivism rates in the nation, with many low-level criminal offenders committing new crimes within a year of release. Employment is a critical piece of the reentry puzzle. Studies suggest that employment programs offer the formerly incarcerated a better opportunity to reduce recidivism and increase the chances of addressing criminogenic behaviors. Employment offers stable incomes, structured timelines, resources and services through training that enhance a formerly incarcerated person's ability to reintegrate into his/her communities.[7] The collection of factors and challenges illustrates that there is a critical need for programming and policies inside and outside of the prison system to improve individuals' eligibility for employment.

The big picture. Currently, there are reentry efforts emerging throughout the U.S. and in California that employ evidence-based strategies with comprehensive planning and coordinated service delivery to increase the likelihood that individuals will make safe and successful transitions back into their communities after incarceration.

For example the state currently funds a grant program, known as ForwardFocus, which was established through AB 2060 (Pérez, V. Manuel), Chapter 383, Statutes of 2014. FowardFocus is a competitive grants program for county partnerships—typically comprised of the county, local board (and their America's Job Centers of California (AJCCs)), probation department, and local community based organizations (CBOs)—who in turn coordinate services and provide integrated job training opportunities to recently released people. Participating county partnerships were encouraged to use evidence-based practices, as well as required to integrate matching funds and the services to be provided with grant funds.

Additionally, the California Department of Corrections and Rehabilitation (CDCR) provides pre-release programs as a way to make participants competitive for industry careers. Amongst these are pre-apprenticeship, career technical education (CTE), accredited certification, and firefighter training programs. Nevertheless, there continues to be a dearth of employment opportunities for both people with criminal histories and those who are reentering communities—despite the overwhelming demand

[4] NAACP. "Racial Disparities in Incarceration." https://www.naacp.org/criminal-justice-fact-sheet/

[5] Jeanne Bellotti et al., "Examining a New Model for Prisoner Re-Entry Services: The Evaluation of Beneficiary Choice Final Report," March 16, 2011. https://www.dol.gov/asp/evaluation/completed-studies/Examining_a_New_Model_for_Prisoner_Reentry_Services/FINAL_REPORT_examining_new_model_prisoner_reentry_services.pdf.

[6] Ibid.

[7] Jeremy Travis, Bruce Western, and Steve Redburn. The Growth of Incarceration in the United States: Exploring Causes and Consequences. http://johnjay.jjay.cuny.edu/nrc/nas_report_on_incarceration.pdf

for labor. The disconnect between unemployment and high labor demand within several industries is detailed further in this report.

California's approach to workforce development. California's approach to workforce development involves creating goals, leveraging federal funding, and urging cooperation with local jurisdictions to accomplish those goals. The state's workforce plan lays out key goals that guide the activities of the workforce system. These goals include:

- Fostering "Demand Driven Skills Attainment"
- Workforce and education programs should align with industry needs.
- Enabling Upward Mobility for All Californians.
- Workforce and education programs should be accessible to all residents, including those with barriers to employment.
- Aligning, Coordinating, and Integrating Services.
- Allocating resources efficiently to meet clients' unique workforce and education needs.

Each year, to meet these goals, federal Workforce Innovation and Opportunity Act (WIOA) funding is allocated to the California Workforce Development Board (State Board). The State Board then distributes WIOA funds to each of the 45 local boards, which use the funds to operate AJCCs within their jurisdictions. Local boards operate roughly 200 one stop job centers in California. In these centers, job seekers can search online job databases, take courses on resume building, receive individualized career counseling, enroll in career-focused coursework, and participate in on-the-job training. WIOA funding for job services at AJCCs is approximately $400 million annually. In addition to distributing federal funds, the State Board also sets statewide workforce development policy. California's general approach to employment incorporates federal, state, and local coordination. Prospective workers can also participate in pre-apprenticeship programs offered within California.

Pre-apprenticeship programs and curricula overview. Pre-apprenticeship programs are pre-requisite training courses that enable participants to increase their viability for employment in a trade industry. These courses are typically taken prior to apprenticeship completion and provide them with industry-relevant skillsets as well as familiarity with working environments. There are two different curriculums for building and trades pre-apprenticeship programs—the National Center for Construction Education & Research (NCCER) curriculum and the Multicraft Core Curriculum (MC3). The CDCR has used NCCER Curriculum since 2005 and maintains NCCER accreditation for the 35 adult prison facilities in California. Pre-apprenticeship and employment training courses are offered within prisons as part of the California Prison Industry Authority's (CALPIA) CTE.

CTE in prisons overview. Pre-release CTE programs provide inmates the opportunity to earn Milestone Completion Credits, which can reduce incarceration time through active participation in, and of completion, evidence-based recidivism reduction programs. CALPIA touts its CTE program is "one the most effective correctional rehabilitation programs in California," attributing a seven percent recidivism

rate amongst participants to its programming.[8] This program was established in 2006 for pre-apprenticeship purposes and contained instruction from instructors under contract with local trade unions. The initial occupations of focus were carpentry, construction labor, and iron working. The CDCR works with instructors out of whichever building trades locals are in the area. The industry sectors that fall under the CTE, which include construction trends, automotive, and technology sectors, are based on a 2012 market analysis. There are 220 core programs with computer literacy trainings to bring the total number of technical programs to 304. The table below shows six current CTE program offerings by CALPIA by program, description, and program completion goal.[9] Additionally, CALPIA offers accredited certification programs in a variety of other occupations such as opticians, installation and service for air conditioners, heat pumps, gas and oil heat, custodial maintenance, and dental technician amongst others.[10] At some institutions, CDCR reported that its CTE programs graduated participants.

Table 1: Description of occupations and completion goals for CALPIA's CTE programs

Occupations	Description	Completion goals
Construction and Carpentry	Two separate six-month pre-apprenticeship training programs under the supervision of journeyman professionals working with the Northern and Southern California Construction and General Laborers Unions.	After completion of training, paroling offenders are eligible for placement in a full-scale apprenticeship programs. Pre-Apprentice Carpentry graduates earn accredited certifications that meet the standards required by the union's training center.
Iron Worker	A six-month program under the supervision of journeyman professionals working with the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local Union #118.	After completion of training, paroling offenders are eligible for placement to continue their full-scale apprenticeship programs until completion. CALPIA pays the initial union dues and provides a full complement of tools to offenders who complete the program.
Commercial Diving	An 11-18 month program through the Marine Technology Training Center that provides commercial diving and underwater welding offender training program under the supervision of Journeyman Commercial Diver	Marine Technology Training Center graduates earn possible milestone credits and accredited certifications that meet the standards required by the U.S. Coast Guard, Department of Labor's Occupational Safety and Health Administration (OSHA), and the Association of Diving Contractors

[8] 2007/2008 through 2010/2011 study. Full study available at calpia.ca.gov

[9] California Prison Industry Authority. "Career Technical Education." https://www.calpia.ca.gov/offender-development/career-technical-education-cte/.

[10] To see a full list of accreditation programs see here: https://www.calpia.ca.gov/offender-development/accredited-certification-programs/.

	Instructors and U.S. Navy Reserve members.	International. Job placement is available upon parole.
Facilities Maintenance	A three to six month facilities maintenance program that is under the supervision of CALPIA instructors.	This specific training will enable offenders to qualify to take state employment exams and obtain employment such as a Custodian/Maintenance Technician with the Department of General Services upon parole.
Computer-aided Design (CAD)	The CAD program is a six to twelve month technology-based training program under the supervision of certified CALPIA professionals.	Graduates can learn all three programs and obtain industry accredited certifications within the CAD program.
Computer Coding	Computer Coding is a six-month technology-based, training program under the supervision of CALPIA instructors, technology, business, community professionals and volunteers with the non-profit organization, The Last Mile.	The incarcerated can obtain industry accredited certifications. Code.7370 offers three levels of coding certifications, to ensure that offenders continue to progress and hone their coding skills.

Pre-apprenticeship program successes. According to the CDCR, the pre-apprenticeship program has yielded success at multiple institutions. The building trades pre-apprenticeship program at Central California Women's Facility (CCWF) was started on May 14, 2014, and has graduated four classes with 19 graduates reported in June 2018. CCWF has had 67 inmates successfully complete the curriculum to date.[11] Inmate/Ward Labor staff in July 2018 recognized 31 inmates as part of the pre-apprenticeship program at the California State Prison, Solano. These participants received certificates in Leadership in Energy and Environmental Design (LEED) and Occupational Safety and Health Administration (OSHA-10).[12] Twenty-one inmates at the Fenner Canyon Conservation Fire Camp completed the MC3 Pre-Apprenticeship Program in May 2018. This version of the pre-apprenticeship program exposed inmates to various trades from plumbing and masonry, to carpentry and sheet metal work.[13] And, the rate at which carpentry program graduates return to prison is reported to be seven percent, as opposed to over 46 percent for the general state prison population.[14] There is evidence clearly correlating participation in these programs with positive employment outcomes post-incarceration.

[11] Inside CDCR. "CCWF graduates 19 from successful building trades program." https://www.insidecdcr.ca.gov/2018/06/ccwf-graduates-19-from-successful-building-trades-program/.
[12] Inside CDCR. "CSP-Solano sees 31 graduate Inmate/Ward Labor pre-apprenticeship program." https://www.insidecdcr.ca.gov/2018/07/csp-solano-sees-31-graduate-inmate-ward-labor-pre-apprenticeship-program/.
[13] The Anteleope Valley Times Staff. "First group completes prison Pre-Apprenticeship Program." http://theavtimes.com/2018/05/16/first-group-completes-prison-pre-apprenticeship-program/
[14] "Looking for the Next Generation of Carpenters." https://www.calpia.ca.gov/news/articles/the-northern-california-carpenter-magazine-highlights-calpias-pre-apprentice-trade-programs/

Demand for careers in building trades and other industries across California is high. The growth in development and housing to match demand has contributed to a labor shortage across many occupations and is thus a natural pathway into employment for the formerly incarcerated. An industry-wide survey released in August 2017 by Autodesk and the Associated General Contractors of America showed that 70 percent of construction firms reported difficulties filling craft positions.[15] Moreover, 80 percent of the 127 California companies in the survey also reported having a hard time finding construction workers.[16] For example, various regions in California demonstrate a need for workers in building trades and other industries. A new report written by Valley Vision and the Centers of Excellence at Los Rios Community College District, Sacramento states that Sacramento needs 7,000 workers annually in construction and related fields in the next four years.[17] Of these 7,000 needed workers, about 2,000 are carpenters, 600 are electricians and 500 are heavy equipment operators—each of which are needed annually through 2021.[18] Estimators, sheet metal workers, HVAC installers and mechanics, and welders are other areas. Lumbers, painters and masonry workers are in high demand. The labor shortages have economic impacts such as significant cost overruns and delays. Additionally, fewer firms might bid on construction projects if they're unable to have a sufficient supply of workers. These occupations are ripe for opportunities to increase the flow of formerly incarcerated individuals into employment.

California's wildfires and related disasters amplify the need for more firefighters and fire preventions. Firefighting is another sector that has high demand for workers, especially given the volume of fires throughout California in recent history. Five consecutive years of severe drought, a dramatic rise in bark beetle infestations and 129 million dead trees have combined to create unprecedented fire conditions resulting in severe, year-round wildfires. Eleven of California's most destructive wildfires have occurred in the last ten years. Historically, the California Department of Forestry and Fire Protection (CALFIRE) responds to over 5,600 wildfires annually. In recent years, wildfires have increased, reaching approximately 2,000 more than average in 2017. The table below documents the damage across California due to the largest fires in 2017 and 2018,

Between January 1 and December 31, 2017, over 1.7 million acres of land burned in California, over 47 people died as a result of the fires and over 12,000 buildings were damaged or destroyed (for more information on wildfires please see the section title Wildfire Prevention and Suppression under Resources. CALFIRE estimates that the emergency fire suppression costs for the 2017-18 fiscal year could reach $900 million. In addition, the California Insurance Commissioner reports that nearly 45,000 claims detailing almost $12 billion in losses have been filed for the fires in October and December alone. The major incidents experienced the past six years have been unprecedented in many prior firefighters' lifetimes. Experiencing a 100,000 or more-acre fire with unprecedented intensity and fire behavior used to be a once in a career experience. Fires of this acreage, type, and number of days needed to contain and control them will continue to occur annually, brought about by multiple causal factors. Because the

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[15] The Associated General Contractors of America. "Seventy-Percent of Contractors Have a Hard Time Finding Qualified Craft Workers to Hire Amid Growing Construction Demand, National Survey Finds." https://infogram.com/_/kWExw7zcm6IBO09urRde.

[16] The Associated General Contractors of America. "2017 Workforce Survey Results: California Results."https://www.agc.org/sites/default/files/Files/Communications/2017_Workforce_Survey_California_0.pdf

[17] Hudson Sangree. "Sacramento is poised for a building boom. Now it just needs construction workers." https://www.sacbee.com/article196700889.html.

[18] Christine Alut. "News Release: Study Finds Workforce Shortage in Construction Sector Impedes Projects; Puts Upward Pressure on Housing Prices, Jan 2018." https://valleyvision.org/news-release-study-finds-workforce-shortage-construction-sector-impedes-projects-puts-upward-pressure-housing-prices/.

cause of the problem is multifaceted, the solution must also be multifaceted—and the formerly incarcerated are viable employment options.

Table 2: Number of Fires and Acres Burned

Interval	Fires	Acres
January 1, 2018 through December 30, 2018	6,284	876,147
January 1, 2017 through December 30, 2017	7,117	505,956
5-year average (same interval)	5,756	233,483
2018 Combined YTD (CALFIRE and US Forest Service)	7,571	1,671,203

Source: CALFIRE. Note: Statistics include all wildfires responded by CALFIRE in both the State Responsibility Area (SRA), as well as the Local Responsibility Area under contract with the department. Statistics may not include wildfires in SRA protected by CALFIRE's contract counties. Final numbers will be provided in the annual Wildfire Activity Statistics Report (Redbook) once it is published.

Table 3: Notable Destructive Wildfires in 2017 and 2018

FIRE NAME *(Cause)*	DATE	COUNTY	ACRES	STRUCTURES	DEATHS
Camp Fire *(Under investigation)*	Nov. 2018	Butte	153,336	18,804	86
Woolsey *(Under investigation)*	Nov. 2018	Ventura	96,949	1,643	3
Carr *(Human related)*	July 2018	Shasta & Trinity	229,651	1,604	8
Mendocino Complex *(Under investigation)*	July 2018	Colusa, Lake, Mendocino & Glenn	459,123	280	1
Redwood Valley *(Under investigation)*	Oct. 2017	Mendocino	36,523	546	9
Thomas *(Under investigation)*	Dec. 2017	Ventura & Santa Barbara	281,893	1,063	2
Nuns *(Under investigation)*	Oct. 2017	Sonoma	54,382	1,355	3
Tubbs *(Under investigation)*	Oct. 2017	Napa & Sonoma	36,807	5,636	22
Atlas *(Under investigation)*	Oct. 2017	Napa & Solano	51,624	783	6

To fight the state's wildfires and other natural disasters, CALFIRE employs over 5,000 year-round professional firefighters and over 1,700 seasonal firefighters. In addition, they rely on 2,750 local volunteer firefighters. The state has heavily relied on incarcerated people to fight fires as well.

The state has shown a reliance on incarcerated firefighters. As the state's need for people to fight an increasing number of wild fires grows, the number of inmates available to assist in those efforts

continues to decline. Due to new sentencing laws and Public Safety Realignment in 2011, which shifted most non-violent, non-sex-related, non-serious offenders back to county jails, there are fewer people in prison at the lower security levels who are eligible to work and live in the state's fire camps. There are 43 conservation camps for adult offenders and one camp for juvenile offenders with enough capacity to house approximately 4,600 inmate firefighters. Three of the adult offender camps house female firefighters. Thirty-nine adult camps and the juvenile offender camp are jointly managed by CDCR and CALFIRE. The conservation camps, which are located in 29 counties, can house up to 4,522 adult inmates and 80 juveniles, which make up approximately 219 fire-fighting crews. A typical camp houses five 17-member fire-fighting crews as well as inmates who provide support services. As of January 31, 2018, there were 3,507 adults and 58 youth living and working in the camps. Despite the state's continued reliance on inmates to fight fires, participants are shut out of future employment opportunities.

Eligibility for inmate firefighting. All inmates must earn the right to work in a conservation camp by their non-violent behavior and conformance to rules while they are incarcerated. Only inmates who have earned minimum-custody status through good behavior can volunteer to work in fire camps. In addition, people in prison for arson, kidnapping, and violent sex offenses or who have attempted to escape within the previous 10 years or used force in an attempt to escape, are serving life sentences, or have a mental health diagnosis that requires treatment, are prohibited from working in the camps. In addition, an inmate must be within five years of their release date. Finally, inmates who volunteer for the camps must pass a medical exam and meet high physical fitness standards. There are strict eligibility standards for firefighting participants. Moreover, there are different training methods and expectations for inmates compared to professional firefighters.

Training for inmate firefighters. Training for inmate firefighters is significantly different from that of professional firefighters. One of the reasons for that noted by CDCR is that there are different expectations for inmate firefighting teams. Primarily, fire camp participants are tasked with containment functions requiring the use of hand tools such as chainsaws, axes, and rakes to contain fire by clearing out vegetation. CALFIRE firefighters have specialized responsibilities that require the use of heavy machinery and are tasked with search and rescue functions and structure-related firefighting duties.

Unlike training for professional firefighters, the CDCR fire crews do not receive any of the certificates needed to become career firefighters. Among those requirements for professional firefighters are the Basic Firefighter 1, which requires 179 hours of training, the completion of a respiratory protection program (RPP), emergency medical services training, and completion of a fire service training and education program (FSTEP) (which includes: live-fire training, auto extrication (or any forcible entry) and wildland firefighting).

Governor Brown's Administration noted that due to the different level of training, despite significant experience working on fire lines, inmate firefighters are generally not successful in gaining post-incarceration employment in the firefighting field. But CALFIRE estimates that the use of inmate firefighters saves the state approximately $100 million per year because without the inmates, the state would need to pay additional career and volunteer firefighters throughout the state. Local volunteer firefighters are paid minimum wage for every hour they are dispatched to a fire line or emergency. The combination of training, expectations, and eligibility thus sets inmate participants up for failure in their employment pursuits upon release. By highlighting the economic savings that inmate firefighters provide and acknowledging the differences in standards and expectations, the state is continuously exploiting these participants without job prospect enhancement in return.

In 2012, President Barack Obama called for "ban the box" policies as a part of an expanded policy package to encourage successful reentry into local communities by way of employment. “Ban the box” refers to the deferment of disclosure of criminal history on initial applications for employment. Such a policy allows an applicant to reach the final offer stage of the job application process without his or her prior conviction being disclosed. Following the lead of President Obama were policies across many states to reduce barriers to employment. Eighteen states have reformed their occupational licensing laws to make it easier to acquire a license and work in that licensed field.[19] Several states allow the formerly incarcerated to petition a licensing board at any time, including before enrolling in any required training, to determine whether their record would lead to disqualification and/ or prevent licensing boards from using “vague, moral character standards to deny licenses” for the formerly incarcerated. The next section documents the legislation that California adopted to address the employment issues.

KEY LEGISLATION

Below are some efforts that California has recently undertaken to tackle this issue, as well as other pieces of legislation to enhance the prison to employment pipeline:

AB 218 (Dickinson), Chapter 699, Statutes of 2013 prohibits any state or local agency from asking a job applicant to disclose criminal convictions on the initial employment application until after it has determined that the applicant meets the minimum employment qualifications for the position. AB 218 does not prohibit public agencies from inquiring about criminal conviction information later on in the hiring process. Rather, it requires the public agency to refrain from doing so until it has determined that the applicant is qualified for the position.

SB 530 (Wright), Chapter 721, Statutes of 2013, states that a potential employer may not ask for, seek, or utilize as a factor in determining any condition of employment, information about a conviction that has been judicially dismissed or ordered sealed, as specified.

AB 1008 (McCarty), Chapter 789, Statutes of 2017, or the Fair Chance Act, builds on AB 218 by stating that it is an unlawful employment practice under Fair Employment and Housing Act (FEHA) for an employer with five or more employees to include on any application for employment any question that seeks the disclosure of an applicant’s conviction history, to inquire into or consider the conviction history of an applicant until that applicant has received a conditional offer, and, when conducting a conviction history background check, to consider, distribute, or disseminate information related to specified prior arrests, diversions, and convictions. But there are some exceptions. The law does not apply to certain positions at health care facilities, farm labor contractors, or positions with state criminal justice agencies. It also does not apply to any position where an employer is required by another law to conduct background checks or restrict employment based on criminal history. It also requires licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs (DCA).

[19] Institute for Justice. “ State Occupational Licensing Reforms for Workers with Criminal Records.” https://ij.org/activism/legislation/state-occupational-licensing-reforms-for-people-with-criminal-records/

SB 1412 (Bradford), Chapter 987, Statutes of 2018 requires employers to only consider convictions relevant to the job for which an applicant is applying when screening job applicants using a criminal background check.

AB 2138 (Chiu), Chapter 995, Statues of 2018 reduces barriers to licensure for individuals with prior criminal convictions by limiting the discretion of a regulatory board within the DCA to deny a new license application to cases in which the applicant was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board, with offenses older than seven years no longer eligible for license denial, with several enumerated exemptions.

AB 2293 (Reyes), Chapter 342, Statutes of 2018 requires each local emergency medical services agency or other certifying entities to annually submit to Emergency Medical Services Authority (EMSA), by July 1 of each year, data on the approval or denial of Emergency Medical Technician (EMT)-I or EMT-II applicants including:1) the total number of applicants, 2) the total number of applicants with a prior criminal conviction who applied for initial certification, 3) the number of applicants denied, 4) the number of applicants approved, and the number of applicants approved with restrictions, 5) the reason or reasons stated for denying or approving with restriction an applicant with a prior criminal conviction, 6) the restrictions imposed on approved applicants with a prior criminal conviction, and the duration of those impose restrictions; and, 7) race, ethnicity, gender, and age demographic data for all applicants who were denied, approved, or approved with restrictions.

The following pieces of legislation were crafted to enhance the prison to employment pipeline:

After AB 109 (Committee on Budget), Chapter 15, Statutes of 2011 was passed, the CDCR developed The Future of California Corrections: A Blueprint to Save Billions of Dollars, End Federal Court Oversight, and Improve the Prison System (Blueprint). The Blueprint provided additional instructors and associated funding to increase the number of CTE Programs by 98. In 2016-17, CDCR received funding to expand CTE programming to 12 additional sites as part of the Rehabilitative Programs Expansion. This included position authority and associated ongoing funding for one Supervisor of Correctional Education programs and 12 vocational instructors, as well as $1.4 million in one-time start-up funding. These expansions significantly increased inmate opportunities to receive training and certifications in trades that may provide viable employment with a livable wage upon their release from prison. In 2016-17, the Office of Correctional Education awarded nearly 10,400 CTE component completions eligible for milestone credits.

The 2017-18 budget provided $5 million and one position from the Road Maintenance and Rehabilitation Account, State Transportation Fund for 2017-18 through 2021-22, to implement pre-apprenticeship training programs, focused on formerly incarcerated, women, and people of color, in support of SB 1 (Beall), Chapter 5, Statutes 2017 projects. Additionally, Proposition 39 and the Clean Energy Jobs Act, SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2013, created a construction pre-apprenticeship skills training grant program, which builds pipelines for the construction trades for disadvantaged youth, veterans and the formerly incarcerated, and appropriates $3 million Proposition 39 funds annually to the State Board from 2013-14 through 2017-18. Additionally, the state used $3 million from discretionary Workforce Innovation and Opportunity Act (WIOA) funds to fund the Workforce Accelerator Fund Awards, which funded 14 ex-offender projects (with $3.6 million in local matching funds).

The 2018 Budget Act included $14 million General Fund over two years to fund a new job training program for ex-offenders at the state's AJCCS (and their subcontractors). The State Board estimated that about 1,000 ex-offenders would attain job placements as a result of these services. Additionally, the 2018 Budget Act provided $20 million General Fund over two years to provide supportive services such as bus passes, childcare vouchers, and housing assistance for ex-offenders who participate in job training. Lastly, the 2018 budget provided $1.8 million General Fund to local boards for the creation of regional partnerships and for planning between the local boards, CDCR, parole centers and county probation departments, community-based reentry services and others as authorized by the State Board. Grants would be made to each of the 14 workforce regions based roughly on the number of ex-offenders in each region.

The 2018 Budget Act also included $26.6 million General Fund ($18.9 million for the construction necessary to upgrade the camp; $7.7 million in 2018-19 for camp operations; and $6.3 million and 12.4 positions, on-going) and trailer bill language to establish a Firefighter Training and Certification Program for 80 formerly incarcerated people to provide the necessary education and training to become a firefighter. The California Conservation Corps will be the employer of record and provide the base wages and benefits consistent with other Corps members. CALFIRE will be responsible for the administration of the facility, fire training, and certification.

CDCR and CALFIRE will jointly select participants for the program, and CALFIRE will recommend individuals who will be housed at fire camps. According to the proposal, the 18-month program will consist of three phases. Phase one is a three-month orientation that includes completion of life skills training, any required treatment programs, and basic forestry and firefighting courses. Phase two will include three months of firefighter training to complete advanced, comprehensive industry firefighter courses and certification; and phase three is a Type I Fire Crew assignment for 12 months, during which participants will gain the necessary hands-on work experience component of the program. Then-Governor Brown's Administration asserted that upon completion of the program, participants will be qualified through experience and certifications to apply for entry-level firefighting jobs with local, state, and federal firefighting agencies.

GOVERNOR'S PROPOSALS

There are no Governor proposals for the 2019-20 budget year on this topic.

ISSUES TO CONSIDER

Barriers to employment still exist. Despite statewide and nationwide reforms, barriers to employment still exist in a variety of industries. IJ conducted a nationwide study to compare the burdens of occupational licensing on a state-by-state basis. Many of the occupations listed, such as optician, dental assistant, barber, truck driver, and EMT (more on this below)—industries that offer employment to the currently and formerly incarcerated—were profiled in this study. The study's results show that California has a combination of high average licensing fees ($486), long education and experience requirements (827 days lost) and a high number of licensing exams per industry (two).[20] Moreover, compared to other states, California contains the most burdensome licensing environments for low-income workers. And,

[20] Dick M. Carpenter II, Ph.D., Lisa Knepper, Kyle Sweetland, and Jennifer McDonald, "License to Work: A National Study of Burdens from Occupational Licensing."*https://ij.org/report/license-work-2/ltw-state-profiles/ltw2-california/.*

nearly 30 percent of California jobs require licensure, certification, or clearance by an oversight board or agency for approximately 1,780 different occupations. Applications for licenses are denied and licenses are revoked or suspended for many on the basis of prior convictions. Alleviating these burdens would be a boon for these industries and the employment rate in these industries.

Changes related to firefighting in particular may be helpful. For firefighting positions, the barriers are also significant. Currently, CALFIRE only requires criminal background checks for employees in specific classifications, such as law enforcement officers or investigators. However, it is likely that most firefighting jobs outside of CALFIRE require a criminal background check. While a background check does not prohibit an individual with a felony criminal record, it is unknown how that information is used to determine suitability for employment, since each local jurisdiction will have its own policies. To date, there has not been an analysis of the likelihood that people with a felony record will be able to find employment in local fire departments—despite the heavy reliance on inmate firefighters. Nor has there been any approved statutory language that would limit the ability of fire departments to disqualify applicants on the basis of their criminal records.

Regardless of other barriers to hiring, career firefighters are required to obtain an EMT certificate in order to be eligible for an entry-level firefighting job. Certification requirements for EMTs are overseen by the state's EMSA. EMSA is mandated by statute to develop and implement regulations that set training standards and the scope of practice for emergency medical personnel, including EMTs, Advanced EMTs, Paramedics, Mobile Intensive Care Nurses (MICN), Firefighters, Peace Officers and Lifeguards. The Emergency Medical Services Act (Division 2.5 of the Health & Safety Code) establishes a fingerprint and criminal record check as part of the licensing process. In addition, the act states in Health and Safety Code 1798.200:

(b) The authority may deny, suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P license issued under this division, or may place any EMT-P licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c). Proceedings against any EMT-P license or licenseholder shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Section (c) states, in part:

(c) *Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the denial, suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate holder or licenseholder under this division:*
(1) Fraud in the procurement of any certificate or license under this division.
(2) Gross negligence.
(3) Repeated negligent acts.
(4) Incompetence.
(5) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel.
(6) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

As a result of that statute, EMSA promulgated regulations that include the following restrictions:

(c) The medical director shall deny or revoke an EMT or Advanced EMT certificate if any of the following apply to the applicant:

(1) Has committed any sexually related offense specified under Section 290 of the Penal Code.[21]

(2) Has been convicted of murder, attempted murder, or murder for hire.

(3) Has been convicted of two (2) or more felonies.

(4) Is on parole or probation for any felony.

(5) Has been convicted and released from incarceration for said offense during the preceding fifteen (15) years for the crime of manslaughter or involuntary manslaughter.

(6) Has been convicted and released from incarceration for said offense during the preceding ten (10) years for any offense punishable as a felony.

(7) Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to the use, sale, possession, or transportation of narcotics or addictive or dangerous drugs.

(8) Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to force, threat, violence, or intimidation.

(9) Has been convicted within the preceding five (5) years of any theft related misdemeanor.

These restrictions prohibit any person who has been convicted of two or more felonies from ever receiving an EMT certificate, which is likely the majority of the state's prison population and a significant number of the state's jail population. In addition, for those relatively few people who have been convicted of committing only one felony and have been incarcerated in a state prison or county jail, they will be ineligible to become an EMT for 10 years after their release. Given these limitations, absent a policy change, even inmates and former inmates who receive the necessary training to become professional firefighters will be unable to find employment in a local fire department since they cannot become a certified EMT.

A review of hiring qualifications for the state's 10 largest cities shows that San Francisco specifically prohibits anyone who has been convicted of a felony from becoming a firefighter and all require EMT certificates. Most people with felony records are prohibited from receiving EMT certificates and are rendered noncompetitive for entry level firefighter jobs. In addition, the firefighting profession is an impacted profession with local fire departments receiving hundreds of applications for each open firefighter position from people without criminal backgrounds. Therefore, it is highly unlikely that a department would decide to hire an applicant with a serious criminal background rather than one of the other applicants who has no prior criminal justice system involvement.

[21] Penal Code 290 is the "Sex Offender Registration Act" and requires lifetime sex offender registration for people who have committed the most serious sex-related crimes.

These people could conceivably work as firefighters for CALFIRE. In fact, the only minimum qualification for the entry firefighter I position in the state is that the applicant be 18 years old at the time they begin work. Needless to say, they do not require EMT certification for their firefighters. However, many CALFIRE firefighters have EMT certificates. Given these limitations, the Legislature will need to consider what policy changes are necessary to expand the training of inmates, as well as their eligibility for EMT certificates—provisional or non-provisional.

Moreover, the training given to inmate firefighters versus professional firefighters also makes inmate firefighters noncompetitive in the job market. As noted earlier, the training for firefighters who are incarcerated is very different than the training for professional firefighters. Currently, inmates receive none of the training or certificates necessary to work as a career firefighter once they are released from prison. Therefore, despite years of firefighting experience, people who worked as firefighters while in prison are unable to compete for firefighting jobs once they have completed their sentences. One way the state could expand the benefits for an inmate willing to work as a firefighter is to provide appropriate training and certification to become professional firefighters while they are serving their time in prison, rather than waiting until they finish their sentence to provide the training. In addition to expanding training, the Legislature should consider requiring CDCR to establish a process that assists people leaving prison with obtaining firefighting jobs, both at CALFIRE and in the community. Finally, the Legislature may wish to consider establishing an evaluation component for the fire camps to determine whether or not formerly incarcerated people are able to successfully find and retain work as career firefighters. Ultimately, the expectation of inmate and ex-offender firefighting programs should be that these people are able to find work as career firefighters in local fire departments or in ancillary careers that utilize the skills they obtained during their training.

Other barriers and the importance of support. Citations that appear innocuous, such as a traffic ticket, can also pose barriers to employment—as well as lead to unemployment. A traffic ticket is a citation to appear in traffic court. The citation requires a ticket recipient to appear in court on or before a specific date. A person that receives a traffic citation does not need to appear in court if they pay the full amount of the fine. Until recently, when people with traffic tickets failed to pay the fine, the court notified the Department of Motor Vehicles (DMV) of the failure to pay. The passage of AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, eliminated the ability for the courts and the DMV to hold or suspend an individual’s license based on a failure to pay the traffic fine. AB 103 went into effect on June 27, 2017. Courts retain the power to notify the DMV of a failure to appear (FTA) in court and DMV will continue to suspend drivers’ licenses on receipt of such information. A suspended driver’s license for failure to appear and subsequent warrants can create a cascading effect. For many individuals, driving is a basic necessity as it allows them to commute to work, pick up children from school, and conduct other daily business. Thus, many continue to drive even if they lack a valid driver’s license. This can result in additional fines and fees being assessed—significantly increasing the total amount owed by an individual. And, this can create collateral damage for individuals who cannot afford to pay the exorbitant fines—wage garnishments, bench warrants, and job loss.

Even if occupational licensing barriers to employment were removed, the importance of comprehensive supportive and wraparound services during the pursuit of employment should not be neglected. These services aid in the rehabilitation process and provide a warm landing upon reentry—helping to provide a semblance of stability upon reentry. Increasing funding and development of live-in programs for offenders serving the last part of their sentence in community programs, in lieu of confinement in state prison, would provide links to community rehabilitative services and programs. Thus, they would be

better able to develop skills such as managing substance use disorder treatment, education, housing, family reunification, vocational training and employment services. Investments in local residency and support services to parolees, including substance use disorder treatment, cognitive outpatient and drop-in programs for parolees, can provide support in employment assistance and placement, relationships, education, housing and vocational training, behavioral therapies, life skills, employment, education and transitional housing.

Employment carries significant meaning and importance, especially for those coming from vulnerable and disadvantaged communities. Despite a number of progressive policies to increase employment opportunities for people who have with criminal records and/or reentering our communities, significant barriers continue to exist. These barriers, as burdensome as occupational licensing and as simple as a traffic fine, can have damaging effects to a person's livelihood as well as local economies. It is important that the Legislature continue to investigate ways in which employment opportunity for these populations can be realized especially at a time in which demand for jobs in multiple industries are high.

Reorganizing the Division of Juvenile Justice

BACKGROUND ON JUVENILE JUSTICE IN CALIFORNIA

California's juvenile justice system is largely administered locally by trial courts, county probation departments, and local law enforcement. Over the past 20 years, the Legislature has enacted various measures to realign to counties increasing responsibility for managing juvenile offenders.

Adjudication of Cases. Cases are handled differently in the juvenile justice system, as compared to the adult system. When a juvenile is arrested by a local law enforcement agency in California, there are various criminal justice outcomes that depend on the circumstances of the offense and the criminal history of the offender. Following the arrest of a juvenile, a law enforcement officer has discretion to release the juvenile to his or her parents, or to take the suspect to juvenile hall and refer the case to the county probation department. Many juveniles who are referred to county probation departments are arrested for more serious alleged offenses. Probation departments also receive referrals from non-law enforcement entities such as schools and parents. The probation department then has the option to close the case, place the juvenile in a diversion program, place the juvenile on informal probation, or refer the case to the courts. Most of these referrals are adjudicated in juvenile court but, depending on the nature of the alleged offense and the age of the accused, some cases may be prosecuted in adult criminal court.

Juvenile court judges then generally take the recommendations of probation department staff into account in deciding whether to make the offender a ward of the court. They also determine the appropriate placement and treatment for the juvenile based on such factors as the juvenile's offense, prior record, criminal sophistication, and the county's capacity to provide treatment. The courts place most juvenile offenders under the supervision of county probation departments, while a small number are sent to state institutions, either a juvenile facility operated by the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) or state prison.[1]

[1] Legislative Analyst's Office, *California's Criminal Justice System: A Primer*, January 2013.

Under current law, only youth adjudicated for a serious, violent, or sex offense can be sent to state facilities by juvenile courts. As a result, over 98 percent of juvenile offenders are housed or supervised by counties. As of 2016, there were approximately 39,000 youth involved in the county probation system, with 29,000 being wards under Welfare and Institutions Code Section 602 for felony and misdemeanor crimes.[2] For a very small portion of the juvenile justice population, county probation departments determine that the crimes committed or the needs of the juvenile are so great that they cannot provide adequate care and treatment in their facilities. Those youth are then sent to DJJ facilities. There were only 653 youth under the jurisdiction of the DJJ in 2016, and 662 as of fall 2018 population projections.

Juvenile Justice Realignment. As noted previously, over the last 20 years, the state has realigned responsibility for most youth in the juvenile justice system to the counties. Specifically, the Legislature and Governors took the following steps:

- **Sliding Scale.** In 1996, the Legislature passed, and Governor enacted, SB 681 (Hurtt), Chapter 6, Statutes of 1996, which established a sliding scale fee for counties committing wards to the state. Under this arrangement, counties were required to pay a share of the state's costs to house each ward sent to DJJ (then called the Department of the Youth Authority), with a higher share of costs paid for lower-level offenders than for higher-level offenders. SB 681 was designed to incentivize counties to manage less serious offenders locally and decrease state costs. This sliding scale was ultimately replaced with a flat fee of $24,000 per youthful offender in 2012.

- **Lower–Level Offenders.** Approximately a decade later, the state enacted SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, which limited admission to DJJ only to juveniles who are violent, serious, or sex offenders. To help counties manage their new responsibilities for other offenders, SB 81 also established the Youthful Offender Block Grant (YOBG), which provided counties with $117,000 for each ward estimated to have been realigned to their responsibility under the measure. In addition, SB 81 also provided counties with $100 million in lease–revenue funding to construct or renovate juvenile facilities, an amount that later increased to $300 million.

- **Parolees.** Finally, in the 2010–11 budget, the Legislature and Governor realigned from the state to county probation departments full responsibility for supervising in the community all wards released from DJJ. As part of that measure, the Legislature also established the Juvenile Reentry Grant, which provides counties with ongoing funding for managing these parolees. Since the implementation of this Public Safety Realignment, DJJ's population has declined significantly. In 2008-09, the average daily population for youth housed at DJJ was 1,670, and there were 1,857 under the jurisdiction of Juvenile Justice Parole.

Juvenile Court Petitions. In 2016, there were 40,569 petitions filed in juvenile court. Each juvenile court petition can contain up to five different offenses. As a result, within those petitions filed, there were 60,239 different offenses. Of those petitions, 41 percent were for felony offenses, 43 percent were for misdemeanors, and 17 percent were for status offenses. Of the felony petitions, 31 percent were for

[2] Chief Probation Officers of California Fact sheet. Obtained 2019.

violent offenses, 31 percent were for property offenses, 30 percent were for "other" offenses, and about seven percent were for drug offenses.[3]

Of those 40,569 cases filed in 2016, 63 percent ended up under the care of the county probation departments in wardship probation. About 50 percent of youth receiving wardship probation were sentenced to serve that probation in their own or a relative's home and 31 percent were sentenced to a locked county facility. 17 percent of the cases were dismissed. Of the remaining cases, seven percent resulted in informal probation, six percent resulted in non-ward probation, and about seven percent resulted in other dispositions, including transfer to adult court, deportation, diversion, or deferred entry of judgement. Finally, 183 youth were sent to one of the state's facilities under the jurisdiction of CDCR's DJJ.[4]

Juvenile Arrest Rates. Juvenile crime rates have decreased dramatically in recent decades, declining from a peak of 408,131 juvenile arrests in 1974 down to 62,743 in 2016. More recently, juvenile felony arrests decreased by 54.7 percent between 2011 and 2016. In addition, juvenile misdemeanor and status offenses[5] decreased by 59.4 percent between 2011 and 2016.

Direct Files to Adult Court. Of those youth who were arrested and referred to county probation departments, less than one-half of one percent, 340 youth, were transferred directly to an adult court. Of the 376 adult court dispositions for juveniles in 2016, 290 dispositions resulted in a conviction, 51 were dismissed, two were acquitted, and 33 were shifted to juvenile court.[6] Of the 290 convictions, 180 were sentenced to adult prison or DJJ, 63 received probation and a jail term, nine received a jail term, and 20 received another sentence.

Juvenile Recidivism Rates. According to CDCR's most recent report to the Legislature on their annual performance measures, juveniles have a similar rearrest and recidivism rate to adult offenders overall. For example, after three years, 51.3 percent of adults have been convicted of a new crime. For juveniles, the conviction rate after three years is 53.8 percent. While 75.1 percent of adults are arrested within three years of their release, 74.2 percent of juvenile wards have been arrested during the same time period. In addition, 30.5 percent of juvenile offenders are committed to an adult prison within three years of their release from a DJJ facility. Finally, 64 percent of youth who returned to state-level incarceration did so within 18 months of their release from DJJ.[7]

However, when looking specifically at their similar-aged cohorts housed in state prisons, it appears that youth in DJJ facilities have a lower recidivism rate than their counterparts. For example, of the 18 and 19-year-olds released from state prisons in 2011-12 (the same year as the DJJ population that is being tracked for recidivism data), 67 percent had a new conviction after three years, as opposed to 54 percent

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[3] Department of Justice, *Juvenile Justice in California* (2016), p. 32.

[4] Department of Justice, *Juvenile Justice in California* (2016), Table 21, p. 81.

[5] A "status offense" is an offense that would not be considered a crime if it were committed by an adult. Examples include: underage drinking, skipping school, violating a city or county curfew, or running away.

[6] According to DOJ, the reason for the increase in the number of youth redirected to juvenile court was due to the passage of Proposition 57 in November of 2016, which requires that juvenile have a fitness hearing in juvenile court prior to being sent to an adult court.

[7] *Supplemental Report of the 2015-16 Budget Package Annual Performance Measures Report*. January 13, 2017.

of DJJ youth. In addition, of the people between the ages of 20 and 24 who were released from prison in 2011-12, 63 percent had a new conviction within three years.[8]

In addition to shifting responsibility for juvenile justice from the state to counties, the declining juvenile crime rate likely also contributed to the 73 percent decline in the state's DJJ population from 2,516 youth in 2007 to 653 youth in 2016.[9] At the same time, there has been a 60 percent reduction in the population housed in county juvenile camps and halls, down from 11,000 youth in 2007 to 4,200 youth in 2016.[10]

This significant and continuing decline offers an opportunity for California to comprehensively assess its juvenile justice system and invest in the best treatments and interventions for rehabilitating youth and emerging adults and to explore additional interventions in order to continue to reduce the number of young people who end up in the criminal justice system.

Division of Juvenile Justice Overview. A small number of wards (under two percent annually), generally constituting the state's most serious and chronic juvenile offenders, are committed to DJJ and become a state responsibility. DJJ, originally known as the California Youth Authority (CYA), was created by statute in 1941 and began operating in 1943 with the objectives of providing training and parole supervision for juvenile and young adult offenders. In a reorganization of the California corrections agencies in 2005, the CYA became the DJJ within CDCR. The Juvenile Parole Board, an administrative body separate from DJJ, determines a youth's parole readiness.

Youths committed directly to the DJJ do not receive determinate sentences. A youth's length of stay is determined by the severity of the committing offense and their progress toward parole readiness; however, DJJ is authorized to house youths until age 21 or 25, depending upon their commitment offense. DJJ also provides housing for youths under the age of 18 who have been sentenced to state prison. Youths sentenced to state prison may remain at DJJ until age 18, or if the youth can complete his or her sentence prior to age 25, the DJJ may house him or her until released to parole.

DJJ currently houses youth at three juvenile facilities and one conservation camp: O. H. Close Youth Correctional Facility (O.H. Close), N. A. Chaderjian Youth Correctional Facility (N.A. Chad), Ventura Youth Correctional Facility (Ventura), and Pine Grove Youth Conservation Camp (Pine Grove). N.A. Chad and O.H. Close, located in Stockton, house 245 and 165 males, respectively, as of December 2018; Pine Grove, houses 68 males as of December; and the Ventura Facility houses 155 males and 26 females. In addition, three males under DJJ's jurisdiction were being housed at Department of State Hospital facilities. In total, there were 662 juveniles in a state detention facilities on December 31, 2018. With 1,175 beds in the four facilities, the facilities are currently filled to just over 55 percent of capacity.

Characteristics of Current DJJ Youth. Based on data provided by CDCR, on June 30, 2018, there were 629 youth housed in DJJ facilities. Of these 629 youth, 453 had an assault or robbery charge as their primary offense. 62 were convicted of a homicide and 74 were convicted of forcible rape or other eligible sex offense.[11] Approximately 96 percent of DJJ youth are male; of which, about 87 percent are

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[8] *2016 Outcome Evaluation Report: An Examination of Offenders Released in Fiscal Year 2011-12.* CDCR. October 2017. Page 21.
[9] Data provided by the Chief Probationers of California.
[10] Ibid.
[11] California Department of Corrections and Rehabilitation. "Characteristics of the Division of Juvenile Justice Population." https://www.cdcr.ca.gov/Reports_Research/docs/research/Characteristics/06_2018_Characteristics_Report.pdfJune. 2018

either African–American or Latino and 10 percent are white. The average age of DJJ-housed youth is 19 years old. [12] About 22 percent of the DJJ population were tried in adult court.

County of Origin. The largest number of the 629 youth housed in DJJ facilities as of June 30, 2018, 133, came from Los Angeles County. A comparison of commitments by county shows that some smaller counties are responsible for a disproportionate number of youth sent to DJJ. For example, youth from Sacramento County, which comprises four percent of the state's population, constitute six percent of the DJJ population. In addition, Fresno County accounts for two percent of the state's population, but is responsible for six percent of the DJJ population. Kings County is home to less than one percent of Californians but account for three percent of DJJ wards. By comparison, twenty-eight other small counties across the state do not have any youth housed at DJJ or have only one youth. And, there are larger counties who send fewer wards to DJJ. For example, Orange County, home to eight percent of the state's population, accounts for one percent of the DJJ population.

Farrell v. Kernan. On January 16, 2003, Margaret Farrell, a taxpayer in California, filed a lawsuit against the director of what was then the CYA. The suit claimed CYA was expending funds on policies, procedures and practices that were illegal under state law. Farrell also claimed that CYA failed in its statutory duties to provide adequate treatment and rehabilitation for juvenile offenders in its care. The lawsuit also alleged that the youth offenders were denied adequate medical, dental and mental health care.

On November 19, 2004, the parties entered into a consent decree in which DJJ agreed to develop and implement six detailed remedial plans in the following areas: safety and welfare, mental health, education, sexual behavior treatment, health care, dental services, and youth with disabilities. After more than a decade of reforms in California's juvenile justice system – including limiting use of force, involving families in the rehabilitation of youth, and greatly reducing the juvenile offender population – on February 25, 2016, the Alameda County Superior Court terminated the *Farrell* lawsuit against DJJ.

Rehabilitation Programming at DJJ. According to CDCR's website, DJJ provides academic and vocational education treatment programs that address violent and criminogenic behavior, sex offender behavior, substance use disorder and mental health problems, and medical care. This treatment and programming description is similar to what the CDCR indicates that it provides for adult inmates. Through this programming, youth are also encouraged to build positive social and leadership skills through participation in groups and activities such as the student council, spiritual services, and events and fundraisers for victims' rights.

Integrated Behavior Treatment Model (IBTM). The framework for DJJ's programs is the IBTM. It is designed to reduce institutional violence and future criminal behavior by teaching anti-criminal attitudes and providing personal skills for youth to better manage their environment. DJJ staff from every discipline work as a team to assess the needs of each youth and to develop an individualized treatment program to address them. Through collaboration with the youth, the team administers a case plan that takes advantage of each youth's personal strengths to maximize treatment in other areas of their life to reduce the risk of re-offending.

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[12] California Department of Corrections and Rehabilitation: Division of Juvenile Justice. "Population Overview." https://www.cdcr.ca.gov/Reports_Research/docs/research/Population_Overview/POPOVER2017.pdf.

The IBTM guides all services provided to youth from arrival at DJJ to community reentry. Upon arrival, each youth is assessed to determine needs and strengths in the following areas:

- Education & Employment
- Attitudes & Thinking
- Mental & Physical Health
- Family & Community Support & Stability
- Peer Influences
- Violence & Aggression
- Substance Use

Using that information, staff work collaboratively with each other, the youth, and the youth's family to develop and routinely update a treatment plan that helps the youth build skills for successful reentry into the community. Positive skill building is strengthened through a comprehensive behavior management system that discourages negative behavior and uses daily, weekly and monthly rewards to recognize and encourage positive change.

The impact of the IBTM treatment model on the recidivism rate for youth at DJJ is currently unknown. DJJ is currently working with the University of California at Irvine to conduct an updated outcomes evaluation, which will better measure the impact of the IBTM model. Unfortunately, the study will not be available until the second half of 2020, at the earliest.

Education and Effective Learning. The rehabilitation programming offered to adults and youth, however, is significantly different. DJJ operates an accredited school district, providing youth with high school curricula in its four institutions similar to what they would receive in their local community. Youth attend school each day to achieve a high school diploma and youth whose commitment period is too short to fulfill that requirement are guided through a general education development (GED) curriculum. DJJ considers a diploma or GED a minimum requirement for parole consideration. Certificates in a variety of vocations and college classes are offered to graduates as well. During a December 2018 site visit to Chad and Close facilities, staff was informed that The Last Mile Coding programs will be expanded to Close and Ventura facilities in January and May 2019, respectively. Additionally, the Ventura facility's version of the program will incorporate a video-conference session between the Ventura-committed youth and Last Mile participants at San Quentin prison. Additionally, during the site visit DJJ administrators and staff expressed the desire to increase college opportunities in connection to implementing SB 1391 (Hancock and Wyland, Chapter 695, Statutes of 2014).

Volunteer Programs. DJJ facilities appear to have a fairly limited number of programs where volunteers interact with youth, as compared to adult institutions. As of 2017, Pine Grove has the most programs, with 13, and Ventura has the least, with only five volunteer programs. N.A. Chad and O.H. Close have ten and seven programs, respectively. Of note some of these programs are faith-based and some are short-term in nature. The Incarcerated Men Putting Away Childish Things (IMPACT), an outlier to that trend, operates at three of the facilities and places an emphasis on restorative justice or offender responsibility principles. The Anti-Recidivism Coalition (ARC) is listed as volunteer programming at N.A. Chad and Pine Grove. However, according to ARC, they hold a monthly meeting with youth at Ventura who are scheduled to be going home and they meet with youth quarterly at the other three facilities. Similarly, Motorcycle Ministries visits Pine Grove monthly and the Lockwood Fire

Department holds events twice a year at Pine Grove. Unlike volunteer programs in adult prisons, the presence of volunteer programs, and programming in general, outside of the educational programs, is lacking. The new leadership at DJJ is committed to significantly increasing community involvement in the facilities, including working with former prison inmates who can serve as mentors to the young men and women in the DJJ facilities.

Arts in the State's Juvenile Justice Facilities. Currently, the Arts in Corrections program overseen by the California Arts Council (CAC) is only available for adult inmates. The state does not provide an organized, formal arts program to juveniles confined in the four DJJ facilities. Through their schooling, students are required to take 10 hours of fine arts credit to meet California graduation requirements. In addition, the O.H. Close facility has a band, recreational therapists provide informal arts and crafts, and the Sexual Behavior Treatment Program has an arts component that includes peer-mentors. To rectify this problem, the 2017 Budget Act included $750,000 in General Fund for CAC to expand their Jump StArts grant program to include all of the state's DJJ facilities. From the most recent information on the 2017-18 grant cycle, Arts for Incarcerated Youth Network in Los Angeles County received a $42,500 grant to work with the CDCR to share best practices with staff and help them implement "an arts-based strategy of youth engagement, rehabilitation, and reentry," as well as lay "the foundation for local organizations to provide ongoing programming." Additionally, 916 Ink received a $2,500 grant to work with DJJ "to outline curriculum, train staff and work to schedule after school creative writing workshops for students" at the Chad and Close facilities.[13]

Previous efforts to reorganize DJJ. The Governor's budget for 2012-13 included a plan to complete the realignment of juvenile justice to counties. Under the plan, DJJ would have stopped receiving new wards on January 1, 2013. However, DJJ would continue to house wards admitted to its facilities prior to this date until they were released. The Administration estimated that DJJ's population would reach zero by June 30, 2015, at which time all DJJ facilities would have closed and the division would have been eliminated. However, in the May Revision that year, the Administration withdrew the proposal.

Since that time, some advocacy groups have continued to advocate for the closure of DJJ. In part, they argue, research shows that youth have better outcomes if they are housed in smaller settings and closer to their communities and families. On the other hand, counties have expressed serious concerns regarding their ability to effectively provide rehabilitative treatment and programming for those youth they currently send to the state.

County Juvenile Justice System. Most wards are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as juvenile hall or a camp) or supervised at home. Other wards are placed in foster care or a group home.

County Services and Programs. Counties vary widely in the quality and types of programs they provide for the youth in their locked juvenile facilities and no data is collected by the state on the specific types of rehabilitative programs provided in each local juvenile facility. However, appropriate schooling and mental health treatment is required to be provided to all of the youth, as well as substance use disorder treatment and cognitive behavioral therapy for those youth who need it. Many probation offices

[13] California Arts Council. "2017-2018 JUMP StArts Project Descriptions."
http://arts.ca.gov/programs/files/FY1718_ProjectDescriptions_JUMP.pdf

also work closely with their community partners to provide a wide array of programs, including art programs, faith-based programs, restorative justice programs, and foster grandparent programs.

Innovative County Programs. County probation departments and the juvenile justice system have made great progress over the last decade to ensure that only youth who are a threat to public safety or to themselves, and who cannot otherwise be safely served in the community, are detained. Improved screening to determine the need for detainment, statewide application of risk-needs assessment, implementation of effective prevention and diversion programs, and declining arrest rates have led to a two-fold impact on juvenile probation departments: 1) a decline in facility populations, and 2) a rise in the severity of the risks and needs of the youth who remain in juvenile facilities.

Examples of such programs include:

Coastal Valley Academy (San Luis Obispo County). The Coastal Valley Academy (CVA) was established in San Luis Obispo County and is a custody commitment program in juvenile hall for 14-17-year old male and female youth who are moderate to high risk and in need of residential treatment. Youth are ordered to stay for 6-12 months and receive intensive case management, treatment and educational services through collaboration with local treatment providers and the County Office of Education. The physical features of the unit are more home-like and the programming, education, living unit and recreation yard are all separate. CVS provides a safe, structured, and locally controlled alternative to group homes for youth that need to be removed from their homes, but are not appropriate for a home-based foster care setting. It also provides for greater family involvement as youth remain local.

Job Training Center (Los Angeles County). The Los Angeles County Probation Department intends to repurpose a juvenile camp into a voluntary residential reentry and vocational training center. Those eligible for the program would include youth exiting juvenile probation facilities or county jails, transition-age foster youth, and youth experiencing homelessness. The target population is young adults between 18 and 25. Youth in the program will be required to stay Monday through Friday and would be able to leave the campus on weekends, but participating in the program is voluntary. The camp conversion project is intended to equip these young adults with vocational skills and link youth to a pipeline of jobs in the county.

Transitional Adult Youth Program (Alameda, Butte, Napa, Nevada, Santa Clara Counties). SB 1004 (Hill), Statutes of 2016, Chapter 865, authorized the counties of Alameda, Butte, Napa, Nevada and Santa Clara to enact a pilot program that allows young adult offenders age 18-21 to be housed in a juvenile detention facility, as opposed to adult county jail. The program is voluntary for eligible young adults, and upon completion of the program, they will have their felony charges dismissed. Because these young adults will be housed in juvenile detention facilities, they will have services available to them, such as mental health, vocational, and educational services they otherwise would not get in a county jail. The program includes a portion of time in the juvenile hall with a focus on reentry and community supports to assist the participants in their transition back into the community.

Gateway Program (San Bernardino County). The Gateway program is a secure treatment facility that houses up to 42 youth and utilizes evidence-based assessments, treatment and evaluations aimed at reducing recidivism. The program is designed to house youth who have committed non-violent offenses

and includes community access for those ready for reintegration services. Treatment includes mental health, family counseling, social learning activities, substance use counseling, anger management and employment services. The San Bernardino Probation Department works closely with the Department of Behavioral Health, County Schools, Workforce Development and private providers to provide services for the program.[14]

GOVERNOR'S PROPOSAL

Reorganization of DJJ to the Health and Human Services Agency. The Governor's budget proposes to move youth correctional facilities from the CDCR to a new department under the Health and Human Services Agency. The administration intends to release further details about this reorganization of DJJ throughout the 2019-20 budget season.

California Volunteers Partnership. The budget includes $2 million to provide matching funds for a California Volunteers/AmeriCorps federal grant, which will support 40 half-time AmeriCorps members in organizations assisting youth released from the DJJ. The DJJ and AmeriCorps have coordinated to develop a program to assist youth with reentry and earning an Honorable Discharge from the Board of Juvenile Hearings.

ADDITIONAL LEGISLATION AND INITIATIVES

Legislation

AB 1812 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2018, included three major juvenile justice reform efforts: extension of the age of jurisdiction to 25 for certain DJJ committed youth, creation and implementation of a Young Adult Offender Pilot program, and the establishment of a Youth Reinvestment Fund. Trailer bill language made various other statutory changes.

The Budget Act of 2018 also allocated $3.8 million General Fund and included trailer bill language to establish a seven-year young adult pilot program within DJJ for a limited number of transition-aged youth. This program diverts youth from adult prison to a juvenile facility in order to provide developmentally appropriate rehabilitative programming.

Finally, the Budget Act of 2018 also provided $37.3 million General Fund on a one-time basis to establish the Youth Reinvestment Fund to support diversion of youth away from arrest and detention ($26.3 million), for social workers in public defender offices ($10 million), and to provide specialized diversion services for Native American Youth ($1 million). Trailer bill language requires the Board of State and Community Corrections (BSCC) to coordinate with the California Health and Human Services Agency and the State Department of Education for the administration and accountability of the grant program.

The Legislature and Governor enacted additional significant legislation in 2018. Specifically, SB 439 (Mitchell), Chapter 1006, Statutes of 2018, established 12 years of age as the minimum age for which the juvenile court has jurisdiction and may adjudge a person a ward of the court, , except when there are allegations of specified violent felonies. On or after January 1, 2020, a minor under the age of 12 must

[14] Information on innovative county programs provided by the Chief Probation Officers of California.

be released to his or her parent, guardian, or caregiver if the minor comes to the attention of law enforcement because his or her conduct constitutes a crime or a status offense.

To increase the number of volunteer programs in the juvenile facilities, the 2017 Budget Act created two community resource manager positions and redirected $500,000 for innovative programming grants to expand the number of available volunteer programs.

SB 312 (Skinner), Chapter 679, Statutes of 2017, authorizes the court to order the sealing of records for certain serious or violent offenses committed when a juvenile was 14 years of age or older, as specified.

SB 625 (Atkins), Chapter 683, Statutes of 2017, authorized the Board of Juvenile Hearings (BJH) to make honorable discharge determinations and to grant an honorable discharge to a person discharged from a DJJ facility who has proven the ability to desist from criminal behavior and to initiate a successful transition into adulthood.

SB 261(Hancock), Chapter 471 of the Statutes of 2015 raised the age, from 18 to 23 years old, at which young offenders would be considered youth for those who committed specified crimes when they were under 18 years of age and who were sentenced to state prison for the purposes of parole.

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, lowered the jurisdiction age for youth from 25 to 23 and replaced the previous sliding scale county reimbursement rates with an annual rate of $24,000 per youth committed to DJJ via juvenile court. It also eliminated juvenile parole, disciplinary time additions, and new parole violator admissions after December 31, 2012. The legislation also restructured the methodology for discharge consideration hearings.

AB 1628 (Blumenfield), Chapter 729, Statutes of 2010, transferred supervisorial responsibility to the county of jurisdiction's probation department for community supervision of youth released on or after its implementation.

SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007; and AB 191 (Committee on Budget), Chapter 257, Statutes of 2007, restricted juvenile court commitments to cases committed for specified (serious/violent) offenses listed in subdivision (b) of section 707 of the Welfare and Institution Code (WIC) or for specified non-WIC 707(b) sex offender registrants (Penal Code section 290.008). Non-WIC 707(b) (excluding sex offenders) cases that were on parole on September 1, 2007 and were discharged once they completed their parole time.

SB 681 (Hurtt), Chapter 6, Statutes of 1996, required counties to pay the state for each juvenile court commitment pursuant to a "sliding scale fee system" based on commitment offense as an incentive to the county when they do not commit a juvenile because of the associated costs.

AB 3369 (Bordonaro), Chapter 195, Statutes of 1996, reduced the age limit for authorizing a transfer of a person to CYA, now known as DJJ, by the Director of CDCR to under 18 years and requires the transfer to terminate in specified situations. This was only applicable to minors convicted as an adult but housed at the DJJ under WIC 1731.5(c).

Initiatives

Proposition 57 – Public Safety and Rehabilitation Act of 2016 (November 8, 2016) provided juvenile court judges authority to decide whether juveniles aged 14 and older should be sentenced as adults for specified offenses.

Proposition 21 – Gang Violence and Juvenile Crime Preventive Act (March 7, 2000) made changes to the prosecution, sentencing, and incarceration of juvenile offenders:

- Increased punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation, and drive-by shootings; created crime of recruiting for gang activities; and authorized wiretapping for gang activities.
- Allowed for the direct filing of a felony complaint to the adult criminal court for juveniles aged 14 years or older under a variety of circumstances.
- Eliminated informal probation for juveniles committing felonies.
- Required registration for gang related offenses.
- Designated additional crimes as violent and serious felonies, thereby making offenders subject to adult prosecution.

ISSUES TO CONSIDER

Is HHS the best entity for reorganization? Will the HHS agency have an expanded role with DJJ-involved youth under this proposal? The administration has not yet specified the extent to which it intends for HHS to have an expanded role under this reorganization. The previous example of San Bernardino's Gateway program, described above, illustrates some synergy between county health departments and probation with respect to case development and provision of individual, targeted treatment plans to rehabilitate youth.

There are four approaches that states and the District of Columbia currently use for juvenile justice systems across the United States to deliver services to system-involved youth. The juvenile justice departments can: 1) be placed under a family or child welfare agency[15], 2) be placed under a broader health and human services agency[16] 3) operate as an independent entity, and 4) be incorporated under corrections agencies. Between 1993 and 2015, shifts in policy, underlying politics, budgetary implications, philosophy, and culture led to changes in approaches from one model to another. The breakdown of these categories, as of 2015, are as follows: [17]

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[15] "Agencies within a broader social or human services agency or independent children and youth serving agencies that manage both child protection and juvenile corrections." From Juvenile Justice Geography, Policy, Practice, and Statistics. "Juvenile Justice Services." http://www.jjgps.org/juvenile-justice-services#corrections-agency?year=2015

[16] "The general public welfare agency." Juvenile Justice Geography, Policy, Practice, and Statistics. "Juvenile Justice Services." http://www.jjgps.org/juvenile-justice-services#corrections-agency?year=2015

[17] Ibid.

Delivery models	Number of States
Independent juvenile corrections agency	18
Family/child welfare agency or division	12*
Broad human services agency	11
Adult corrections agency or division	10

** Note: The District of Columbia uses this approach.*

County probation departments have expressed "significant operational concerns" and concern that the proposed reorganization that could adversely affect the "great movement [they] have made in juvenile justice over the last decade." They note that if the focus of this proposal is to "make the treatment and rehabilitation of juveniles independent from adult institutions," then they would welcome further conversations as to how best to achieve this goal. However, as of January 2019, the details of the proposed reorganization of DJJ has not been released to the public and the actual plan remains the subject of speculation and development.

Historically, there have been additional concerns voiced by other stakeholders. Some advocacy groups have advocated for the closure of DJJ. Their arguments point to research showing that youth have better outcomes if they are housed in smaller settings and closer to their communities and families. On the other hand, counties have expressed serious concerns regarding their ability to effectively provide rehabilitative treatment and programming for those youth they currently send to the state.

Given all of these concerns as well as country wide research on juvenile justice, California may wish to consider following the lead of states like Texas, New Jersey and New York, regardless of the state-level model California selects. Texas and New Jersey implement an independently organized approach, while New York folds its juvenile justice system under a family/child welfare agency or division. All three states have, however, implemented a regional approach to juvenile justice in recent years. Essentially, these states have moved away from larger centralized facilities for their youth and have created smaller, regional facilities that house approximately 30 youth each. In 2014, for example, Texas enacted SB 1630, which represented a fundamental shift in how youth would be served by the justice system by creating a regionalization plan for the Texas Juvenile Justice Department. The plan is designed to allow youth to be kept closer to their home communities, in lieu of commitment to distant state-secured facilities.

Adopting an approach like Texas' would ideally address both the concerns of the juvenile justice advocates and of the county probation departments. Youth would be housed closer to their communities and in smaller settings. At the same time, those youth would continue to be under the jurisdiction of the state. Along with the concerns raised by advocates regarding the state's current system, one of the concerns raised by DJJ is the lack of collaboration between them and the counties that supervise DJJ youth upon their release. Under a regionalized approach, youth would generally be housed either within, or close to, their county of commitment. Therefore, proximity may make it easier for staff at the regionalized facilities to collaborate and coordinate with the county probation departments that will oversee the youth once they leave the DJJ facilities.

Regardless of the reorganization model chosen for DJJ, addressable problems still persist inside the juvenile justice world. Significant problems within the juvenile justice world persist. Institutionalized biases against youth, negative staff interactions with youth, as well as staff training and selection challenges all need to be addressed. Also, the anticipated increase in DJJ-committed youth due

to the activation of the Young Adult Program and increase in age of jurisdiction to 25 raise new criminogenic needs for these emerging adults. In order to address the unique criminogenic and behavioral needs of young adults, it is important that age appropriate services are provided. Additionally, continued modification and enhancements are needed to better equip DJJ facilities to meet the needs of its youth. Those services include, but are not limited to the state's IBTM treatment model, cognitive behavioral therapy, mental health treatment, vocational training, and education, among others. In addition, an increased emphasis on volunteer programs in DJJ, which are far fewer in number than adult institutions, is needed.

One of the frustrations often noted by California's juvenile justice reform advocates is the significant lack of data from the counties that allows the state to measure the outcomes for youth. For example, a lack of recidivism data makes it difficult to assess the impact of a culture shift within DJJ. These frustrations were reiterated during 2018-19 Subcommittee 5 hearings. Staff from the O.H. Close facility also voiced frustrations with the inability to track the effectiveness of graphic design and arts classes provided to Sexual Behavior Treatment Program participants.

Some states have been multiple steps ahead of California in their data reporting. These states include Florida, Maryland, Pennsylvania, Utah, and Virginia. They focus on in-depth recidivism research that includes "multiple populations, marker events and/or include more comprehensive analyses." These insights are more comprehensive than commonly published reports on one population that have broad, vague, or varying definitions of recidivism. California, unlike many large states, has no state-level capacity to produce information on the recidivism or other outcomes of juveniles who are processed through the justice system. While California is moving rapidly to enact major juvenile justice system reforms, state and local data systems are outdated and unable to provide key information on youth outcomes, the impact of law changes, or the success of new programs.

In response to these frustrations, the Legislature created the California Juvenile Justice Data Working Group (JJDWG) in the 2014 budget trailer bill AB 1468 (Committee on Budget), Chapter 26, Statutes of 2014. That group, overseen by the BSCC, provided a comprehensive analysis and recommendations to the Administration and Legislature to upgrade the state's juvenile justice data capacity in 2016. One task assigned by legislation to the JJDWG in 2014 was to compare California's juvenile justice data capacity to the capacities of other states. The JJDWG report to the Legislature documented multiple ways in which California's data capacity falls below that of other major states. While a report on the first cohort who has received IBT programming should be released at some point during the 2019-20 cycle, the larger data collection and reporting landscape has not significantly changed since 2014.

Whether California completes a reorganization of DJJ under HHS, makes DJJ a stand-alone entity once again, or keeps DJJ as a division under the CDCR, supervision and accountability through effective and intense case management, diversion when possible, collaboration among community partners, and continued shifts from punitive to rehabilitative treatments are needed to serve our youth and to ensure that California increases the chances that our youth become successful and responsible adults who do not re-encounter the justice system.

Substance Use Disorder Treatment in Prisons

BACKGROUND

Recent Developments. Upon analysis of U.S. and California overdose death rates in prisons, the three court experts in the *Plata* litigation recommended the expansion of a statewide Medication Assisted Treatment (MAT) program to treat substance use disorders (SUD). In October 2018, the federal receiver for California's Correctional Health Care Services (CCHCS), Clark Kelso announced a plan for comprehensive substance use disorder treatment (SUDT), including MAT, to reduce the substantial number of patients within the California Department of Corrections and Rehabilitation (CDCR) who have SUD.

The Devastating Effects of SUD. SUD affect Americans on a daily basis. The Substance Abuse and Mental Health Services Administration defines SUD as "the clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home" due to frequent alcohol and/or drug use. The opioid epidemic and related overdoses are a driver of SUD. Opioids are as a class of drugs that are both illegal, such as heroin, synthetic, such as fentanyl, and legal, such as oxycodone, hydrocodone, codeine, and morphine. The spike in opioid overdoses has impacted healthcare, the economy, and public safety. The Centers for Disease Control and Prevention (CDC) estimates an annual economic burden of $78.5 billion in the United States because of opioid overdoses.[1] Moreover, these overdoses strip those impacted of their homes, cars, and families. They impact school-aged children and endangers child welfare. And, they are associated with high rates of Hepatitis C and HIV infections. Most significantly, opioid overdoses lead to rises in death rates across the United States.

The Opioid Overdose Crisis in the U.S. And California. Opioid overdose is a main contributor to high overdose death rates across the United States and California. The CDC reports that there were 70,237 drug overdose deaths in the United States in 2017, of which[2] 47,600 were from opioid use. An estimated 130 people die every day from opioid overdoses.[3] And, drug overdose death rates had more than doubled from 2000 to 2016, from 6.2 to 13.3 per 100,000 persons.[4] Overall, the numbers suggest that the United States has a significant crisis.

The epidemic has also significantly hit California and its prison population over the last decade. In 2017, California had 2,196 opioid overdose deaths, 429 fentanyl overdose deaths, and 4,281 opioid overdose emergency department visits (excluding heroin).[5] In state prisons, the CCHCS reported that the overdose rate increased by four times—from 5.9 per 100,000 people in 2007 to 22.1 per 100,000 people in 2016. In total, there were 144 deaths that resulted from drug overdose in the past six years.[6] CCHCS estimates

[1] C.S.Florence, C. Zhou, F.Luo, L. Xu. The Economic Burden of Prescription Opioid Overdose, Abuse, and Dependence in the United States, 2013. *Med Care*. 2016;54(10):901-906.
[2] H. Hedegaard, A.M. Miniño, M. Warner Drug overdose deaths in the United States, 1999–2017. NCHS Data Brief, no 329. Hyattsville, MD: National Center for Health Statistics. 2018.
[3] CDC/NCHS, National Vital Statistics System, Mortality. CDC WONDER, Atlanta, GA: US Department of Health and Human Services, CDC; 2018. https://wonder.cdc.gov.
[4] Ibid.
[5] California Opioid Overdose Surveillance Dashboard. https://discovery.cdph.ca.gov/CDIC/ODdash/.
[6] J. Clark Kelso. "Treatment to Reduce the Burden of Disease and Deaths from Opioid Use Disorder," https://cchcs.ca.gov/wp-content/uploads/sites/60/Reports/Drug-Treatment-Program.pdf. 2018.

that the prevalence of SUD among the CDCR population is approximately 80 percent or 100,000 patients, with "at least 26 percent" of these individuals having an opiate use disorder.[7] The table below shows the number of drug overdose deaths in state prisons, as well as death rates in all U.S. and California state prisons. These statistics show that policy decisions must result in program development and expansion to address addictions within prisons. Heavy emphasis on such programs will decrease dependency on drugs and alcohol, reduce inmate-on-inmate violence, reduce recidivism and improve health outcomes.

Table 1: Comparison of drug overdose death rates across California and U.S. prisons.

Year	CCHCS DRUG OVERDOSES DEATHS (TOTAL)	CCHCS DRUG OVERDOSE DEATH RATE (per 100,000)	U.S. PRISONS OVERDOSE DEATH RATE (per 100,000)
2006	17	9.9	4
2007	9	5.3	3
2008	19	11.2	4
2009	14	8.3	4
2010	23	13.8	3
2011	12	7.4	4
2012	15	11.1	3
2013	24	18	4
2014	19	14.1	4
2015	19	14.7	--
2016	29	22.5	--
2017	38*	--	--

**According to the CDCR the 2017 data point is preliminary as four cases are still under review through autopsies, a process completed by the county, which can take up to 10 months. Statistics with a (--) indicate data was not obtainable at the time of this writing.*

Treatment of SUD in Developed Countries. Behavioral therapies are the most commonly used, and least stigmatized, method of evidence-based interventions. These include motivational, cognitive, and contingency management therapies to teach coping, promote abstinence, and encourage motivation to engage in "non-drug-related activities."[8,9,10] These methods treat SUD, including opioid addictions, without the use of medications. For these reasons, treatment providers historically opted for behavioral therapy over MAT.

[7] Ibid.
[8] R.K. Chandler, B.W. Fletcher, & N.D. Volkow. (2009). "Treating drug abuse and addiction in the criminal justice system: improving public health and safety." *JAMA*, *301*(2), 183-90.
[9] J.S.Wormith , R.Althouse, M. Simpson, L.R. Reitzel, T.J. Fagan, R.D Morgan . "The rehabilitation and reintegration of offenders—the current landscape and some future directions for correctional psychology." Crim Justice Behav. 2007;34(7):879–892.
[10] ML Prendergast, D Podus, E Chang, D Urada. "The effectiveness of drug abuse treatment: a meta-analysis of comparison group studies." Drug Alcohol Depend. 2002;67(1):53–72.

However, recent evidence shows that the most effective treatments for SUD also involve MAT. Amongst the medications used to treat alcohol addiction are Acamprosate, Disulfiram and Naltrexone. The medications used for opioid overdoses and addiction are Naltrexone, Naloxone, Buprenorphine, and Methadone.[11] A brief description of each medication is detailed in Table 2. Each of these medications are administered through different treatment plans. As a result, each medication causes different reactions and yields varied results. The American Society of Addiction Medicine identifies the "right medication" as one that leads to "little to no side effects, [no feeling of] withdrawal,[12] and [controlled] cravings."[13]Overall multiple studies link opioid-based treatments, particularly Methadone and Buprenorphine to reduced mortality rates.[14,15] As a result, these two opioids are becoming included in the "gold standard" MAT programs for SUD in conjunction with the non-opioid Naltrexone. Nevertheless, as suggested by the World Health Organization, behavioral treatment in tandem with MAT yields the most impactful treatment regimen for SUD.[16]

Table 2: Medications available for MAT of SUD[17]

Medication (Commercial Brand)	Description
Methadone	• An opioid that reduces cravings and desires to use the problem drug. The medication is administered in a certified clinic. • Taking this drug does not cause withdrawal and treatment can be started safely at the beginning of withdrawal.
	• An opioid that reduces cravings and desires to use the problem drug. This medication can be taken at home.

[11] KL Cropsey, GC Villalobos,CL St. Clair. "Pharmacotherapy treatment in substance-dependent correctional populations: a review." *Subst Use Misuse. 2005; 40(13-14):1983-99, 2043-8.*

[12] Also per the American Society of Addiction Medicine: "Opioid withdrawal refers to the wide range of symptoms that occur after stopping the use of opioid drugs. Withdrawal can last up to 10 days, but is most often between 3-5 days."

[13] American Society of Addiction Medicine. " Opioid Addiction Treatment: A Guide for Patients, Families, and Friends." https://www.asam.org/docs/default-source/publications/asam-opioid-patient-piece_-5bopt2-5d_3d.pdf.

[14] Luis Sordo, Gregorio Barrio, Maria J. Bravo, Iciar B. Indave , Louisa Degenhardt, Lucas Wiessing et al. Mortality risk during and after opioid substitution treatment: systematic review and meta-analysis of cohort studies BMJ 2017; 357 :j1550.

[15] Matthias Pierce, Sheila M. Bird, Matthew Hickman , John Marsden, Graham Dunn, Andrew Jones, and Tim Millar. Impact of treatment for opioid dependence on fatal drug-related poisoning: a national cohort study in England. Society for the Study of Addiction. https://onlinelibrary.wiley.com/doi/full/10.1111/add.13193.

[16] World Health Organization. Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence. https://apps.who.int/iris/bitstream/handle/10665/43948/9789241547543_eng.pdf;jsessionid=FDD0DC54AED56788F99030F21F06742C?sequence=1. 2009.

[17] American Society of Addiction Medicine. " Opioid Addiction Treatment: A Guide for Patients, Families, and Friends." https://www.asam.org/docs/default-source/publications/asam-opioid-patient-piece_-5bopt2-5d_3d.pdf.

Buprenorphine (Buprenex, Butrans, Probuphine, and Belbuca)	• Could be injected and snorted ("misuse"), therefore causing withdrawal.* But it can be combined with Nalaxone (commercially known as Suboxone) to prevent misuse. • Most effective when patient experiences mild withdrawal symptoms.
Naltrexone (Revia and Vivitrol)	• Not an opioid but removes ability to get high from the problem drug. Most effective to prevent relapse. • Does not stop all drug cravings. • Cannot be taken when opioids are in the patient's body and the patient must have undergone withdrawal before taking naltrexone. • This medication in incorporated during management of opioid addictions but is most effective in management of alcohol use disorder.
Nalaxone (Narcan)	• Administered during an opioid overdose to rapidly reverse effects.
Acamprosate	• An oral medication for alcohol dependence. • Taken after patient has stopped drinking alcohol.
Disulrifam (Antabuse)	• An oral medication used to treat alcoholism by creating unpleasant side effects when alcohol is consumed.

Treatment of SUD in CDCR. The SUDT program is currently offered in all 36 prisons by the Division of Rehabilitative Programs (DRP), an improvement over just 12 institutions in 2010. In the 2016-17 budget year, an estimated $149 million was dedicated to SUDT. According to the CDCR, their SUDT programming incorporates cognitive behavioral treatment (CBT) developed by the University of Cincinnati Corrections Institute and provided by independent contractors. The curriculum includes cognitive behavioral interventions for substance abuse as well as social, emotional and coping skills—a similar approach to SUD as is used worldwide. Upon successful completion of the SUDT program, participants meet with a transitional counselor for continued treatment planning and placement into community based programs to continue their rehabilitative programming upon parole.

Before 2016, California prisons did not use any MAT for inmates with opioid use disorder. Senate Bill 843 (Committee on Budget and Fiscal Review), Chapter 33, Statutes of 2016, required CDCR, under the direction of the Undersecretary of Health Care Services, to create a three-year MAT pilot program at

one or more institutions. CDCR worked with CCHCS to develop a MAT pilot program within the California Institution for Men (CIM) that started on on January 1, 2017. On September 5, 2017, an MAT program opened at the California Institution for Women (CIW)

MAT Guidelines for Inmates. Entrance into a MAT is preceded by a prospective patient undergoing a multistep process. The process starts with DRP referral. The minimum eligibility criteria include, amongst other factors, having a remaining sentence of at least 30-days prior to parole, and having an alcohol and/or opioid use. From there, a social worker or psychologist screens prospective patients to see if they will parole to a county where MAT providers can give injectable administrations. The prospective patients are next screened for suicide risk and mental health, and undergo psychiatric treatment and lab test reviews with a psychiatrist or psychiatric nurse practitioner. Additional processes include a primary care medical evaluation, oral medication trial and evaluation, documentation, and education. Upon these steps, the MAT program begins for patients who accept treatment. Patients who are ineligible for MAT or who decline the MAT project after education and evaluation continue to receive SUDT, as is currently available within CDCR. The treatment type and duration of MAT participation is dependent on patient history and presentation of clinical symptoms, which range from low to high cravings. The MAT program incorporates the same treatments used in CBT, and oral naltrexone, injectable naltrexone and acamprosate for alcohol and/or opioid use disorders.

Statistics and Reported Findings on CDCR's SUDT/MAT Implementation. A March 2018 report to the Legislature on CIM and CIW populations showed that 189 patients were referred to the MAT pilot program. Fifty-six of the 189 declined treatment for various reasons, and 47 were "actively" on medicated treatment at the time of the report. Of 90 patients ultimately placed on medications, mostly naltrexone was administered. CCHCS' preliminary results showed positive outcomes, such as reductions in rules violations and "no reports" of positive toxicology screens for patients who started medications. In total, current available treatment capacity of SUD within CDCR is less than 12,000 individuals per year. However, despite the initially positive findings, the CCHCS states that the actual fidelity and effectiveness of the CDCR's larger SUDT programming is "unknown." The mixed findings are underscored by several issues that the Administration and Legislature should consider addressing.

The Budget Act of 2018 expanded the MAT program to the California Substance Abuse Treatment Facility and provided $370,000 General Fund for medications and limited-term positions.

ISSUES TO CONSIDER

What Can We Learn from Other States? Rhode Island's approach to jails and prisons is dramatically different from other statewide models. Unlike California and most other states, Rhode Island provides Naltrexone, Buprenorphine, and Methadone to its inmates as MAT options. A preliminary analysis shows that Rhode Island's policy reduced overdose deaths among released inmates by "more than half"—from 26 in 2016 to nine deaths in 2017.[18,19] It should be noted that study's results are affected by a small sample size and could have been affected by a reduction in naloxone administration. Nevertheless, the results are promising. Hawaii offers buprenorphine and methadone but does not widely

[18] German Lopez, "How America's prisons are fueling the opioid epidemic," https://www.vox.com/policy-and-politics/2018/3/13/17020002/prison-opioid-epidemic-medications-addiction
[19] TC Green, J. Clarke, L. Brinkley-Rubinstein, et al. Postincarceration Fatal Overdoses After Implementing Medications for Addiction Treatment in a Statewide Correctional System. *JAMA Psychiatry.*2018;75(4):405–407. doi:10.1001/jamapsychiatry.2017.4614

implement use of these medications, citing that Hawaii's prison population has not been impacted by the opioid use epidemic as greatly as the continental U.S. Even though California is relatively progressive in its pilot approach—some states have not reported offering any MAT—there is still room to raise the state's MAT offerings to the "gold standard" in the manner that Rhode Island did.

Inmate Access to Evidence-Based Practices, Medicated and Behavioral, Remains Limited and the Effectiveness of CDCR's CBT Programming, which includes SUDT, is Questionable. CDCR/CCHCS use naltrexone and acamprosate for a variety of clinical and practical reasons. Their March 2017 report to the Legislature cites multiple studies that document the effectiveness and safety of acamprosate and naltrexone during treatment of opiate and alcohol abuse disorders. There is little to no addiction to or abuse of these medications and there are increases in median amount of abstinence from drugs. They also point to the ability to administer medications without "special training, licenses, or registration in order to prescribe" them. By contrast, there are eight-hour training sessions and special licenses required for administering buprenorphine, as well as facility registration for methadone administration. As a result, CDCR states that they can more straightforwardly link patients with outpatient providers in the community by using a MAT program without buprenorphine and methadone. They also point to the lack of information correlating cost benefits of medication diversion with benefits of buprenorphine and methadone use.

Even though there are practical hurdles to administering the available range of medications, the Legislature should look for ways to incorporate these medications into CDCR's MAT. A large amount of evidence documents the benefits of buprenorphine and methadone use in treatment. By limiting the use of medications to naltrexone, the MAT program limits the largest group of prospective MAT participants. This is because naltrexone, the main medication of opioid treatment in these programs, is most effective when the patient has undergone withdrawal. But advancing a patient to the point of full withdrawal is difficult. The strength of withdrawal symptoms vary heavily by patient—some patients have stronger physical or mental dependencies on opioids that other patients. The patients with stronger dependencies on opioids therefore need access to as many treatment plans as possible because their chances of undergoing full withdrawal are naturally low. Methadone and buprenorphine can be used at the beginning of, and during, withdrawal. There are few studies on the impact of MAT programs pre- and post-incarceration because few states have intensive MAT for their inmates. Eventually the Legislature and Administration should work with CDCR/CCHCS to develop a plan that overcomes the practical hurdles to expanding the possible range of medications for MAT. Without such a plan, California will continue to neglect a population of inmates who need full access to all treatment options.

The problems with California's current approach are not just limited to MAT-related aspects. They could also extend into the CBT aspects of SUDT. A January 2019 report from the California State Auditor on in-prison rehabilitation programs highlighted multiple ongoing problems.[20] Amongst these observations was a lack of oversight that led to vendors using CBT curricula that were not evaluated for recidivism reduction. As a result, there has been no significant link between recidivism rates and the administered CBT classes. Therefore, the state is investing funding into programs that are less effective treatment options for inmates and do not result in many positive outcomes.

According to the same report, the CDCR also has not assigned inmates to appropriate rehabilitation programs, has mismanaged their waiting lists, and has not had adequate staffing for rehabilitation

[20] Auditor of the State of California. "Several Poor Administrative Practices Have Hindered Reductions in Recidivism and Denied Inmates Access to In-Prison Rehabilitation Programs." January 2019.

programs. An analysis of waiting lists shows that the number of inmates and the average time spent on the lists are high for SUD rehabilitation programs. Amongst inmates who the CDCR labels as having a "severe to moderate" risk of recidivating, and have a moderate to severe need for programming, 12,796 inmates are on a waiting list that is, on average, 211 days. Additionally, there are 18,172 lower risk inmates on a waiting list for an average of 289 days.[21] Moreover, priority was not given to inmates who have moderate to high risks of recidivating and who are within five years of release. At San Quentin, for example, three lower risk inmates obtained placement into CBT programming over 31 higher priority inmates. In some instances, inmates were not able to complete programming before their scheduled release dates. Finally, although staffing levels may be adequate to a minimum level, the inability to fully staff has resulted in the maximum number of eligible participants not being enrolled. Clearly, there is a demand for quality, evidence-based services that are not being supplied in abundance. The Legislature should therefore look into ways to address fundamental issues with rehabilitation programs, whether through improved staffing, assessment, evaluation, and/or contracts with vendors who use proven evidence-based programming. Without appropriate changes to current practices, this cycle of investing money into ineffective programming will continue.

Successful SUDT in Prisons can be Impeded by Drug Trafficking Into Facilities by Staff, Friends, Family, Mail, And Packages. Poor contraband interdiction in facilities that implement "gold-standard" MAT programs can impede rehabilitation progress. Prior to 2014-15, CDCR conducted routine cell searches and employed the use of walk-through and hand-held metal detectors in all inmate living areas. CDCR also utilized 28 canine teams located throughout the state, searched staffs' personal property when they entered the secured perimeter, and conducted enhanced inspections at least once per month. All visitors, contractors, and volunteers were processed through metal detectors and their personal belongings were thoroughly searched.

In 2014-15, the CDCR received $10.4 million to develop programming around contraband interdiction. They instituted a three-year program at 11 moderate and highest need facilities on a limited-time basis. According to a Public Policy Institute of California report on the pilot, random drug testing failures declined at facilities with highest need and did not change at facilities with moderate need.[22] According to the CDCR, contraband trafficking remains prevalent. Because of the lack of comprehensive interdiction, in the 2018 Budget Act, the CDCR thus received funding for a seven-day per week/24-hour per day, comprehensive approach at the Substance Abuse Treatment Facility (SATF). SATF was chosen as the location for a two-year pilot because it has two entrances, consistent with about half of the institutions statewide. Their approach included a baggage/parcel scanner x-ray machine and a millimeter wave full body scanner at each entrance and enhanced searching by canine teams. But the previous and current pilot efforts were merely satisfactory first-steps and can still be undermined.

Despite current interdiction efforts, staff, visitors, and non-visitors make continued attempts to smuggle contraband into the institutions, as evidenced by arrests at both pilot and non-pilot institutions. Staff, for example, are just as responsible as visitors, contractors, and volunteers for smuggling contraband. It has been widely reported in other states like Florida and South Carolina that correctional staff smuggled contraband into prisons. In October 2018, a prison guard at Lieber Correctional Institution in South

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[21] Ibid. The Auditor notes that these statistic are informational due to the significant flaws with administering programs and handling waiting lists.

[22] Steven Raphael, Magnus Lofstrom, Brandon Martin. "The Effects of California's Enhanced Drug and Contraband Interdiction Program on Drug Abuse and Inmate Misconduct in California's Prisons." 2017. https://www.cdcr.ca.gov/Reports/docs/External-Reports/Effects-Drug-Contraband-Interdiction-Report_April-29-2017.pdf.

Carolina was arrested for multiple offenses including smuggling contraband.[23] This institution has a history of corrections officers, smuggling drugs into facilities. In 2016-17, the CDCR reported that out of 262 arrests for contraband trafficking, nine arrests involved staff. Six and seven staff arrests occurred with CDCR staff in 2014-15 and 2015-16, respectively.[24] Overall, the CDCR does not have mechanisms in place to conduct a thorough search of every individual who enters its prisons. This not only weakens the intent of contraband interdiction, but also impedes SUDT programs. Without these mechanisms, inmate rehabilitation will be undermined. The Legislature and Administration should consider stringent standards and a true zero-tolerance policy for contraband interdiction at all prisons.

Lack of Available Treatment Post-Incarceration Also Undermines In-Prison SUDT Effectiveness. The role of SUDT programs for patients is multifaceted and interconnected. Therefore, quality and successful treatment methods should be continued post-release with consistency and interagency cooperation. There is a significant lack of resources for the community behavioral health system that raises the possibility of re-hospitalization or re-incarceration that must be addressed in parallel with the lack of resources in CDCR's SUDT/MAT programs. And, several patients have one or more needs. Though costly, integrated solutions will have long-term positive benefits and assist with successful reentry and reduced recidivism. Without such cooperation, MAT programs with a full continuum of medications available to patients can be undermined post-release, when patients' progress are not tracked by CDCR/CCHCS staff.

Substance use disorder and deaths from opioids are crises that affect California's incarcerated and paroled populations more dramatically than non-incarcerated populations. It is the Legislature's, Administration's, and CDCR/CCHCS's responsibility to enhance public safety outcomes, reduce recidivism rates, and improve reentry outcomes through the expansion and implementation of MAT programs rooted in evidence-based programming. California currently only offers a limited MAT program that does not give inmates access to a full range of medications that can assist them during and after the withdrawal process. Evidence-based practices must be used to provide better CBT treatments in-prison SUDT. Even with these practices, factors such as contraband smuggling and inaccessible post-incarceration treatment can damage advancements in a patient's rehabilitation. SUDT is a multi-faceted, multi-agency, interconnected issue that should be comprehensively evaluated and addressed. Without many proper and thorough solutions, inmates' livelihoods will continue to be endangered.

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[23] Emily Bohatch, "Guard in relationship with inmate smuggled contraband into SC prison, officials say," The State, 2018.
[24] CDCR's Contraband Interdiction 2018-19 May Revision Budget Change Proposal

CalPERS and CalSTRS

BACKGROUND

Over the last several years, the state implemented various reforms to address the state's unfunded pension liabilities. For example, the California Public Employees' Pension Reform Act of 2013 (PEPRA) capped benefits, increased the retirement age for new employees, and required them to pay at least half the normal costs to pay for future pension benefits. In 2014, the state enacted a funding plan to fully fund the California State Teachers' Retirement System (CalSTRS) by 2046. In 2017, the state provided California Public Employees' Retirement System (CalPERS) a $6 billion supplemental pension payment to address their unfunded liability. While the state's employee pension costs continue to grow, these efforts have placed the state in a better fiscal position to address them.

The California Public Employees' Retirement System

CalPERS administers retirement benefits for about two million active employees and retirees of state and local agencies in California as of June 30, 2018. Benefits include retirement, disability, and survivor retirement benefits. CalPERS also provides health benefits for approximately 1.5 million active and retired state, local government, and school employees and their family members as of June 30, 2018. CalPERS develops, negotiates, and administers contracts with health maintenance organizations, group hospitals, and medical insurance plans. In addition, CalPERS administers a long-term care program for members and eligible individuals. CalPERS is governed by a Board of Administration, which is composed of 13 members: six elected members, three appointed members, and four ex-officio members. The California Constitution provides the CalPERS Board of Administration authority over the administration of the retirement system with the exception of the Health Benefits Program.

CalPERS Budgeted Expenditures and Positions
(Dollars in Millions)

	2017-18	2018-19	2019-20
Retirement	$93.5	$106.3	$106.3
Health Benefits	$64.8	$74.4	$74.4
Investment Operations	$68.7	$74.1	$74.1
Administration	$192.7	$217.3	$218
Benefit Payments	$27,776	$29,480	$31,244
Unscheduled Items of Appropriation	N/A	$3,000*	N/A
Positions	**2,708**	**3,005**	**3,005**

*The Administration's 2019-20 budget proposes a supplemental payment of $3 billion General Fund payment in 2018-19 to address the CalPERS unfunded liability.

Public Employees' Pension Reform Act (PEPRA). In January 2013, PEPRA modified the way CalPERS retirement and health benefits are applied, placing compensation limits on members, with the

greatest impact on new employees hired after January 1, 2013. Below is a brief summary of some of the components of PEPRA.

- Reduced Benefit Formulas and Increased Retirement Ages – PEPRA established retirement benefits of two percent of the employee's final compensation at age 62 for all new miscellaneous (non-public safety) members with an early retirement age of 52, and a maximum benefit factor of 2.5 percent at age 67. PEPRA also created three defined benefit formulas for new safety members. Previously, the benefit formula was two percent of the employees final compensation at age 55 for state employees hired between January 15, 2011 and December 31, 2012, and two percent of the final compensation at age 60 for new employees hired prior to January 11, 2011.

- Capped Pensionable Compensation – Caps the annual salary that can be used to calculate final compensation for new members, excluding judges, at $113,700 for employees that participate in Social Security, or $136,440 for those who do not, which may be adjusted based on changes to the consumer price index. Previously, first-time members hired after January 1, 1996 had a compensation cap, which was set by the Internal Revenue Service and was referred to as the 401(a)(17) limit.

- Equal Sharing for the Normal Costs – For public agencies, schools employers, the CSU, and the judicial branch, a new member's initial contribution rate will be at least 50 percent of the total normal cost rate or the current contribution rate of similarly situated employees, whichever is greater, except as provided in an existing memoranda of understanding.

  Starting January 1, 2018, public agency and school employers that collectively bargained may require classic members to pay up to 50 percent of the total normal cost of their pension benefit after certain conditions are met. However, the employee contribution can only be increased by specified percentages for various classifications.

  Additionally, CalPERS has rate setting authority and employer and member rates are examined every year in the fall. Changes are reported through the Annual Valuation Report provided to each employer.

Unfunded Liability. Unfunded liabilities occur when assets on hand are less than the estimated cost of benefits (liabilities) earned to date. According to the Department of Finance (DOF), the state's current unfunded pension liability for CalPERS is $58.7 billion. As of June 30, 2017, the funded status for CalPERS was 67 percent.

CalPERS Employer Contribution Rates Are Increasing. In December 2016, the CalPERS governing board voted to lower its discount rate (investment return assumption) from 7.5 percent to seven percent over three years. In 2019-20, the discount rate will be seven percent for state employers. By assuming less money comes into the system through investment gains, the state will be required to contribute more money to pay for current and future pension costs as well as a larger unfunded liability. As a result of this and other assumption changes, average employer contribution rates are projected to rise over the next few years.

The General Fund and nearly all other funds are used to pay some payroll costs to employ state workers, and therefore also cover associated pension costs. Each fund pays employer contributions to CalPERS

based on its own state payroll costs. Some funds—like the Motor Vehicle Account—primarily support operations performed by state employees (such as registering vehicles), and therefore have relatively high associated state pension costs. Other funds—such as the Mental Health Services Fund—primarily pass funding through to local governments and therefore have low associated state pension costs. When employer contribution rates rise, the associated costs to each fund also rise.

The five state CalPERS plans are funded by a combination of General Fund, special funds, and nongovernmental cost funds, as displayed below.

State Plans and Contribution Sources in 2019-20
(Dollars in Millions)

	State Miscellaneous	State Industrial	State Safety	State Peace Officer	Highway Patrol	Total
General Fund Contributions	$1.8	$105.8	$231.4	$1,768.1	N/A	$3,893.3
Share of Total General Fund Contributions	46%	3%	6%	45%	N/A	100%
Special Fund Contributions	$1,265.9	$30.2	$179.9	$0	$532.8	$2,009
Share of Total Special Fund Contributions	63%	2%	9%	0%	27%	100%
Non-Governmental Cost (NGC) Contributions	$694.3	$15.1	$102.9	$35.8	$5.4	$853.4
Share of Total NGC Contributions	81%	2%	12%	4%	1%	100%
Total Required Contributions	$3,748.2	$151.1	$514.3	$1,804	$538.2	$6,755.6

2017-18 Pension Borrowing Plan. SB 84 (Committee on Budget and Fiscal Review), Chapter 50, Statues of 2017, approved the Governor's May Revision proposal to borrow $6 billion from the state's cash balances in the Pooled Money Investment Account (PMIA) to make a one-time supplemental payment to CalPERS. The Administration estimated gross savings of $11.8 billion ($4.8 million net savings) from this payment. While annual state pension contributions will continue to rise over the next several years, CalPERS estimates this supplemental payment would reduce the required contribution for 2018-19 by approximately $177.3 million. The Administration notes that of the $6 billion principal amount, the remaining balance is about $5.8 billion.

On September 28, 2017, the DOF submitted a letter to the Joint Legislative Budget Committee regarding the supplemental payment, which included various stochastic models. According the analysis, the plan has a 95 percent chance to save the state money. The median scenario from the analysis suggests the plan would save the state $3.1 billion over 20 years. The actual savings associated with the plan may be

higher or lower than this amount, potentially by billions of dollars, depending on a variety of factors, most notably CalPERS' future investment performance.

The California State Teachers' Retirement System

CalSTRS is governed by the Teachers' Retirement Board, which is composed of eight members and four ex-officio members. The California Constitution provides the Teachers' Retirement Board authority over the administration of the retirement system. CalSTRS provides pension benefits, including disability and survivor benefits, to California's full-time and part-time public school teachers from pre-kindergarten through community college and certain other employees of the public school system. As of June 30, 2018, there are approximately one million members, retirees, and beneficiaries of the State Teachers' Retirement Plan (STRP) Defined Benefit Program.

CalSTRS administers a defined benefit plan, two defined contribution plans, a post-employment benefit plan, and a fund used to account for ancillary activities associated with various deferred compensation plans and programs, including: (1) STRP, (2) CalSTRS Pension Program, (3) Teachers' Health Benefits Fund, and (4) Teachers' Deferred Compensation Fund.

CalSTRS does not provide health or dental insurance coverage as they are collectively bargained at the local school district level. Each district has its own policies. Existing law requires school districts, community colleges and county offices of education to offer retiring CalSTRS members and their spouses or registered domestic partners the opportunity to continue their medical and dental insurance at their own cost.

CalSTRS Budgeted Expenditures and Positions
(Dollars in Millions)

	2017-18	2018-19	2019-20
Service to Members and Employers	$382.0	$604.8	$571.6
Corporate Governance	$4.8	$36.2	$34.7
Benefit Payments	$14,462.5	$15,822.7	$16,759.1
Positions	1,134	1,294	1,313

Prior to 2014, CalSTRS faced a large unfunded liability with no plan in place to fund teachers pensions, and CalSTRS was expected to exhaust its assets in the mid-2040s. The state adopted a funding plan, described below, to fully fund the system by 2046. Currently, the overall unfunded liability for CalSTRS is $103.5 billion (of which the state's share is $35.3 billion). As of June 30, 2017, the funded status for CalSTRS was 64 percent, respectively, meaning the retirement systems only have approximately two-thirds of the funds required to make pension payments to retirees.

Assembly Bill 1469 (Bonta), Chapter 47, Statute of 2014, CalSTRS Funding Plan to Address Large Unfunded Liability. AB 1469 was adopted as a part of the 2014-15 budget, which set CalSTRS on a path towards full funding by 2046. Specifically, the plan phased in contribution rate increases for the state, employers and employees. The plan gives the board limited authority to adjust the employer and state contribution rates.

- District Contribution Rate. AB 1469 set the district contribution rate through 2020-21, which increases the rate from 14.4 percent of salary in 2017-18 to 16.3 percent in 2018-19. This is an increase of 1.9 percentage points. By 2020-21, the district rate is set to reach 19.1 percent. After 2020-21, CalSTRS can increase or decrease the rate by up to one percentage point per year; however, existing law states that the total district rate cannot exceed 20.25 percent.

- Employee Contribution Rate. As noted earlier, PEPRA requires employees hired after January 1, 2013, to pay half of the normal cost of their pension benefits. Due primarily to the assumption of lower investment returns, CalSTRS' estimate of the normal cost has increased. As a result, the contribution rate for PEPRA employees is increasing from 9.2 percent in 2017-18 to 10.2 percent in 2018-19.

  Absent future changes in the investment return and other assumptions, PEPRA employees' contribution rates will tend to remain more stable than the district and state rates. Compared to PEPRA employees, existing law specifies the rate for employees hired prior to January 1, 2013 to remain flat at 10.3 percent, rather than being tied to an estimate of normal cost.

- State Contribution Rate. The state's share of the unfunded liability has more than doubled in recent years, growing from $15 billion as of June 30, 2015 to over $35 billion as of June 30, 2017. Existing law limits the annual allowable increase in the state rate to 0.5 percentage point. The CalSTRS board approved a 0.5 percentage point increase in the state contribution rate for 2018-19, bringing the total state rate to 9.6 percent. Because of the rate adjustment limit in state law, CalSTRS projects that the state rate will continue increasing by 0.5 percentage point each year through 2023-24.

The chart from the Legislative Analyst's Office (LAO) below displays the projected CalSTRS contribution rates.

CalSTRS Projected Contribution Rates
(As a Percentage of Payroll, May 2018 Projections)

Year	District[a]	State[b]	Employees (Pre-PEPRA)[c]	Employees (PEPRA)[d]
2017-18	14.4%	9.1%	10.3%	9.2%
2018-19	16.3%	9.6%	10.3%	10.2%
2019-20	18.1%	10.1	10.3%	10.2%
2020-21	19.1%	10.6%	10.3%	10.2%
2021-22	18.6%	11.1%	10.3%	10.2%
2022-23	18.1%	11.6%	10.3%	10.2%

[a] Reflects statutory rate through 2020-21 and CalSTRS' projections thereafter.

[b] Reflects actual rate through 2018-19 and CalSTRS' projections thereafter. State contribution rate is based on payroll from the second preceding year. For example, the 2018-19 rate is applied to actual 2016-17 payroll. Includes roughly 2.5 percentage points related to a program that protects retirees' pensions from the effects of inflation.

[c] Reflects fixed statutory contribution rate for employees hired before January 1, 2013.

[d] Reflects actual rate through 2018-19 and CalSTRS' projections thereafter.

CalSTRS Unfunded Liability. The state is responsible for the share of the unfunded liability that would exist today if no changes had been made to benefits or contributions since 1990, and districts are responsible for the unfunded liability created by changes to pension benefits and contribution rates adopted after 1990, but only for benefits earned through 2013-14.

CalSTRS interprets the law so that district and state shares of the unfunded liability will change annually based on a complex formula. Specifically, the formula is based on a hypothetical unfunded liability calculated by estimating what the defined benefit program's assets and liabilities would be today if the benefit improvements had never occurred after July 1, 1990, and if contributions to the pension fund had not been decreased. Under this formula, the calculations show that CalSTRS' unfunded liability would be smaller today. In general, the state will pay for these smaller theoretical unfunded liabilities, while the districts pay for the difference between the real world unfunded liabilities and the state's share. Because districts pay for the balance, the district share will increase when the state share decreases or vice versa. As a result, the state's share of the unfunded liability and the contribution rate is very sensitive to investment volatility.

Responsibility for a small amount of the unfunded liability that is associated with changes made after 1990 for benefits earned after 2013-14 remains unassigned to either the state or districts. As of June 30, 2018, CalSTRS estimates this to be approximately $200 million, and is expected to grow to about $1 billion by 2046. The funding formula does not include a mechanism for funding this unassigned unfunded liability.

Discount Rate. In February 2017, the CalSTRS board adopted changes to investment return assumptions over a two-year period. Specifically, for the June 30, 2016 actuarial valuation, the discount rate decreased from 7.50 to 7.25 percent, and for the June 30, 2017 actuarial valuation, the discount rate decreased from 7.25 to 7 percent.

Reporting Requirement. AB 1469 also requires CalSTRS to report to the Legislature on or before July 1, 2019, and every five years thereafter, on the fiscal health of the Defined Benefit Program and the unfunded actuarial obligation with respect to service credited to members of the program, before July 1, 2014. The report must identify adjustments required in contribution rates in order to eliminate, by June 30, 2046, the unfunded actuarial obligation of the Defined Benefit Program with respect to service credited to members of the program before July 1, 2014.

GOVERNOR'S PROPOSAL

Unfunded Pension Liabilities. The Governor proposes that the state make supplemental contributions from the General Fund to the pension systems to reduce CalPERS and CalSTRS unfunded liabilities and reduce state costs over the next few decades. Specifically:

- State's CalPERS Unfunded Liability. The Administration plans trailer bill language that would make a $3 billion General Fund supplemental payment to CalPERS in 2018-19. At the release of the Governor's budget, the Administration's proposal applied the supplemental payment proportionately towards the unfunded liabilities of the five state retirement plans.

  However, on January 30th, the Administration informed staff that the payment on each state plan would be a proportionate share of the required General Fund contribution.

- Districts' Share of CalSTRS Unfunded Liability. To reduce the districts' share of the CalSTRS unfunded liability, the Governor proposes for the state to pay CalSTRS an additional $2.3 billion General Fund, also attributed to 2018-19.

Restructures Proposition 2 Plan to Pay Down State's Share of CalSTRS Unfunded Liability. Proposition 2, the Rainy Day Budget Stabilization Fund Account (Assembly Constitutional Amendment 1 one the November 2014 ballot), requires specified state revenues to be dedicated to the Budget Stabilization Account (BSA) and partially used to repay state debts and unfunded liabilities. By paying down all remaining special fund loans with discretionary resources (discussed in an earlier section), the Administration creates capacity within Proposition 2 requirements for other debt payments. The Governor proposes using this new capacity to reduce the state's share of the CalSTRS unfunded liability.

The Governor proposes to pay an additional $1.1 billion in Proposition 2 to CalSTRS in 2019-20. Over the next few years, the Administration proposes an additional $1.8 billion in Proposition 2 funds through 2022-23, as follows: $802 million in 2020-21, $615 million in 2021-22, and $345 million in 2022-23, to be paid towards the state's share of the unfunded liability.

CalSTRS District Contribution Rates. The Governor proposes providing $700 million General Fund over the next two years ($350 million per year) to provide school and community college districts with immediate budget relief. Specifically, the funds would reduce districts' CalSTRS rates in 2019-20 and 2020-21—freeing up resources for other parts of districts' operating budgets.

Other Contributions. The budget also includes a statutorily required annual contribution of $6.8 billion ($3.9 billion General Fund) to CalPERS for state pension costs, of which $727.5 million General Fund is for California State University retirement costs. The estimated $566 million increase is the net effect of changes in actuarial assumptions, including the lower discount rate adopted by the CalPERS Board in 2016, savings from greater investment returns, and the $6 billion supplemental pension payment the state made to CalPERS in 2017-18.

An additional $390 million in Proposition 2 debt funding is included in the budget to pay down the General Fund's share of the loan that funded the 2017-18 supplemental pension payment.

Reversing Fourth Quarter CalPERS Payment Deferral. The state routinely defers its fourth-quarter contributions to CalPERS to the subsequent fiscal year. This means that the state does not incur each year's costs until the following fiscal year. The Administration estimates the cost to undo this action is $707 million General Fund in 2018-19 (other funds' fourth quarter CalPERS payments are not deferred).

Reversing June-July Payroll Deferral. The 2009-10 budget package included an ongoing one-month deferral of June state payroll to early July, providing a one-time savings for the state. This accounting action did not affect when paychecks issued to state employees. The Administration estimates the cost to undo this action will be $973 million for the General Fund in 2018-19. Because payroll costs grow over time, the deferral provides ongoing savings for the state General Fund. For example, in 2016-17, this General Fund benefit was $65 million (savings vary from year to year depending on how payroll costs are growing).

ISSUES TO CONSIDER

Estimated Savings from Supplemental Payment Proposal to CalPERS. When the Governor's January budget proposal was released, the Administration indicated that the $3 billion General Fund payment in 2018-19 would be applied proportionately towards the unfunded liabilities of the five state retirement plans. The Administration estimates $7.2 billion gross savings ($4.2 billion net savings) over the next 30 years, based on current actuarial assumptions, as well as a reduction in the average state contribution rate for the five state plans starting in 2019-20 by roughly 0.5 to one percent over that time period. The Administration indicates that the payment will tentatively be applied to the June 30, 2016 investment loss amortization base, which is the base with the longest remaining amortization period (28 years) that would maximize savings.

The Administration notes that the payment is proposed for 2018-19 due to the estimated availability of General Fund this year, and that there is no long-term savings impact if the payment is applied on June 30, 2019, as compared to January 1, 2020. The proposal also assumes an investment return of 8.6 percent for 2017-18 (which is based on the most recent actuarial report from June 30, 2017), and seven percent for 2018-19 and thereafter. The Administration also assumes a three percent growth in payroll, as well as other actuarial and demographic assumptions adopted in the June 30, 2017 CalPERS actuarial evaluation report.

Lastly, the Administration notes that the total savings ratio for the proposed payment is higher compared to the savings assumed in the 2017-18 supplemental pension payment due to a difference in assumed amortization base, which will be discussed in detail below.

Updated CalPERS Supplemental Pension Payment Proposal. Since releasing the Governor's budget proposal, the Administration has modified their proposal to apportion the supplemental payment to the state plans based on the General Fund each plan pays towards its annual required contributions. According to the Administration and CalPERS, the estimated savings of this action would be the same; however, the estimated savings by each state plan will be adjusted.

As noted previously, the share of the total General Fund for contributions that each plan pays towards its contributions in 2019-20 are as follows: 46 percent for state miscellaneous, three percent for state industrial, six percent for state safety, 45 percent for state peace officers, and zero percent for highway patrol. As a result of the Governor's proposal, highway patrol would not receive a direct benefit from the supplemental payment, because it is entirely funded by special funds. By contrast, the other plans would receive a share of the supplemental payment.

Moreover, the contributions to the miscellaneous plan are approximately 46 percent General Fund and 54 percent other funds. The special funds that contribute to the miscellaneous plan will benefit (through any resulting rate reductions) from the supplemental payment because the payment will reduce the entire unfunded liability for that plan, regardless of funding source. The miscellaneous plan has a funded ratio of about 68 percent, compared to the highway patrol plan which has a funded ratio of 60 percent. Additionally, the highway patrol plan has the highest and fastest growing employer contribution rate of the plans (projected to be 60 percent of pay in 2023-24 compared to the projection for the miscellaneous plan of at 33 percent in 2023-24).

The Administration's proposal appears to prioritize plans with higher funded ratios and lower projected growth in contribution rates, while providing no direct relief to special funds with lower funded ratios and faster growing contributions. The Administration informed staff that the proposal provides consistency with the existing funding structure for state CalPERS contributions.

CalPERS Amortization Base Period. As noted previously, the 2017-18 budget provided a $6 billion PMIA loan to pay down the CalPERS unfunded liability. DOF estimated that the $6 billion payment in 2017-18 would result in net savings of $4.8 billion. For the 2019-20 budget, DOF indicates that the proposed $3 billion supplemental pension payment would result in a net savings of $4.2 billion. The Administration notes that the difference in savings can be explained by how much savings can be achieved by the amortization base to which the payment is applied.

Actuarial gains/losses in each year are amortized over a period of time specified by CalPERS board policies. The gain or loss in each year is called an "amortization base." Previously, actuarial gains/losses were amortized over a 30-year period. However, in February 2018, the CalPERS board adopted a new policy that, beginning with the June 30, 2019 valuation (first affecting the 2020-21 contribution rates), will amortize any new gains/losses over a 20-year period. The 2017-18 $6 billion supplemental payment to CalPERS was amortized over a 20-year period.

The Governor's proposal applies the $3 billion supplemental payment to the 2016 amortization base, which had a 30-year amortization period. This base was chosen because it is the most recent amortization "loss" base. There are 27 years remaining in the amortization schedule to pay down this loss. By applying the payment to this amortization base, the benefit of the $3 billion supplemental payment would be spread out over 27 years to maximize savings.

Estimated Savings from the Proposed Supplemental Payment for the Employer Liability Share to CalSTRS. The Administration estimates that the proposed $3 billion General Fund ($2.3 billion to address the employer share of the CalSTRS unfunded liability, and $700 million to supplant the required contributions for school employers for 2019-20 and 2020-21) payment in 2018-19 would save school employers $6.9 billion ($3.9 net savings) over the next 30 years under current actuarial assumptions.

The Administration estimates that the $700 million to supplant the school employer contributions would result in a one percent reduction in the employer contribution for 2019-20 and 2020-21. Moreover, the $2.3 billion supplemental payment to the employer share of the unfunded liability would reduce the employer contribution rate by approximately 0.5 percent starting in 2021-22, over the next three decades. The Administration's chart below displays the impact of the supplemental payment towards the employer's contribution rate.

Supplemental Pension Payments to CalSTRS—School Employer Liability Share Estimated Impact					
	Current		With Supplemental Pension Payment		
Fiscal Year	Employer Contribution Rate	Employer Contribution (in Millions)	Employer Contribution Rate	Employer Contribution (in Millions)	Savings from Supplemental Pension Payment (in Millions)
2019-20	18.13%	$ 6,277	17.10%	$ 5,927	$ 350
2020-21	19.10%	$ 6,844	18.10%	$ 6,494	$ 350
2021-22	18.40%	$ 6,837	17.90%	$ 6,641	$ 196
2022-23	18.40%	$ 7,047	17.90%	$ 6,883	$ 164
2023-24	18.40%	$ 7,301	17.90%	$ 7,131	$ 170
Total Savings—2019-20 through 2023-24					$ 1,230
Total Savings—2024-25 through 2045-46					$ 5,691
Total Savings—2019-20 through 2045-46					$ 6,921

Note: The employer contribution rate, with and without the impact of the supplemental pension payments, is projected to remain constant from 2023-24 through 2045-46. Unlike the state contribution rate, asset smoothing (smoothing the impact of investment volatility on the rate) does not have a material impact on the employer contribution rate over this period.

Short- and Long-Term Trade-Off. The LAO notes that district pension costs typically are covered using Proposition 98 General Fund; however, the Governor proposes using non-Proposition 98 General Fund for this proposal. Whereas this proposal would provide districts with perceptible budget relief over the next two years, the LAO notes that using the $700 million instead to pay down more of the CalSTRS unfunded liability would provide a longer-term benefit. Although over the long term the districts' CalSTRS rate would be only slightly lower than it would be otherwise, the value of a making a $700 million unfunded liability payment now would grow over time. Such future relief could be important during the next economic downturn.

Estimated Savings from Supplemental Payment Proposal to the State Liability Share to CalSTRS. The Governor proposes a $1.1 billion Proposition 2 funds payment in 2019-20, and $1.8 million Proposition 2 funds payment through 2022-23 to pay down the state's share of the CalSTRS defined benefit unfunded liability. The Administration estimates a gross savings of $7.4 billion ($4.4 billion net), and will reduce the state contribution rates starting in 2022-23 by 0.5 to 0.6 percent over the next 30 years. The Administration notes that the impacts of these savings are contained within the CalSTRS Funding Plan, and will help improve the system's ability to reach fully funded status per the CalSTRS Funding Plan.

According to the Administration, the state's share of the CalSTRS defined benefit program is 85 percent funded as of June 30, 2017. The Administration's chart below displays the impact of the supplemental payment towards the state's contribution rate.

Supplemental Pension Payments to CalSTRS—State Liability Share Estimated Impact					
	Current		With Supplemental Pension Payments		
Fiscal Year	State Contribution Rate	State Contribution (in Millions)	State Contribution Rate	State Contribution (in Millions)	Savings from Supplemental Pension Payments (in Millions)
2019-20	7.83%	$ 2,569	7.83%	$ 2,569	$ -
2020-21	8.33%	$ 2,786	8.33%	$ 2,786	$ -
2021-22	8.83%	$ 3,057	8.83%	$ 3,057	$ -
2022-23	9.30%	$ 3,330	8.80%	$ 3,149	$ 181
2023-24	9.20%	$ 3,395	8.60%	$ 3,184	$ 211
Total Savings—2019-20 through 2023-24					$ 392
Total Savings—2024-25 through 2045-46					$ 7,057
Total Savings—2019-20 through 2045-46					$ 7,449

Note: It is projected that with the supplemental pension payments, the state contribution rate will continue to decrease slightly during the period from 2024-25 through 2045-46, to 8.2 percent. Absent the supplemental pension payments, it is projected that the state contribution rate will decrease to 8.8 percent by the end of this same period. The slight decrease in the state contribution rate over this time period can be attributed to asset smoothing (smoothing the impact of investment volatility on the rate).

Paid Family Leave

BACKGROUND

Employment Development Department (EDD). EDD connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave (PFL) programs, and provides employment and training programs under the federal Workforce Innovation and Opportunity Act. Additionally, EDD collects various employment payroll taxes, including the personal income tax, and collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce.

State Disability Insurance Program. Established in 1946, the California State Disability Insurance (SDI) program provides short-term Disability Insurance (DI) wage replacement benefits to eligible workers who need time off work. SDI provides California workers, including private sector employees and some specified state employees whose bargaining units have elected to participate in the program, with partial wage replacement benefits in the event they are unable to work due to the employee's own non-work-related illness, injury, or pregnancy, for up to 52 weeks. In 2014, paid family leave (PFL) was added to the SDI program. Approximately 18.7 million California workers are covered by the SDI program.

Existing law requires employers to inform their employees of SDI benefits, and requires coverage for employees working for employers with payrolls in excess of $100 in a calendar year. There are a few exceptions, specifically for some domestic workers, some governmental employees, employees of interstate railroads, employees of some non-profit agencies, and individuals claiming religious exemption.

DI and PFL provide weekly benefit amounts of approximately 60 to 70 percent of wages earned five to 18 months prior to the employee's claim start date. Depending on the employee's salary, they may receive up to a maximum of $1,252 per week for 2019.

The SDI is funded through employee payroll deductions based on a statutory formula. For 2019, the payroll withholding rate for 2019 is one percent with a maximum taxable wage limit of $118,371 per employee, and the maximum to withhold for each employee is $1,183.71. Existing law specifies the maximum payroll withholding rate at 1.5 percent.

In the 1980s, an advisory committee comprised of labor and employer representatives worked with EDD and independent actuaries on recommendations to maintain a stable and prudent reserve for SDI. The committee recommended that a Disability Insurance (DI) fund balance ranging from 25 percent to 50 percent of the prior 12 months of disbursements is generally considered adequate to maintain solvency through typical fluctuations in contributions and disbursements. The adequacy rate is adjusted based on a statutory formula. The DI Fund adequacy rate, which is the end of calendar year fund balance as a percentage of calendar year disbursements, was 49 percent for 2017, and is projected to be 47 percent in 2018, 43 percent for 2019, and 54 percent for 2020.

The EDD's October 2018 DI Fund Forecast notes that, at the end of 2017, the DI Fund balance was $3.1 billion, and it is projected to be $3.4 billion at the end of 2018, $3.4 billion at the end of 2019, and $4.6 billion at the end of 2020 after payment of benefits.

In 2017, the total SDI net benefits, including PFL, were $6 billion, and they are projected to increase to $6.9 billion in 2018, $7.6 billion in 2019, and $8.1 billion in 2020. Net benefits for PFL were $779.1 million in 2017, and they are projected to increase to $995.4 million in 2018, $1.1 billion in 2019, and $1.2 billion in 2020. The projected increases in net benefits are primarily due to projected increases in SDI claims paid and the average weekly benefit amount.

Disability Insurance. DI provides eligible workers with benefits for non-work related illness or injury, which includes physical or mental illness, surgery, pregnancy, childbirth or other related medical conditions. In order to be eligible for DI, the employee must: (1) be unable to do their regular or customary work for at least eight days, (2) be under the care and treatment of a licensed physician/practitioner within the first eight days of their disability, (3) have lost wages because of the disability, (4) have a physician complete the medical certification of the disability claim, (5) earned at least $300 from which the SDI deductions were withheld during the base period, and (6) be either working or looking for work at the time the disability begins.

Additionally, a pregnant person may receive disability insurance for a normal pregnancy up to four weeks before the expected delivery date, and up to six weeks for a normal delivery, or eight weeks for cesarean section, after the delivery.

DI benefits are payable for a maximum of 52 weeks. For claims beginning on or after January 1, 2019, weekly benefits range from $50 to a maximum of $1,252. The weekly benefit amount is approximately 60 to 70 percent (depending on income) of wages earned five to 18 months prior to the claim start date. The average weekly benefit amount in 2017, not including PFL, was approximately $540, and in 2018 it was approximately $586. A person may not be eligible to receive DI if they are receiving benefits from another EDD benefit program.

Paid Family Leave (PFL). Senate Bill 1661 (Kuehl), Chapter 901, Statutes of 2002, created PFL, which began on January 1, 2004. Subsequent legislation, SB 727 (Kuehl), Chapter 797, Statutes of 2003, and SB 770 (Jackson), Chapter 350, Statutes of 2013, expanded the program to allow for care of specified relatives.

PFL is a component of the SDI program, which provides eligible employees with up to six weeks of partial wage replacement benefits, approximately 60 to 70 percent of lost wages, to care for a seriously ill child, spouse or registered domestic partner, parent, siblings, grandparents, grandchildren, and parents-in-law, or to bond with a child within one year of birth, adoption or foster care placement. PFL is funded through employee payroll deductions described above. PFL does not provide job protection or return to work rights, nor does it require continued group health coverage during leave. The average weekly benefit amount in 2017 was $599, with approximately 245,000 first claims paid. In 2018 it was $661, with approximately 279,000 first claims paid.

New mothers after their pregnancy-related DI claim ends, new mothers who did not previously have a pregnancy-related DI claim, fathers when their baby enters the household, and new parents of foster or

adopted children, are eligible for PFL bonding claims. Additionally, the length of time a claimant worked in their current job does not impact PFL eligibility.

Employers may require that employees take up to two weeks of earned unused vacation when using PFL; however, existing law prohibits employers from requiring employees to use sick leave. Employees may be able to take unused sick leave and receive PFL benefits at the same time, but the combined benefits cannot exceed 100 percent of regular earnings or the PFL benefits will be reduced by the amount of sick leave wages received.

Other Programs for Family and Medical Leave

California Family Rights Act (CFRA) and the federal Family and Medical Leave Act (FMLA). CFRA and the federal FMLA provide eligible employees of covered employers (those with 50 or more employees) up to 12 workweeks of unpaid job-protected leave during a 12-month period, for specified family and medical reasons, including time to bond with a new child through birth, adoption or foster care placement, among others. Additionally, the CFRA and FMLA require continued group health insurance coverage under the same terms and conditions as if the employee had not taken leave. CFRA and FMLA are required to be taken concurrently.

New Parent Leave Act (NPLA). Senate Bill 63 (Jackson), Chapter 686, Statutes of 2017, requires employers with 20 or more employees to provide eligible employees with up to 12 weeks of unpaid job-protected parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement, with continued health coverage during the duration of the parental leave.

Pregnancy Disability Leave (PDL). Under the Fair Employment and Housing Act, PDL requires private employers with five or more employees and public employers to provide up to four months of unpaid, job-protected leave for pregnancy, childbirth or related conditions. Employees may use accrued vacation and paid sick leave during PDL, and are entitled to reasonable accommodations and reinstatement to the job held before PDL began. Employers are required to continue health coverage during PDL.

State Employees. Non-industrial disability leave (NDI) covers state-excluded employees, career executive officers, legislative employees, and specified rank-and-file employees according to their memorandum of understanding (MOUs), who are disabled and unable to work due to a non-work related injury or illness, including disability due to pregnancy or childbirth. There are no employee contributions, enrollment fees, or medical examinations required for coverage. NDI entitles employees to up to twenty-six weeks of leave with partial pay. If an employee is enrolled in the Annual Leave program, which replaces traditional sick and vacation leave with an annual leave pool, up to 50 percent of the employee's gross pay is covered. If the employee is not enrolled in an Annual Leave Program, they may receive up to $135 per week. NDI is paid for by the employer and does not offer a paid family leave program. Bargaining units not covered by the NDI are eligible to receive SDI.

Disability Insurance Elective Coverage Program. Created in 1962, the Disability Insurance Elective Coverage program (DIEC) is a voluntary program that permits small business owners, entrepreneurs, and self-employed individuals who make up a large portion of companies doing business in California, and individuals who are not covered by the SDI program to elect to pay into disability insurance, and requires participants to remain in the program for two complete calendar years unless they meet specified early termination criteria.

Voluntary Plans. Existing law allows an employer or a majority of employees to apply to the EDD for approval of a Voluntary Plan (VP) for the payment of DI and PFL benefits in place of mandatory SDI coverage. A VP must provide all the benefits of SDI, at least one benefit that is better than SDI, and it cannot cost employees more than SDI. To be approved for a VP, the employer must post a security deposit with the EDD to guarantee that it meets all obligations of the VP.

Below is a summary of some of California's leave policies and their requirements.

	CFRA/FMLA	PFL	DI	NPLA
Job Protection	Yes	No	No	Yes
Employers Covered	50 or more employees in 75 mile radius of worksite.	One or more (employee pays, employee receives).	One or more (employee pays, employee receives).	20 or more employees within 75 miles.
Employee Eligibility	Worked 1,250 hours in prior 12 months.	Employee earned $300 in base period for fund contribution, and subject to SDI tax contribution.	Working or looking for work at the time disability begins. Employee earned $300 in base period for fund contribution, and subject to SDI tax contribution.	Worked 1,250 hours in prior 12 months.
Reason for Leave	Employee serious health condition; seriously ill family member care; bond with newborn or newly placed adopted or foster child.	Care for seriously ill family member; bond with a child within one year of birth, foster care or adoption placement.	Non-work related illness or injury, including physical or mental illness, surgery, pregnancy, child birth, or other medical related conditions.	Bond with a child within 1 year of birth, adoption or foster care placement.
Length of Leave	12 weeks in 12-month period.	6 weeks in 12-month period. Employers may require employees take up to two weeks of earned unused vacation leave.	Provides up to 52 weeks of paid benefits when taking time off work for your own non-work-related illness, injury, or pregnancy. DI provides 4 weeks before the expected delivery date, 6 weeks for normal delivery, and 8 weeks for a cesarean section after delivery.	Up to 12 weeks.
Paid or Unpaid	Unpaid, may run concurrent with other paid leave.	Partial wage replacement.	Partial wage replacement.	Unpaid, employee can use vacation, paid sick time.
Continued Health Coverage	Yes	No	No	Yes

EDD's Budgeted Expenditures and Positions
(Dollars in Millions)

	2017-18	2018-19	2019-20
Employment and Employment Related Services	144.6	206.2	206.6
California Unemployment Insurance Appeals Board	71.6	80	76.5
Unemployment Insurance Program	5,733.5	5,942	5,951.6
Disability Insurance Program	6,560.6	7,896.3	8,429.8
Tax Program	193.5	213.6	209.5
Employment Training Panel	84.1	89.5	99.5
Workforce Innovation and Opportunity Act	387.6	409.3	398.3
National Dislocated Worker Grants	21.5	45	45
Administration	100.1	0.4	0.4
Administration - Distributed	-98.4	0	0
Positions	7,536.5	7,748.5	7,663.1

GOVERNOR'S PROPOSAL

The Administration proposes to expand the PFL program to allow a child to receive six months of bonding time to be split between parents or close relative. In the short-term, the Administration proposes to adjust the reserve requirement for the DI fund, which supports the PFL program. The Administration also proposes to convene a task force to consider options to phase-in and expand the program, to increase program participation among eligible workers, and to align with existing worker protections and non-retaliation protections.

ISSUES TO CONSIDER

Over the last several years, the state has invested funding to increase outreach and participation in the PFL program. Specifically, the 2014-15 budget provided $1 million from the Unemployment Compensation DI Fund to begin a three-year plan for the EDD to administer a PFL outreach campaign. In addition, the 2014-15 budget included supplemental reporting language requiring the EDD to report on the type of, and effectiveness of, outreach activities. In 2015-16, the budget provided an increase of $2.5 million to administer the PFL outreach campaign. Staff has not received updated information regarding the uses of these funds or their outcomes. In 2016-17, the budget included a one-time augmentation of $5 million from the Unemployment Compensation DI Fund, along with a one-time augmentation of $629,000 in 2017-18, to support the costs incurred as a result of AB 908 (Gomez), Chapter 5, Statutes of 2016. This legislation increased the wage replacement rate for the PFL program from 55 percent to 60 to 70 percent depending on a person's wages, and removes the one week PFL wait time. AB 908 is set to sunset on January 1, 2022.

The EDD report, *Paid Family Leave Market Research*, released on December 14, 2015, conducted market research to assess awareness levels and to identify the motivators behind an individual's choice to use the PFL program or not. The report found awareness of the program is generally low across most

populations, with users having difficulty ascertaining eligibility, challenges with the application process, and the lack of job protection and full wage replacement as important considerations.

Program Awareness. In 2015, the California Center for Research on Women and Families conducted a field poll which found that only 36 percent of voters were aware of the PFL program. Additionally, the US Department of Labor report, *California Paid Family Leave Law: Lessons from the First Decade*, found that individuals who were unaware of the program were most likely to have the greatest need, such as younger parents, people of color, or individuals with less education or low-incomes.

PFL Program Participation. In 2014, the EDD released a report, *Paid Family Leave: Ten Years of Assisting Californians in Need*, which found that during 2004-05 to 2012-13, the number of PFL claims increased by 43.4 percent (from approximately 150,500 to 215,800 claims), and claims filed by males increased by 400 percent (from approximately 12,800 to 65,500 claims).

EDD notes that approximately 87 to 89 percent of PFL claims from 2014 to 2018 were for bonding, while 11 to 13 percent were for care claims. In 2014, 99 percent of bonding claims were made by biological parents, and 27 percent of all PFL claims were made by biological fathers. The 2014 report found that while 6,000 to 8,000 children are adopted annually in California, only 548 PFL bonding claims were made in 2014 for adoptions. Participation rates for foster parents were even lower, with 698 bonding claims for approximately 36,000 children entering into foster care (two percent).

<u>Participation by Geography.</u> The *PFL Research* report notes that "biological mothers claiming benefits are focused in densely populated counties, specifically coastal southern California and the Bay Area." These compare to the areas that constituted highest percentage of PFL eligible births, although some substantial gaps emerged. The San Francisco Bay Area, especially the east and south bay, have slightly higher PFL usage than the rest of the state. Los Angeles and Fresno County have the lowest rate of use, with inland southern California also having low use. According to the report, this correlates with awareness levels. The utilization gap for biological fathers shows that Los Angeles, Orange and San Diego counties have the lowest utilization rate.

<u>Participation by Income.</u> EDD data shows that in 2018, 63.4 percent of female bonding claimants earned less than $40,000. Conversely, men tended to be from higher income groups with 66.6 percent of claimants earning over $40,000. Approximately 37.5 percent of female bonding claimants earned less than $20,000, 25.9 percent earned between $20,000 to $39,999, 13.5 percent earned $40,000 to $59,999, and 23 percent earned $60,000 and above.

The Legislature may wish to consider why these geographic disparities exist, and if additional outreach is needed to increase participation in Los Angeles, Fresno and inland southern California. Additionally, the Legislature may wish to consider additional outreach and education to adoptive parents and foster parents, as well as men and lower income groups, to increase participation.

Other States' Paid Family Leave Programs. In addition to California, New Jersey, New York, Massachusetts, and Rhode Island currently provide paid family leave. In February 2017, Washington D.C. enacted a paid family leave program that will take effect on July 1, 2020. In July 2017, the State of Washington also created a paid family leave program for which benefit payments will start in 2020. In 2018, Massachusetts created a paid family leave program, with premiums to begin in July 2019, and benefits to begin in January 2021.

Similar to California, the paid leave programs in New Jersey, New York, and Rhode Island are administered through pre-existing temporary disability insurance programs and funded via employee payroll deductions. Washington D.C. created a Universal Paid Leave Implementation Fund that will receive funding from a payroll tax on employees of covered employers and self-employed individuals who opt into the program. Washington created a similar family and medical leave insurance account in the state treasurer's office.

The chart below provides a brief summary of paid family leave programs in other states.

	Reason for Leave	Length of Leave	Weekly Benefit Amount
Massachusetts	Bonding with new child, or care for self or family member with serious health condition	12 weeks for family leave, 26 weeks for caring for a covered service member, 20 weeks for own serious health condition. No more than 26 weeks total per year for combined family and medical leave.	The maximum weekly benefit is $850 in the program's first year, and will be adjusted annually to an amount equaling 64 percent of the state average weekly wage.
New Jersey	Disability, or care for new child, or family member with serious health condition.	26 weeks for disability, or six weeks for family care.	Benefits are 66 percent of a worker's average weekly wage, with a maximum benefit of $637 in 2018.
New York	Bonding with new child, or care for family member with serious health condition	For family leave, eight weeks in 2018, increasing to 10 weeks in 2019 and 12 weeks in 2021.	Wage replacement rates are scheduled to be 50 percent in 2018, 55 percent in 2019, 60 percent in 2020, and 67 percent in 2021, up to a specified amount based on a formula.
Rhode Island	Bonding with new child, or are for family member with serious health condition	Four weeks for family leave.	Up to $831 per week for claims effective January 1, 2018 or later.
Washington	Bonding with new child, or are for family member with serious health condition	12 weeks for family leave, with a maximum of 16 weeks combined for own serious health condition and family leave. Benefits may be extended by two additional weeks due to pregnancy.	The maximum weekly benefit is $1,000 in the program's first year, and will be adjusted annually to an amount equaling 90 percent of the state average weekly wage.
Washington DC	Bonding with new child, or are for self or family member with serious health condition	Eight weeks for parental leave, six weeks for family care, two weeks for own serious health condition. No more than eight weeks total per year combined.	Starting in 2020, the maximum benefit will be $1,000 per week.

San Francisco Paid Family Leave Ordinance. In 2016, the San Francisco Board of Supervisors passed the Paid Parental Leave Ordinance (PPLO), which requires employers to provide supplemental compensation to employees who are receiving PFL for purposes of bonding with a new child through birth, adoption, or foster care placement. Covered employers are required to provide supplemental compensation so that the combined PFL compensation and PPLO supplemental compensation is equal to 100 percent of their gross weekly wage. The 2019 PPLO cap is $2,087 per week for a maximum of six weeks of parental bonding leave.

This program was phased in over a two year period. Specifically, employers with 50 or more employees must comply with the ordinance by January 1, 2017, employers with 35 or more employees by July 1, 2017, and employers with 20 or more employees by January 1, 2018. Employers may require employee to use up to two weeks of accrued, unused vacation to cover supplemental compensation payments.

In order to be eligible for the PPLO, an employee must work at least 180 days prior to the start of a leave period with the specified employer, work at least eight hours of work per week for the employer in San Francisco, and at least 40 percent of those total weekly hours worked for the employer in San Francisco.

Wage Replacement Rate. The *PFL Market Research* report found that both low-income and higher income workers cited the wage replacement rate as a key limitation on using PFL. This is particularly pronounced in potential lower income users, who use PFL at lower rates. The contractors who completed the report conducted a survey of workers, and found that low income workers stated that it was difficult to make ends meet with partial wages. Higher income workers felt similar to low income earners; however, they reported that their employers had policies in place, such as use of vacation and sick time, that could provide alternatives to PFL or be used in conjunction to the PFL program.

Assembly Bill 908 increased the wage replacement rate from 55 percent to 60 to 70 percent depending on a person's wages, and removed the one week PFL wait time. AB 908, is however, set to sunset on January 1, 2022. AB 908 requires the EDD to report to the Legislature by March 1, 2021, on the utilization of SDI and PFL benefits based on income categories, the cost of the increased wage replacement rates, and the SDI contribution rates. The Legislature may wish to request a preliminary report on the impact of AB 908, which may help inform budget conversations this year, as the Legislature considers the Administration's proposal.

Additionally, the Legislature may wish to consider if the current wage replacement rate is appropriate to increase participation in the PFL, or if it is an adequate amount for people to make ends meet. Should the Legislature wish to increase the wage replacement rate, it may wish to consider various mechanisms to fund the program. As noted previously, the program is currently funded solely from employee contributions; however, the Legislature may wish to increase the employee contributions or to have employers make contributions, similar to New Jersey.

Lastly, the Administration's proposal provides six months of bonding time per child to be split between parents; however, it is unclear what the wage replacement structure is under the proposal.

Job Protection. The focus groups and stakeholders also noted job protection as an important consideration when deciding to take leave. As noted previously, PFL does not provide job protection; however, an employee may be eligible for job protection under the FMLA/CFRA or the NPLA. These various laws may be confusing for a consumer to navigate and to determine under which laws they are

protected. Specifically, the CFRA/FMLA is only applicable to employers with 50 or more employees, whereas the NPLA is only applicable to employers of 20 or more employees. However, the PFL is available to workers who pay into the DI system. The Legislature may wish to consider making the system easier for consumers to navigate, and whether the state should expand job protection to all employees who seek to take leave regardless of the number of employees an employer has.

Task Force. As noted previously, the Governor's budget proposes to expand the PFL by increasing child bonding leave for a parent or close relative to up to six months. The Administration also proposes to convene a task force to consider options to phase-in and expand the program, to increase program participation among eligible workers, and to align with existing worker protections and non-retaliation protections. As of the writing of this analysis, trailer bill language detailing these changes has not been released, nor are there additional details regarding the proposal.

Technology Infrastructure. In 2016-17, the state approved the modernization of EDD's benefit systems, or the Benefits Modernization Project (BSM). Currently, the information technology associated with the unemployment insurance, DI, and PFL programs are independent and not integrated, and rely on an aging main frame that is difficult and expensive to maintain. Additionally, each programs' databases reside in different platforms, and there is inconsistency for EDD customers across programs. EDD notes that the PFL system has not been modernized since being implemented in 2004. The goal of the BSM project is to create one benefit system to automate many UI, DI and PFL claims that are currently handled manually, as well as to make systems easier to update. The project is currently on stage three out of the four stages of the Project Approval Lifecycle (PAL) process, which conducts a procurement analysis and develops solution requirements and a solicitation policy.

The Legislature may wish to consider the impact of the Governor's proposal on the BSM project, and whether or not this would constitute a substantive change that would cause the PAL process to start over. As proposed, a child would receive six months of bonding time split between the parents; however, the current benefit system is not structured based on a child, but instead focused on each parental claim. Additionally, it took 18 months for EDD to implement changes to the benefit system associated with AB 908, which was largely within the existing framework of PFL. Implementing the changes associated with the Governor's proposal could further delay the BSM project.

APPENDIX

Timeline for the 2019-20 Senate Budget Bill i
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TIMELINE FOR THE 2019-20 BUDGET BILL

Thursday	January 10	Governor submits State Budget to the Legislature.
Thursday	January 10	Committee releases *Summary of Governor's Proposed 2019-20 Budget.*
Monday	January 14	Legislative Analyst submits *The 2019-20 Budget: Overview of the Governor's Budget.*
Thursday	January 17	Committee conducts overview hearing of the Governor's Proposed 2019-20 Budget.
Thursday	January 31	Full Budget Committee holds informational hearing – Wildfires, Emergency Response and Preparedness.
Thursday	February 7	Full Budget Committee holds informational hearing – Budget Resiliency, Pension Payments and Reserves.
Thursday	February 14	Full Budget Committee holds informational hearing – Prescription Drug Affordability and Expanding Medi-Cal Coverage.
Thursday	February 21	Full Budget Committee holds information hearing – Affordable Housing and Homelessness.
Tuesday	February 26	Committee releases *Overview of the 2019-20 Governor's Budget.*
Thursday	March 8	Subcommittee budget hearings begin.
Monday	April 1	Department of Finance submits Finance Letters.
Thursday	April 11	Spring Recess begins.
Tuesday	May 14 (est.)	Governor delivers May Revision to the Legislature.
Saturday	June 15	Legislature must pass budget to meet constitutional deadline for passage of the budget.
Saturday	June 29	Governor signs 2019-20 Budget.

STAFF ASSIGNMENTS

OVERALL BUDGET	JOE STEPHENSHAW ELISA WYNNE
CORRECTIONS AND PUBLIC SAFETY	CHRISTOPHER FRANCIS
DEVELOPMENTAL SERVICES	RENITA POLK
EDUCATION	
K-12 EDUCATION	ELISA WYNNE
HIGHER EDUCATION	ANITA LEE
EARLY CHILDHOOD EDUCATION	ELISA WYNNE
ENERGY	JAMES HACKER
ENVIRONMENTAL PROTECTION	JOANNE ROY
HOUSING AND COMMUNITY DEVELOPMENT	JAMES HACKER
JUDICIARY	CHRISTOPHER FRANCIS
LABOR AND EMPLOYEE COMPENSATION	ANITA LEE
LOCAL GOVERNMENT	YONG SALAS
HEALTH	SCOTT OGUS
HUMAN SERVICES	RENITA POLK
RESOURCES	JOANNE ROY
TAXES AND REVENUES	JOE STEPHENSHAW
STATE ADMINISTRATION	YONG SALAS JOE STEPHENSHAW
TRANSPORTATION	JAMES HACKER
VETERANS AFFAIRS	YONG SALAS
COMMITTEE SECRETARY	SANDY PEREZ
COMMITTEE ASSISTANT	SAMUEL LANCHESTER

CALIFORNIA STATE BUDGET HISTORY

Fiscal Year	Bill and Chapter No.	Date Passed and Chaptered		Total Budget ($ Billions)
1965-66	AB 500/757	6-18	6-30	4.0
1966-67[a]	SB 1XX/2	6-30	6-30	4.7
1967-68	AB 303/500	6-29	6-30	5.0
1968-69	SB 240/430	6-28	6-29	5.7
1969-70	SB 255/355	7-3	7-3	6.3
1970-71	AB 525/303	7-4	7-4	6.6
1971-72[b]	SB 207/266	7-2	7-3	6.7
1972-73[c]	SB 50/156	6-15	6-22	7.4
1973-74	AB 110/129	6-28	6-30	9.3
1974-75	SB 1525/375	6-28	6-30	10.3
1975-76	SB 199/176	6-26	7-1	11.5
1976-77	SB 1410/320	7-1	7-2	12.6
1977-78	AB 184/219	6-24	6-30	14.0
1978-79	AB 2190/359	7-5	7-6	18.8
1979-80	SB 190/259	7-12	7-13	21.5
1980-81	AB 2020/510	7-16	7-16	24.5
1981-82c	SB 110/99	6-15	6-28	25.0
1982-83	AB 21/326	6-30	6-30	25.3
1983-84	SB 123/324	7-19	7-21	26.8
1984-85c	AB 2313/258	6-15	6-27	31.0
1985-86c	SB 150/111	6-13	6-28	35.0
1986-87c	AB 3217/186	6-12	6-25	38.1
1987-88	SB 152/135	7-1	7-7	40.5
1988-89	AB 224/313	6-30	7-8	44.6
1989-90	SB 165/93	6-29	7-7	48.6
1990-91	SB 899/467	7-28	7-31	51.4
1991-92	AB 222/118	6-20/7-4	7-16	55.7
1992-93	AB 979/587	8-29	9-2	57.0
1993-94	SB 80/55	6-22	6-30	52.1
1994-95	SB 2120/139	7-4	7-8	57.5
1995-96	AB 903/303	8-2	8-3	56.8
1996-97	SB 1393/162	7-8	7-15	61.5
1997-98	AB 107/282	8-11	8/18	67.2
1998-99	AB 1656/324	8-11	8-21	71.9
1999-00	SB 160/50	6/16	6/29	81.3
2000-01	AB 1740/52	6/22	6/30	99.4
2001-02	SB 739/106	7/21	7/26	103.3
2002-03	AB 425/379	9/1	9/5	98.9
2003-04	AB 1765/157	7/29	8/2	98.9
2004-05	SB 1113/208	7/29	7/31	105.3
2005-06	SB 77/38	7/7	7/11	117.3
2006-07	AB 1801/47	6/27	6/30	131.4
2007-08	SB 77/171	8/21	8/24	146.5
2008-09	AB 1781/268 & AB 88/269	9/16	9/23	144.5
2009-10	SBx3 1/Ch 1 & ABx4 1/Ch 1	2/20 – 7/23	2/19 - 7/28	119.2
2010-11	SB 870/Ch 712	10/7	10/8	125.3
2011-12	SB 87/Ch 33	6/28	6/30	129.5
2012-13c	AB 1464/Ch 21 & AB 1497/Ch 29	6/15	6/27	142.4
2013-14c	AB 110/Ch 20	6/14	7/1	145.3
2014-15c	SB 852/Ch. 25	6/15	6/20	156.4
2015-16c	AB 93/Ch 10, SB 97/Ch 11, and SB 101/Ch 321	6/15, 6/19 9/11	6/19, 6/24 and 9/22	167.6
2016-17c	SB 826/Ch 23, AB 1622/Ch 44, AB 1623/Ch 318, AB 1613/Ch 370	6/15, 6/30, 8/24, /31	6/27, 7/1, 9/13, and 9/14	170.9
2017-18c	AB 97/Ch 14, AB 120/Ch 22, SB 108/Ch 54, AB 98/Ch 12 and SB 107/Ch 53	6/15,6/15, 6/26, 6/15, 6/26	6/21, 6/27 and 7/10	183.3
2018-19c	SB 840/Ch29, SB 841/Ch 31, SB 856/Ch 30 SB 862/Ch 449		6/27, 6/27, and 6/27 9/17	201.4

[a] *1966 Second Extraordinary Session.*
[b] *First year budget was to be enacted by June 15.*
[c] *June 15 constitutional deadline met.*

General Fund Revenues
2019-20 Governor's Budget
(Dollars in Millions)

	FINANCE ONLY	2018-19	2019-20	2020-21	2021-22	2022-23
1	**Major Revenues**					
2	Alcoholic Beverage Taxes and Fees	382	389	396	403	410
3	Cigarette Tax	65	63	61	59	58
4	Corporation Tax	12,330	13,125	13,593	14,033	14,463
5	Insurance Gross Premiums Tax	2,606	2,830	2,895	2,961	3,029
6	Personal Income Tax	97,720	100,547	103,125	106,005	109,407
7	Retail Sales and Use Tax	26,244	27,424	28,245	29,004	29,755
8	**Total Major Revenues**	**$139,347**	**$144,378**	**$148,315**	**$152,465**	**$157,122**
9	**Minor Revenues**	**1,640**	**1,734**	**1,868**	**1,905**	**1,862**
10	Trailer Coach License (In Lieu) Fees	(30)	(33)	(35)	(37)	(40)
11	Local Agencies - Cost Recoveries	(26)	(27)	(27)	(27)	(27)
12	Local Agencies - Miscellaneous Revenue	(169)	(169)	(170)	(170)	(170)
13	Royalties - State Lands	(140)	(149)	(89)	(74)	(56)
14	Investment Income - Pooled Money Investments	(554)	(655)	(847)	(901)	(873)
15	Abandoned Property Revenue	(397)	(390)	(392)	(394)	(397)
16	Miscellaneous Revenue	(48)	(46)	(45)	(45)	(45)
17	Penalty Assessments - Other	(63)	(48)	(48)	(48)	(48)
18	Other Miscellaneous Minor Revenues	(213)	(217)	(215)	(209)	(206)
19	**Revenue Transfers**	**-3,571**	**-1,645**	**-1,173**	**-1,092**	**-700**
20	Transfer to the BSA for Rainy Day Funds	(-2,737)	(-1,767)	(-1,534)	(-1,462)	(-1,073)
21	Transfer to the Safety Net Reserve	(-900)	(0)	(0)	(0)	(0)
22	All Other transfer	(66)	(122)	(361)	(370)	(373)
23	**Loans**	**-471**	**-1,849**	**4**	**19**	**18**
24	Weight Fee Transfers	(-310)	(-873)	(0)	(0)	(0)
25	Loan Repayments to Other Funds	(-171)	(-942)	(0)	(0)	(0)
26	All Other Loans	(10)	(-34)	(4)	(19)	(18)
27	**Total Minor Revenues/Transfers/Loans**	**-$2,402**	**-$1,760**	**$699**	**$832**	**$1,180**
	Total Revenues/Transfers/Loans	**$136,945**	**$142,618**	**$149,014**	**$153,297**	**$158,302**

General Fund Multi-Year N98 Expenditures by Agency
2019-20 Governor's Budget
(Dollars in Millions)

N98 excludes Capital Outlay, Debt Service	2018-19	2019-20	2020-21	2021-22	2022-23
Legislative, Executive	2,288	1,982	1,236	1,238	1,252
Courts	2,185	2,425	2,316	2,339	2,362
Business, Consumer Services, and Housing	52	1,294	40	40	40
Transportation	3	86	9	3	3
Natural Resources	2,519	2,264	2,195	2,077	2,141
Environmental Protection	350	115	86	86	86
Health and Human Services	36,886	40,173	44,865	47,419	49,911
Corrections and Rehabilitation	11,921	11,857	11,914	11,740	11,769
Education	16,902	17,845	16,513	17,043	17,234
Labor and Workforce Development	159	125	104	103	102
Government Operations	4,215	1,222	992	947	941
General Government	5,881	3,729	4,271	5,266	5,476
Non-Agency Departments	(1,036)	(765)	(730)	(728)	(727)
Statewide Expenditures	(4,373)	(2,504)	(3,113)	(4,115)	(4,327)
Tax Relief/Local Government	(472)	(461)	(428)	(423)	(423)
Capital Outlay	1,171	219	244	156	140
Debt Service	5,520	5,560	5,509	6,192	6,119
Total N98 Expenditures	**90,054**	**88,896**	**90,295**	**94,649**	**97,577**

Proposition 98 Multi-Year Forecast
2019-20 Governor's Budget

(Dollars in Millions)

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
General Fund	$45,236	$45,450	$46,416	$49,134	$49,713	$51,087
Education Protection Account GF (Less health care share)	7,651	8,578	8,879	7,748	8,772	9,161
Total Prop 98 General Fund	52,887	54,028	55,295	56,882	58,485	60,248
Local Property Tax	22,611	23,839	25,385	26,718	28,105	29,518
Total Prop 98	$75,498	$77,867	$80,680	$83,600	$86,590	$89,766
Prop 98 Change to Prior-year	*3,855*	*2,369*	*2,813*	*2,920*	*2,990*	*3,176*
Percent Change to Prior-year	*5.38%*	*3.14%*	*3.61%*	*3.62%*	*3.58%*	*3.67%*
Prop 98 Operative Test	*1*	*3*	*1*	*1*	*1*	*1*
Maintenance Factor Balance		*143*	*150*	*155*	*160*	*164*
Other Prop 98						
Prop 98 Over Appropriations	-$44	-$475				
Settle-Up						
Amounts Applied from Over Appropriations	0	-475				
General Fund Payments for Prior Fiscal Years	-603	-100	-211			
Settle-Up Balance	$786	$211	$0	$0	$0	$0
Mandate Balance	$1,475	$1,118	$1,118	$1,118	$1,118	$1,118

General Fund Multi-Year Forecast
2019-20 Governor's Budget
(Dollars in Millions)

	2018-19	2019-20	2020-21	2021-22	2022-23
RESOURCES:					
Prior Year Balance	$11,902	$4,765	$3,193	$5,029	$5,192
Revenues/Transfers	139,682	144,385	150,548	154,759	159,375
Transfer to Budget Stabilization Account	-2,737	-1,767	-1,534	-1,462	-1,073
Total Resources	**$148,847**	**$147,384**	**$152,206**	**$158,326**	**$163,494**
EXPENDITURES:					
Proposition 98	$54,028	$55,295	$56,882	$58,485	$60,248
Non-Proposition 98	90,054	88,896	90,295	94,649	97,577
Prop 2 Infrastructure/Deferred Maintenance					474
Unallocated Prop 2 Debt Payments					
Total Expenditures	**$144,082**	**$144,191**	**$147,177**	**$153,134**	**$158,299**
FUND BALANCES:	$4,765	$3,193	$5,029	$5,192	$5,195
Reserve for Encumbrances	$1,385	$1,385	$1,385	$1,385	$1,385
SFEU	$3,380	$1,808	$3,644	$3,807	$3,810
Safety Net Reserve	$900	$900	$900	$900	$900
Budget Stabilization Account (Mandatory Deposits)	$10,005	$11,772	$13,306	$14,768	$15,841
Budget Stabilization Account (Total Deposits)	$13,535	$15,302	$16,836	$18,298	$19,371
BSA mandatory balance as a percentage of General Fund Tax Proceeds	7.1%	8.1%	8.9%	9.6%	10.0%
SFEU/Safety Net/Total BSA as a percentage of Total Resources	12.0%	12.2%	14.0%	14.5%	14.7%
Operating Surplus/Deficit with BSA Transfer	**-$7,137**	**-$1,573**	**$1,837**	**$163**	**$3**
One-Time Investments	**$9,361**	**$6,918**	**$0**	**$0**	**$0**
Operating Surplus/Deficit--Excluding One-Time	**$2,224**	**$5,345**	**$1,837**	**$163**	**$3**

Debts and Liabilities Eligible for Accelerated Payments Under Proposition 2
2019-20 Governor's Budget
(Dollars in Millions)

	Outstanding Amount at Start of 2019-20 [2/]	Proposed Use of 2019-20 Pay Down	Proposed Use of 2020-21 Pay Down	Proposed Use of 2021-22 Pay Down	Proposed Use of 2022-23 Pay Down
State Retirement Liabilities					
State Retiree Health	91,008	260	305	315	325
State Employee Pensions	58,765	390	427	532	877
Teachers' Pensions [1/]	103,468	1,117	802	615	345
Judges' Pensions	3,277	0	0	0	0
Total	**$256,518**	**$1,767**	**$1,534**	**$1,462**	**$1,547**

[1/] The state portion of the unfunded liability for teachers' pensions is $35.3 billion.

[2/] For retiree health and pensions, the amounts reflect latest actuarial report available.

Prop 2 Rainy Day Fund - 2019-20 and Out Years
2019-20 Governor's Budget

(Dollars in Millions)

		2019-20	2020-21	2021-22	2022-23
	1.5% of General Fund Revenues & Transfers				
1	General Fund Revenues and Transfers (before BSA transfer)	$144,385	$150,548	$154,759	$159,375
2	1.5% of General Fund Revenues & Transfers	$2,166	$2,258	$2,321	$2,391
	Capital Gain Revenues (Sec 20(b))				
3	General Fund Tax Proceeds	$145,415	$149,555	$153,771	$158,407
4	Personal Income Taxes from Capital Gains	$13,845	$13,271	$13,273	$13,807
5	% of General Fund Tax Proceeds	9.5%	8.9%	8.6%	8.7%
6	8% of General Funds Tax Proceeds	$11,633	$11,964	$12,302	$12,673
7	Personal Income Taxes from Capital Gains in Excess of 8% General Fund Tax Proceeds	$2,212	$1,307	$971	$1,134
8	Prop 98 Share of Capital Gains Tax Revenue above 8%	$845	$497	$369	$431
9	Non 98 Share of Capital Gain Tax Revenue above 8%	$1,367	$810	$602	$703
10	Total Available (Lines 2 and 9)	$3,533	$3,068	$2,923	$3,094
11	**Debt Repayment (50%)**	**$1,767**	**$1,534**	**$1,462**	**$1,547**
12	**Deposit to Rainy Day Fund (50%)**	**$1,767**	**$1,534**	**$1,462**	**$1,547**
13	**Cumulative Balance**	**$15,302**	**$16,836**	**$18,298**	**$19,845**
14	**10 percent of GF Tax Proceeds**	**$14,542**	**$14,956**	**$15,377**	**$15,841**
15	**Discretionary Balance**	**$3,530**	**$3,530**	**$3,530**	**$3,530**
16	*Mandatory Amount in Excess of 10 percent of General Fund Tax Proceeds - (for Infrastructure/Deferred Maintenance)*	*$0*	*$0*	*$0*	*$474*
17	**Mandatory Balance**	**$11,772**	**$13,306**	**$14,768**	**$15,841**
18	Mandatory Percentage	8.1%	8.9%	9.6%	10.0%
19	**Adjusted Cumulative Balance in Rainy Day Fund**	**$15,302**	**$16,836**	**$18,298**	**$19,371**
20	**Total Mandatory/Discretionary Balance as a Percentage of General Fund Tax Proceeds**	**10.5%**	**11.3%**	**11.9%**	**12.2%**

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