

Cato’s Project on Poverty and Inequality in California - Recommendations

How is it that a state with ongoing economic growth, pockets of vast wealth, and some of the nation’s most extensive social welfare programs can be leaving so many of its residents behind? It was to answer this question that the Cato Institute launched the Project on Poverty and Inequality in California in spring 2019.

Drawing on the Cato Institute’s decades of research and expertise on issues critical to fighting poverty, we have examined ways in which California should reform its policies and programs to help lift people out of poverty and to enable them to fully participate in the state’s economy... this report offers 24 specific proposals for reform at the federal, state, and local levels.

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Cato Institute (Cato)

Stakeholder(s):

Michael D. Tanner :

Director, Cato Institute Project on Poverty and Inequality in California

Low-Income Californians :

After listening to a broad cross-section of social justice and anti-poverty activists, along with business, political, and other key stakeholders, as well as to the poor and working poor themselves, Cato's Project on Poverty and Inequality in California has developed a set of policy recommendations designed to reduce poverty and empower low-income Californians.

Anti-Poverty Activists :

Importantly, our conversations with Californians on the front-lines of anti-poverty efforts have confirmed our belief that any effective long-term approach to fighting poverty in California must go beyond simply providing public assistance. Reform

must establish an environment that enables every resident of the state to flourish, become self-supporting, and rise as far as their individual talents can take them. That need has only grown more important because of the COVID-19 pandemic and the economic disruption that has accompanied it.

Californians :

Unfortunately, far too often, existing laws, policies, and regulations trap many Californians in poverty, preventing them from fully participating in the benefits of the state's economy. Therefore, most of our recommendations are focused on reforming these barriers to economic participation, including policy reforms concerning housing and homelessness, the criminal justice system, education, welfare, and regulatory barriers to an inclusive economy.

Vision

Californians in poverty are empowered to fully participate in the benefits of the state's economy

Mission

To reform barriers to economic participation in California

Values

Economic Participation

Bipartisanship

Competitiveness

Prosperity

Inclusiveness

1. Housing & Homelessness

Develop affordable housing and reduce homelessness

Stakeholder(s)

California :

The median home price in California now tops \$500,000, while the median rent for a two-bedroom apartment exceeds \$2,300 per month, nearly 60 percent above the national median... At the same time, the state faces a rising epidemic of homelessness. There are an estimated 130,000 homeless people in California, including more than 28,000 in the San Francisco Bay Area and 60,000 in Los Angeles County... By some calculations, more than 47 percent of all unhoused homeless in the United States live in California. We are witnessing a major human tragedy.

San Francisco Bay Area

Los Angeles County

San Francisco :

In some cities such as San Francisco and Los Angeles, average monthly rent exceeds \$3,000. These high costs are the result of basic economics: demand badly exceeds supply.

Los Angeles

San Diego :

Even often overlooked cities like San Diego face a crisis, with more than 8,000 homeless.

Government :

At the heart of these twin crises lies a plethora of government regulations that make it harder to build housing or provide services for the homeless.

Housing and Homelessness ~ Any effort to address poverty in California must deal with the state's lack of affordable housing... Estimates suggest that California needs at least 3.5 million new housing units just to meet currently projected demands.

1.1. Housing

Build more housing

California's housing shortage is the product of decades of shortsighted government policies, and rolling back these government policies, many of which stemmed from institutional racism, is the first step toward creating a future in which Californians at all income levels can afford housing. Notably, California's strict regulation of land-use applies to subsidized affordable housing just as it does to market-rate housing. As such, reforming land-use regulation would help to make spending on subsidized housing in California more efficient, in addition to promoting construction of market-rate developments. Clearly, these reforms should be an area where advocates of both free-market policies and continued government involvement should be able to work in tandem. Reform is essential. California must build more housing. Therefore, we recommend the following.

1.1.1. Zoning

End exclusionary zoning.

Stakeholder(s):

California :

Today's California landscape—acres of single-family houses across Los Angeles, San Diego, and even denser cities like San Francisco—wasn't predetermined. It was created by decades of government regulations; chief among these were zoning ordinances.

Communities :

Zoning is typically set by each community to limit broad categories of development on each plot of land within the community. The limits apply to both type and form of use. Type zoning includes whether permitted development may be single-family residential, multifamily residential, or commercial, while form zoning specifies such things as building heights and

bulk, the share of land that a building can occupy, the minimum distance between a building and roads or neighboring properties, and parking requirements. Some jurisdictions also include "design" requirements mandating that the physical form and aesthetics of development are uniform throughout a neighborhood.

Economists :

There is consensus among economists that zoning inflates the cost of housing by limiting the amount of land available for housing as well as the amount of housing that can be built on a given piece of land, thereby reducing the overall availability of housing stock.

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*Stakeholders (continued)***Edward Glaeser :**

As Harvard's Edward Glaeser points out, the price of a house consists of three elements: construction costs, the value of the land, and the value of the right to build on the property. Zoning and land-use laws drive up the value of the right to build on the property both directly and indirectly, leading to higher housing costs.

Los Angeles :

According to a more recent study, zoning and other land-use regulations drive up the price of a quarter-acre lot by almost \$200,000 in Los Angeles and over \$400,000 in San Francisco.

San Francisco :

Studies suggest that California's zoning ordinances increase housing costs by 30 percent in Los Angeles and Oakland and 50 percent in San Francisco and San Jose.

San Jose**Oakland****Families :**

Until recently, more than 56 percent of available California residential property had been zoned solely for single-family homes, a much greater proportion than for similar high population states. But the state has finally begun taking steps to mediate the impact of zoning restrictions.

California Legislature :

In 2016, the legislature passed a package of laws to permit accessory dwelling units (ADUs) statewide and updated this legislation in 2017 and again in 2019.⁴⁴ ADUs are secondary dwellings on a property

that cannot be bought or sold, such as a detached in-law's cottage or a basement rental apartment.

Property Owners :

In 2021, the state went much further, passing Senate Bill 9, which allows property owners in most areas of the state to split their lots into two parcels and to construct duplexes on those lots. It effectively permits the construction of up to four units on property that had previously been zoned only for a single-family home. This represents an important victory for affordable housing. Still, it remains to be seen how effective the legislation will prove in practice, since it leaves in place many of the nondensity zoning rules that can make duplex—or any new housing—construction impractical.

Land-Use Regulation Reformers :

Indeed, while abolishing single-family zoning (i.e., zones commonly classed as R1 in municipal zoning codes) has become a goal for land-use regulation reformers, the details of how municipalities mandate that new housing is constructed matter as much—if not more—than whether one or two units can be built on a given lot.

Legislative Analyst's Office :

Many of these restrictions often act as hidden construction restraints, but even when they don't block new construction, they significantly increase the cost of building. According to the Legislative Analyst's Office, each additional requirement or restriction adds 3–5 percent to the cost of a home. Common restrictions include parking requirements, setback rules, minimum lot sizes, and restrictions on tiny houses.

1.1.2. Construction

Move to an “as by right”/ministerial approval process for new construction.

Move to a By-Right/Ministerial Approval Process ~ With some local variations, there are two types of review process for new construction. The most common in California is discretionary review. Under this process, even if a proposed project complies with all relevant zoning and other regulations, planning authorities may choose to approve or deny a requested permit (i.e., they have discretion over the permit’s approval). In general, discretionary review processes allow members of the community to appeal the permit’s issuance, which triggers delays and a public hearing process during which a project’s opponents can voice their views. Notably, because discretionary permits include active decision-making by government officials, some level of review under the California Environmental Quality Act (CEQA) is required. The alternative approach is by-right or ministerial review, under which authorities must approve a permit if it complies with all relevant zoning and other regulations (i.e., the approval is not granted at the discretion of authorities but pursuant to relevant laws). This process still takes time, but it is generally much quicker than a discretionary process, as the criteria for approval are more limited, as is the appeal process for those who object to the permit (if such a process exists at all).

Stakeholder(s):

Counties :

In general, cities and counties choose which approval process they follow.

Cities :

Today, a third of California cities, including Santa Monica, Long Beach, and San Francisco, use discretionary review for most new housing, while a few, including Los Angeles and San Diego, have a ministerial/by-right system for even some multifamily projects. The biggest exception to local control over the review process is the Subdivision Map Act, which requires that when a lot is divided into smaller pieces, including vertically (such as for condominiums), there must be a discretionary approval process.

Santa Monica

Long Beach

San Diego

California Coastal Commission :

In the state’s Coastal Zone, the California Coastal Commission also has the power of discretionary review over development projects.

Jurisdictions :

Many jurisdictions, especially in coastal areas where opposition to new housing is strongest, require multiple layers of review. Planning commissions, building departments, fire departments, health departments, and city councils may all weigh in. As a result, discretionary review can significantly delay new construction and/or increase its cost.

San Francisco Bay Area :

One study, looking at the review process in the San Francisco Bay Area, found that every additional layer of review added 4 percent to the cost of a home. Discretionary review also opens the door to corruption.

San Francisco :

The San Francisco Public Works scandal in early 2020 highlights the fact that arcane permitting processes provide opportunities for misconduct. The regulatory process has created a very valuable and scarce good (building permits) with unclear standards for its distribution: nobody should be surprised when unscrupulous actors accept bribes or kickbacks in exchange for favorable treatment. In contrast, it’s much harder to see opportunities for corruption in a ministerial process: the city has no discretion in deciding whether to issue permits and therefore has no discretion to abuse.

Los Angeles :

The good news is that in recent years rules for secondary review have been weakening. Los Angeles is perhaps the most notable case of a city moving to ministerial approvals for some housing. Los Angeles allows developments with up to 50 units to go through a ministerial, rather than discretionary, process. In 2014–2016, about a quarter of projects with more than five units in Los Angeles went through a ministerial process. Clearly this is better than the process in other cities, but from the fact that so many projects still went through a discretionary process, it is apparent that Los Angeles can further broaden its reforms.

Jerry Brown :

The biggest attempt at statewide reform came in 2016, when then governor Jerry Brown proposed changes to streamline the system of approvals, reducing both the time and cost involved for many new construction projects. Brown would have

- *established a statewide ministerial permit process for multifamily infill housing projects that conformed to existing zoning regulations and included at least 5 percent affordable housing,*
- *established time limits for local officials to raise objections to these projects,*
- *limited design review,*

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Stakeholders (continued)

- eliminated CEQA review, and
- required relocation assistance for displaced households.

Unions :

Brown's proposal failed in part because unions objected to its lack of a prevailing wage provision. However, with some changes, it could still serve as a starting point for reform at the statewide level.

Legislative Analyst's Office :

In particular, the Legislative Analyst's Office has suggested that the affordable housing requirements be dropped. Those changes would make the proposed reforms even more effective.

1.1.3. Environment

Restructure the California Environmental Quality Act (CEQA) to limit the use of lawsuits to strict environmental criteria.

With the possible exception of single-family zoning, few California regulations have had as much effect on the housing supply as the California Environmental Quality Act (CEQA).

Stakeholder(s):

Jerry Brown :

Former governor Brown once called reforming CEQA, "the Lord's work." CEQA reform has been advocated by other top Californian officials from across the political spectrum, including Sacramento mayor and former state senate president pro tempore Darrell Steinberg, State Sen. Andreas Borgeas of Fresno, business leaders, and affordable housing advocates.

Darrell Steinberg

Andreas Borgeas

Ronald Reagan :

Passed in 1970, and signed into law by then governor Ronald Reagan, CEQA was intended to provide local decisionmakers with information and to ensure that environmental effects were not overlooked in approving new development. In practice, it has proved cumbersome and ripe for abuse.

States :

The law mandates environmental review covering as many as 18 separate areas, including parking, traffic, air and water quality, endangered species, and historical preservation. This is a notably stricter standard of review than other states: only Washington state, Minnesota, New York, and Washington, DC, have comparable requirements.

Local Agencies :

Most CEQA reviews for housing go relatively smoothly, requiring only a preliminary review. However, for the substantial number of projects that require a more extensive Environmental Impact Report (EIR), the process can be both lengthy and

Localities :

However, localities don't need to wait for state action. As Los Angeles and San Diego show, much of the push for reform has happened at the local level.

Municipalities :

A good start would be for municipalities to institute a ministerial process for all permitting of multifamily homes that comply with relevant zoning and land-use regulation. There would still be challenges (such as the Subdivision Map Act), but requiring developers to clear another hurdle and adding another delay to much-needed new housing make no sense if the proposed development complies with all relevant laws.

expensive. A study of CEQA reviews from 2004 to 2013 found that, on average, local agencies took two and a half years to approve a project requiring an EIR.

Citizens :

As problematic as that delay can be, it is not the EIR process that causes the most concern about CEQA's effects on affordable housing. Rather, it is a provision that allows virtually anyone residing in California to sue virtually any project based on environmental concerns. The goal was worthy—to give average citizens, who would be most affected by environmental impacts, a role in the approval process. In practice, all sorts of people sue for all sorts of reasons, which may or may not be truly related to environmental impact.

Labor Unions :

For instance, labor unions may sue to obtain control over allocation of jobs or to force higher wages.

Developers :

Rival developers may sue to delay or block a competing project.

Bounty Hunters :

So-called bounty hunters file suit to score a quick financial settlement.

NIMBYs :

And, of course, NIMBYs frequently sue to block projects that they feel would be disruptive to the "character" of their communities.

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Stakeholders (continued)

Anonymous Plaintiffs :

Moreover, in roughly half of CEQA lawsuits, the person or organization filing the suit is anonymous.

Residential Developers :

The overwhelming majority of CEQA suits are not related to housing. In fact, about half target government projects. Still, a substantial number (roughly 29 percent) concern residential development, and more than two-thirds of those target the sort of infill projects that are unlikely to have major environmental impacts (see Figure 2.6). Theoretically, there is an exemption for infill housing (known as a Class 32 exemption). The Class 32 exemption has five criteria:

- consistent with general plan zoning,
- occurs within city limits and lot size is less than five acres in an urban area,
- not in an endangered species habitat,
- no significant effects on traffic, noise, air quality, or water quality, and is served by utilities and public services.

However, a Class 32 exemption doesn't realistically cover all infill housing (traffic impact is an easy hook to use against it). Additionally, while getting a Class 32 exemption may be one of the easiest methods to CEQA compliance, that process itself is far from painless. And finally, the threat of lawsuits remains even if a project has received a Class 32 exemption. There is also an exemption stemming from a 2018 law for housing and mixed-use projects in unincorporated county areas. But that is not likely to help cities that face the biggest housing crunch. Looking strictly at lawsuits that are filed may understate CEQA's effects because the mere threat of litigation is often enough to force the cancellation of projects or obtain a

settlement that reduces the number of housing units and increases their cost.

Local Elected Officials :

As local elected officials repeatedly told our project, CEQA is frequently used as "a blackmail tool."

Jennifer Hernandez :

There are several ways to reform CEQA to prevent its abuse while continuing to ensure adequate environmental protections. A report by Jennifer Hernandez and David Friedman includes a set of reforms to CEQA that we would direct policymakers' attention to:

- require CEQA lawsuit filers to disclose their identities and interests,
- eliminate duplicative lawsuits for projects that have completed the CEQA process, and
- restrict judicial invalidation of approvals to projects that would harm public health, destroy irreplaceable tribal resources, or threaten the ecology.

In addition, the Class 32 infill exemption could be expanded, with traffic impact being removed as a hurdle for projects near high-frequency transit.

David Friedman

Local Jurisdictions :

Another approach to CEQA reform would be expanding ministerial approval processes, given that ministerially approved projects are already exempt from CEQA review. The ministerial option is particularly notable as it can be pursued at the local level, without potentially contentious state legislation.

1.1.4. Building Fees

Standardize and cap building fees.

Stakeholder(s):

Communities :

The construction of new housing can bring economic benefits to communities, promoting regional and statewide economic growth, enhancing employers' access to the labor pool, and generating additional tax revenue. On the other hand, new construction also imposes costs on a community through increased demands for public services and infrastructure. In general, housing tends to bring less tax revenue compared with new costs than commercial development. This is especially true given Proposition 13's limitations on property taxes. Therefore, communities attempt to recoup these costs by imposing a variety of fees on new development. Those fees can add considerably to the cost of new construction, from 6 to 18 percent of the cost of a home.

Regions

Employers

Cities :

The number, timing, and size of fees varies significantly from city to city, adding about \$20,000 to the cost of a home in Sacramento, more than \$80,000 in Oakland, \$140,000 in Orange County, and a probable state high of \$157,000 in Fremont.

Sacramento

Oakland

Orange County

Fremont

California :

On average, California has the highest such fees in the nation.

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Stakeholders (continued)

Low-Income Californians :

Notably, these fees have been particularly hard on low-income Californians, communities of color, and first-time homebuyers.

Communities of Color

First-Time Homebuyers

Anti-Growth Communities :

In some anti-growth communities, fees have been deliberately set so high as to discourage building altogether.

Homeowners :

Such fees are a politically popular way to finance government services because they spare current homeowners and businesses while hitting easy and unpopular targets such as developers (who then pass the cost to renters and future homeowners).

Businesses

Developers

Renters

Future Homeowners

Low-Income Families :

And if the high cost of new housing keeps low-income families and people of color out of some communities, that is often a goal as well.

People of Color

California Governments :

Still, the necessity for increasing building and impact fees is debatable at best. While Proposition 13 certainly limited property tax revenue, California government at all levels has hardly been starved for

revenue. Between 1977 and 2018, local government revenue increased from \$3,300 per person to \$4,183.87 (in 2019 inflation-adjusted dollars), according to data from the Census Bureau.

School Districts :

Other revenues, particularly for school districts and transportation funding, increasingly come from the state. Accordingly, state government revenue increased from \$3,745.45 per person in 1977 to \$5,193.00 in 2017 (in 2019 dollars).

Local Governments :

California's government is clearly larger today than it was in 1977. Local governments employed four times as many people on a per capita basis in 2018 as they did in 1977, while the state doubled its per-capita inflation-adjusted expenditures since Proposition 13 passed.

California :

It is entirely appropriate to debate California's overall tax burden and the structure of taxes it imposes. But the use of building and impact fees as a generalized revenue source is contributing to the state's shortage of affordable housing. Building fees should be limited to offsetting the actual cost of development on a community's services. Accordingly, California should establish a statewide cap on fees based on the median home price with a jurisdiction.

Tim Grayson :

Assemblyman Tim Grayson (D-Concord), for example, has introduced legislation that would limit fees to 12 percent of the median home value unless there is a waiver from the state. In addition, such fees should be assessed on a per-square-foot basis, thereby removing a disincentive for the construction of smaller, less-expensive homes.

1.1.5. LAFCOs

Reduce the power of local agency formation commissions.

Stakeholder(s):

Local Agency Formation Commissions :

Local Agency Formation Commissions (LAFCOs) are regional planning commissions that regulate land use, determine city boundaries, and oversee "special districts" that provide services to many cities, such as fire and police services, water and sanitation, and airport and harbor oversight. While this role is important for services that cut across traditional municipal boundaries, LAFCOs also increase housing costs through intervention in the development process, both as a regulatory agency and as a planning authority.

Cities :

LAFCOs regulate city and special district boundaries, so any city that wishes to expand must receive

LAFCO approval. Given the political dynamics of new housing construction in areas with resisting populations, many cities may find it easier to build housing on undeveloped land. But this often requires expanding the city's boundaries, and that is where they run up against the power of LAFCOs.

City Officials :

Because LAFCOs are made up of elected and politically appointed officials, they are subject to the same political pressures that have limited new housing construction. In particular, LAFCOs are highly responsive to the powerful and well-organized NIMBY constituencies rather than to those seeking additional housing. Moreover, LAFCOs are charged with pre-

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Stakeholders (continued)

venting urban sprawl, protecting agricultural land, and preserving open spaces. But “urban sprawl” can be interpreted in a variety of ways, depending on the interests of political and social groups that wish to prevent development. As a result, the same inefficient, time-consuming, expensive, and often litigious approval process ends up restricting this potential supply of new housing, as is seen with housing within current municipal boundaries.

Legislators :

Legislators should limit the discretion and authority of LAFCOs to block new housing construction. A regulatory structure that was established decades

ago in a very different environment should be updated to reflect the state’s housing crisis. LAFCOs should operate with a general presumption in favor of boundary expansions for the purpose of building new housing. In particular, legislators should eliminate LAFCOs’ responsibility to prevent urban sprawl and should substitute a charge that LAFCOs prioritize the expansion of city boundaries and their spheres of influence to accommodate new housing that can efficiently tie into existing city services and organizations.

1.2. Homelessness*Take steps to deal with homeless populations*

Homelessness ~ The increasing number of Californians experiencing homelessness represents a profound human tragedy. It also represents a challenge to the community. There are distinct community quality-of-life issues tied to increased homelessness. And as the COVID-19 pandemic has shown, there are also public health issues. There was urgency to solving the homeless crisis prior to the outbreak. That has only increased in its aftermath. The lack of affordable housing has been a significant contributor to the state’s growing homeless population... Our recommendations that are designed to make housing more affordable overall would go a long way toward reducing the number of people experiencing homelessness. However, there are also specific steps that the state should take to deal with homeless populations, including the following recommendations.

Stakeholder(s):**Homeless Populations :**

Statewide, California has more than 130,000 homeless people, including around 28,000 in the San Francisco Bay Area and 60,000 in Los Angeles County... Homelessness is often attributed to issues outside housing, such as mental health and substance abuse. Obviously, many of the people in California who are homeless, particularly those who are visibly unhoused and on the streets, suffer from one or both challenges. But far too many Californians experiencing homelessness have simply “fallen to the street” because they lack access to affordable housing.

San Francisco Bay Area**Los Angeles County****San Diego :**

Even often-overlooked cities such as San Diego have homeless populations in excess of 8,000.

Santa Barbara County :

(Even a small county like Santa Barbara has more than 1,800 people experiencing homelessness.)

California :

By some calculations, more than half of all people who are homeless in America reside in California (see Figure 2.7).

Los Angeles :

Any interruption in income—because of a lost job, medical problem, family emergency, etc.—can lead to eviction and then to homelessness. Some estimates suggest that in cities like Los Angeles, as many as two-thirds of homeless people fall into this latter category.

1.2.1. Criminalization

Reverse efforts to criminalize homelessness.

Stakeholder(s):

Homeless People

Localities :

Many localities have responded to the rise in homelessness by enacting a variety of measures to criminalize behavior associated with homeless people, such as sleeping, sitting, or panhandling in public places.

Berkeley School of Law :

One study, by the University of California, Berkeley School of Law, found that California was among the leading states in terms of anti-homeless laws.

California Cities, Counties & Towns :

At least 58 California cities, counties, and towns had passed more than 500 separate ordinances that made common behavior by homeless people illegal. Compared to other states, California cities were 25 percent more likely to have laws against sitting, lying down, or other types of loitering and 20 percent more likely to have a citywide ban on sleeping in public. While nationally only a third of U.S. cities prohibit sleeping in a car or other vehicle, fully 74 percent of California cities do. Moreover, as the number of people experiencing homelessness in California has increased, so too have the number and severity of these laws (see Figure 2.8). These laws are an attempt to respond to legitimate quality-of-life issues associated with large homeless populations. However, they are neither effective nor humane.

Law Enforcement :

Law enforcement interacts with homeless populations in several ways.

Cities :

Some cities, like San Francisco, maintain special police “homeless outreach officers” to respond to issues surrounding homelessness, both in terms of services and law enforcement. People who are homeless also regularly encounter police officers working their beats.

Police Officers :

And, of course, the police respond to complaints involving homeless people. According to a survey of people without housing in San Francisco, 45 percent of those living on the street, 46 percent of those camping in parks, and 20 percent of those living in a vehicle reported being approached by police at least once monthly. While many of these interactions are relatively benign, others raise serious concerns about civil liberties. For example, 56 percent of respondents to the previously mentioned survey report being searched in the past year, 46 percent within the past month. This suggests something akin to a “stop and frisk” policy applied to homeless populations. Most frequently police simply try to move homeless people from areas of high concentration or visibility. This

seldom results in any permanent change, as most people simply move to another location. In the absence of shelters or other forms of housing, there is simply no place for them to go. Some police practices are considerably more troubling. For example, police frequently confiscate or destroy a homeless person’s possessions, including blankets, tents, sleeping bags, cash, identification, and prescription medications. Roughly 46 percent of homeless people in San Francisco reported having belongings confiscated within the past year, and 38 percent said those items were destroyed. Such actions are particularly counterproductive. If a person is living in a vehicle, and the vehicle is then towed, police have deprived the person of not only what is likely their most valuable asset but also their residence. Similarly, confiscation or destruction of someone’s personal property makes their life harder, and the loss of identification can make it especially hard to access services, find housing, or gain employment.

San Francisco Human Services Agency :

People who are homeless are also frequently cited and fined for minor quality-of-life violations. According to the San Francisco Human Services Agency, for example, police in that city alone issued 51,757 citations for “quality of life” crimes that predominantly or exclusively involved homeless people between 2004 and 2014. Some 22,000 of these were violations of such laws as bans on sleeping in public.

Low-Income Californians :

The excessive use of fines disproportionately affects low-income Californians (see pp. 44–45). Those issues are likely to loom even larger for the homeless population, which is unlikely to have the resources to pay such fines. As a result, many homeless people are likely to end up in jail.

San Francisco :

In San Francisco, as much as 5 percent of the city’s homeless population is in jail on any given night, and fully half of the city’s homeless people have spent at least one night in jail in the past year. Even brief jail time can lead to a vicious cycle that traps people on the streets.

Elected Officials :

There is a perception among some elected officials that jail can offer rehabilitative services to people experiencing homelessness that they would not otherwise receive. This perception, however, is inaccurate.

California State Auditor’s Office :

A report by the state auditor’s office found that only a fraction of inmates receive mental health services, job training, or other rehabilitation (see Figure 2.9).

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Stakeholders (continued)

County Jails :

There is no reason to expect that this is better in county jails, especially because the length of stay is

often not long enough for rehabilitation to be attempted. Incarceration is not helpful for a person's mental health or job prospects.

1.2.2. Conservatorship

Strengthen California's conservatorship laws while continuing to protect civil liberties and individual autonomy.

Stakeholder(s):

Homeless People :

While a lack of affordable housing remains the biggest single driver of homelessness, we cannot ignore the fact that some homeless people are suffering from mental illness or substance abuse problems so severe that it inhibits their ability to function within society. Some of these individuals are clearly a danger to themselves or others or are so incapacitated that they cannot seek assistance on their own.

California :

In 2019, California passed legislation designed to strengthen the state's conservatorship laws, creating a pilot program that allows county health officials to force some homeless individuals into housing and/or treatment. The program applies to individuals who have been placed on a psychiatric hold eight times within a year. The affected individuals are entitled to legal representation and can contest the mandated treatment. Currently, this program is being tried in Los Angeles, San Diego, and San Francisco.

Los Angeles

San Diego

San Francisco

Women :

Given the long history of abuse of involuntary commitment, there is a particular need to exercise caution in strengthening conservatorship. Historically, that abuse has particularly affected women, the LGBTQ community, and people holding unpopular political opinions.

LGBTQ Community

People with Unpopular Political Opinions

Individuals :

There is a need to respect individual autonomy and lifestyle choices even if we disapprove of those choices. However, concerning people who are mentally ill and homeless, this respect for autonomy must be carefully balanced with a recognition that some people are—at least temporarily—unable to sensibly make and appreciate choices.

Conservators :

It is also important to differentiate conservatorship from the law enforcement approach. The purpose of conservatorship is to ensure treatment and housing, not to punish. We have too often seen where the involvement of law enforcement causes the situation to escalate.

1.2.3. Housing/Shelter Projects

Expand and extend CEQA exemptions for homeless housing/shelter projects. Allow emergency shelters in any zone, without a conditional use or discretionary permit

As previously discussed, CEQA has been a barrier to affordable housing. But CEQA has also been used to block shelters and other services for homeless people. Given that CEQA opens the door to often-frivolous lawsuits, neighbors can sue to delay much-needed new shelter space, and they have done so in several cases.

Stakeholder(s):

Homeless Shelters :

Homeless shelters are a stopgap measure in California's work to house residents, but it's a necessary one.

Community Members :

For some community members to block or delay housing for unsheltered neighbors is disappointing, but at its heart, it is a problem with the law that California can take bolder steps toward fixing.

California :

California has already taken some steps to exempt homeless shelters from CEQA, and legislation introduced last year would have expanded those exemptions statewide, but it died in committee.

Cities :

State law does require critics to designate zones in which homeless shelters are permitted, but some cities have chosen zones that account for relatively

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Stakeholders (continued)

small areas of the overall municipality. There is simply no compelling rationale for putting up regulatory hurdles to prevent the provision of shelter for homeless residents. Shelters for people experiencing

homelessness should be allowed by-right in all parts of a city. While shelters are a stopgap measure, they are a necessary one.

2. Criminal Justice

Reform criminal justice

Criminal Justice Reform ~ Over recent years, California has made progress toward reforming its criminal justice system. Despite these reforms, the system continues to burden communities of color and those with low incomes. Around 182,000 Californians remain behind bars, many for nonviolent offenses. Perhaps more significantly, as many as eight million Californians have a criminal record that can make it difficult to find employment and housing or take advantage of educational opportunities. Reforming the criminal justice system is, in part, a matter of fairness, given the system's long-standing biases against low-income people and communities of color. But criminal justice reform will also have a significant practical effect on poverty.

2.1. Reforms

Resist any effort to roll back recent criminal justice reforms, including Propositions 47 and 57.

Stakeholder(s):

California's Criminal Justice System :

California Propositions 47 and 57, passed in 2014 and 2016, respectively, are landmarks in the evolution of California's criminal justice system. While the two initiatives were different, the two campaigns were closely connected, and the propositions warrant discussion in the same setting. Proposition 47 focused on sentencing, while Proposition 57 focused on parole. Proposition 47 had three main effects:

- *It reclassified some theft and drug-related crimes from felonies to misdemeanors.*
- *It allowed individuals serving sentences for felonies that were reclassified to petition for resentencing under the new rules.*
- *It allowed individuals with past convictions for reclassified felonies to have their criminal records changed in accordance with the new rules.*

In practice, this meant that several crimes, including forgery and receiving stolen property, which could previously have been charged as either felonies or misdemeanors, can now only be charged as misdemeanors. Shoplifting and petty theft (both applying to property valued at less than \$950) became misdemeanors only, with shoplifting carrying a maximum sentence of six months in jail.

Proposition 57 also had three major points:

- *Individuals incarcerated for nonviolent offenses became eligible for parole after serving the full length of the sentence for the primary crime for which they were sentenced (i.e., the sentence that was the longest). Notably, this includes nonviolent "third strike" offenders serving indeterminate-length sentences.*
- *It expanded opportunities for "good behavior" credits toward parole consideration, including introducing credit for educational and rehabilitative programs. Notably, violent offenders (except those*

sentenced to death or without the possibility of parole) are eligible for this provision as well.

- *It shifted the responsibility from prosecutors to judges for deciding whether juvenile suspects of certain crimes will be tried as adults.*

California Voters :

Propositions 47 and 57 both passed by significant margins—60 and 65 percent of voters respectively supported the initiatives—but they have also received significant criticism since implementation.

University of California, Berkeley :

Some of this criticism blames the propositions for increased property crime. The evidence for those claims is mixed. A University of California, Berkeley, study found that, with some caveats, a possible increase in property crime of 5–7 percent—an increase to be sure but not the spike that Proposition 47 and 57 detractors claim occurred.

Rehabilitation Programs :

A more substantiated criticism would note that rehabilitation efforts promised by the Proposition 47 and 57 campaigns have been poorly implemented.

Proposition 20 Proponents :

Critics of the reforms put an initiative (Proposition 20) on the 2020 ballot that would have singled out one change from each of the previous initiatives for rollback. It would have introduced a new felony charge for serial theft, allowing individuals to be charged with a felony the third time they are charged with theft below Proposition 47's \$950 threshold (but above a new \$250 threshold). It would also have exempted individuals convicted of any of a list of 22 violent or sex crimes from the easier parole consideration standards implemented by Proposition 57. Californians rejected Proposition 20 by an overwhelming 62–38 percent margin. Nevertheless, opponents are expected to continue pushing for changes to these

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Stakeholders (continued)

landmark reforms. Another ballot initiative cannot be ruled out. Californians should resist these efforts.

California Policymakers :

Beyond simply resisting calls to roll back criminal justice reforms, California policymakers should be more vocal about the state's successes in these areas, as well as place them in context more effectively. While California has made major steps forward on criminal justice reform and decarceration, Propositions 47 and 57 should be the beginning of the conversation, not the end. Notably, while California's incarceration rate is low by U.S. standards, it is still relatively high by worldwide standards, more than double that of comparable countries like Canada and South Korea. Clearly, then, there is much room for continued improvement.

Californians :

All the same, support for Propositions 47 and 57 and opposition to Proposition 20 show that Californians have meaningfully shifted away from the "tough on crime" views of the past.

Elected Officials :

In fact, elected officials may be lagging public opinion in this area, leaving an opportunity open for courageous policymakers to push forward with further reforms to criminal sentencing and parole. On the other hand, future opportunities for major reform may be more difficult than what has already been accomplished.

Nonviolent Offenders :

So far, reforms have focused on nonviolent offenders, so California's state prison population is overwhelmingly composed of people who have committed violent or otherwise serious crimes.

California Budget and Policy Center :

According to a report by the California Budget and Policy Center, just under half of new prisoners in 2017 had been convicted of assault or weapons charges.

2.2. Overcriminalization

Take additional steps to reduce overcriminalization

Meaningful reform needs to start at the beginning of the criminal justice process—not only with policing practices but also with the laws that the police enforce. Far too many "crimes" are designed to protect us from ourselves, impose a value judgment against vices or other conduct that a majority disapproves of, or turn errors of judgment into illegal activities, even in the absence of intent. Too often, criminal law is used as a blunt instrument against a broad range of societal issues. Worse, some communities see the criminalization of minor offenses as a form of revenue. Politicians should realize that every time they make something illegal, they are empowering the police to enforce that law with force, with all that entails for the criminal justice system. A law is not merely an advisory opinion; it opens the door to the use of force, arrest, trial, imprisonment, and all the rest. Moreover, enforcement for minor offenses has long been applied unequally, with serious consequences for low-income communities and minority populations. Opportunities for reducing overcriminalization include

- decriminalizing drugs,
- rolling back the criminalization of tobacco,
- decriminalizing sex work,
- decriminalizing traffic infractions,
- ending disproportionately punitive "anti-gang" enforcement,
- repealing California's "three strikes" law and eliminating mandatory minimum sentences,
- separating mental health treatment from the criminal justice system when possible,
- overhauling the California Penal Code,
- preventing over-policing, and
- expanding options for restorative justice.

2.2.1. Drugs

Decriminalize Drugs

Although California legalized marijuana in 2016, the state continues to arrest about 220,000 people annually for drug-related crimes. This has a significant effect on poverty given that a criminal record halves a person's

chance of gaining employment. The war on drugs has largely failed, and a new approach is necessary. Marijuana legalization was an important step in the right direction (although aspects of the new regulatory regime for marijuana businesses could be better-tailored), but like Propositions 47 and 57, it should be a first step rather than the last step. Other jurisdictions have made bold steps forward on drug decriminalization that reduce incarceration without serious adverse effects.

Stakeholder(s):

Prisoners Convicted on Drug Charges :

The most obvious area for reform is the so-called war on drugs. Given that 8 percent of prisoners admitted to California's state prison system were convicted on drug charges (and likely at least as high a percentage of county jail inmates), this is the largest area for decarceration outside of violent or property crimes.

Portugal :

Perhaps the best example of drug decriminalization is in Portugal, which decriminalized all drugs in 2001. Police in Portugal are no longer allowed to make arrests for drug use, yet adverse drug-related public health outcomes have decreased.

Oregon :

In the United States, the first major step toward drug decriminalization was made by California's neighbor, Oregon, which decriminalized all drugs pursuant to a ballot measure in 2020.

Oregon's Criminal Justice Commission :

While it is still too early to assess the effect of Oregon's decriminalization measure, a report from Oregon's Criminal Justice Commission projected that beyond criminal convictions dropping overall, the measure would nearly eliminate the racial disparity in drug convictions.

2.2.2. Tobacco

Roll Back the Criminalization of Tobacco

Stakeholder(s):

Tobacco Consumers :

While California has made dramatic steps forward on criminal justice reform, and especially on the prohibition of controlled substances, in some areas the state has taken significant steps back. Perhaps the most significant regression concerns the regulation of tobacco products. In recent years, California has raised the age for tobacco consumption and banned flavored tobacco.

California Lawmakers :

State lawmakers' push to institute new laws criminalizing tobacco use is puzzling given that the same lawmakers have simultaneously realized that the same sort of laws are counterproductive when applied to marijuana and other drugs. The same con-

cerns apply to California's ban on flavored tobacco as apply to a flavored tobacco ban at the federal level, which a coalition of criminal justice reform and civil rights groups criticized on the grounds that it would open the door to unnecessarily punitive enforcement and racial disparities.

California Policymakers :

California policymakers need to know that although these policies may cause modest declines in tobacco use, they are not without notable tradeoffs. Additionally, these laws (and related alcohol regulations) narrow entrepreneurship opportunities that could create jobs.

2.2.3. Sex Work

Decriminalize Sex Work

Stakeholder(s):

Poor People :

Of course, drug and other controlled substance laws are not the only laws against victimless crimes that adversely affect the poor.

Sex Workers :

Sex work accounted for almost 9,000 arrests in 2014, the most recent year for which complete data were accessible. While this is a relatively small share of California's total arrests, decriminalizing sex work is an important and achievable reform.

Los Angeles County :

California has taken some steps in reforming the law around sex work, but there is more to be done. Los Angeles County, for instance, under the new administration of District Attorney George Gascón, is declining to prosecute new cases of California's law against loitering to commit prostitution.

George Gascón

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Stakeholders (continued)

Low-Income People :

This is a straightforward reform that could easily be applied elsewhere to roll back the harmful effects of the criminal justice system on low-income people.

2.2.4. Traffic Infractions

Decriminalize Traffic Infractions

Stakeholder(s):

Poor People :

While most traffic- and driving-related offenses are infractions (i.e., administrative rather than criminal), they all too often open the door to racial profiling and other institutional problems that disproportionately affect Californians who are poor.

Police Officers :

There is a long history documenting how driving-related enforcement has narrowed individuals' Fourth Amendment rights. In particular, there is an ongoing problem with pretextual stops, in which police officers stop drivers for minor offenses to uncover evidence for unrelated (and sometimes imagined) crimes. Our colleagues have criticized this law enforcement practice elsewhere, and empirical evidence suggests that these stops exacerbate racial disparities.

California Highway Patrol :

Indeed, the California Highway Patrol curbed its use decades ago in response to racial profiling concerns, and San Francisco has recently rolled back its use.

San Francisco

Law Enforcement :

On the other hand, reports suggest that law enforcement in some cities still widely use pretextual stops, leading to deteriorated relationships between communities and law enforcement.

2.2.5. Gangs

End Disproportionately Punitive Anti-Gang Enforcement

Stakeholder(s):

California Committee on Revision of the Penal Code :

Alongside criticism of California's anti-gang enforcement more generally, on grounds that it exacerbates racial disparities, the use of gang-related sentencing enhancements has come under criticism, including from the California Committee on Revision of the Penal Code.

African Americans :

The committee's report notes that over 90 percent of individuals sentenced with gang enhancements are African American or Hispanic.

Communities :

A concrete step toward rolling back racial injustice in policing and building better relationships between police and communities would be to curb searches after unrelated traffic stops, except in extenuating circumstances or where there is probable cause for a search unrelated to the traffic stop.

Los Angeles County District Attorney :

Beyond rolling back pretextual stops, the Los Angeles County district attorney, in the same reform package as the sex worker change, is declining to prosecute cases of driving on a suspended license or without one, except for repeat offenses. This is another infraction that disproportionately affects people in poverty.

Drivers :

Drivers' licenses are often revoked or suspended because of inability to pay unrelated criminal justice fines or fees. Viewed through this lens, these laws do little more than criminalize poverty in many cases.

Los Angeles County :

Opponents of reform will likely argue that these changes will harm public safety on the roads. Los Angeles' new policy will provide evidence with which to evaluate this claim and will act as a test case for this potentially helpful policy.

Hispanics

Gangs :

Beyond the issue of racial disparities, there is little conclusive evidence that these sentencing enhancements are an effective approach to anti-gang enforcement.

Communities :

Understanding of gangs has advanced since these sentencing enhancements were instituted. Most gang members leave in under two years, and community-based responses, rather than law enforcement

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Stakeholders (continued)

and incarceration, are more effective at rolling back gang activity.

California :

California has an opportunity to bring its legal system up to the current state of knowledge about anti-gang enforcement by taking these sentencing enhancements off the books. The savings realized

from reduced incarceration could be used to fund community-based nonpolice interventions that help individuals avoid gangs and prevent criminal activity by gangs.

2.2.6. Sentencing

Repeal California’s “Three Strikes” Law and Eliminate Mandatory Minimum Sentences

In addition to reducing overcriminalization (i.e., reducing the number of infractions that can saddle people with jail time or financial penalties), California must take further steps to minimize the use of unnecessarily long prison sentences. The research on whether sentence length is an effective method of deterring or preventing crime is ambiguous, but many people remain in prison long after their likelihood of reoffending has dropped to a very low level. Particularly with Proposition 57’s provisions that expanded access to parole, California has already made steps toward ensuring that individuals’ sentences are not excessively long, but there is still more to be done... And much like the case against mandatory minimum sentences, the reasoning behind repealing Three Strikes is simple: it unduly constrains judges from tailoring sentences to individual offenders, considering all the relevant circumstances.

Stakeholder(s):

California Committee on Revision of the Penal Code :

As noted by the California Committee on Revision of the Penal Code, California law includes provisions that require mandatory minimum sentences for nonviolent offenses, including drug offenses.

Judges :

One-size-fits-all approaches like mandatory minimum sentences prohibit discretion in sentencing and prevent judges from taking the nuances of a particular case or a particular convicted individual’s situation into account.

Nonviolent Offenders :

Particularly for nonviolent offenses, this sort of discretion is necessary and can allow for alternatives to incarceration that better support the rehabilitation of convicted individuals without unduly impairing their earning potential or ability to support family members.

Repeat Offenders :

Additionally, California should repeal its “Three Strikes” law. The Three Strikes law has already been revised by Proposition 36, which expanded access to rehabilitation options for individuals who would otherwise have received enhanced sentences under Three Strikes.

Californians for Safety and Justice :

However, according to data from Californians for Safety and Justice, over 18,000 people are in California prisons for nonviolent “third strike” sentences. This amounts to just over 15 percent of the state prison population as of 2020.

California Policymakers :

Clearly, given the number of people, and particularly the number of nonviolent offenders, affected by Three Strikes, this is still a pressing area of reform for California policymakers.

2.2.7. Mental Health

Where Possible, Separate Mental Health Treatment from the Criminal Justice System

Stakeholder(s):

Prison System :

It’s also important to stop using the prison system as a de facto mental health treatment program.

Mental Health Courts :

California has a system of mental health courts that appear to help, although their implementation appears to be uneven across counties.

Drug Courts :

A statewide program using Proposition 36 drug courts as a model could be a path to improvement. On the other hand, mental health courts help divert individuals from incarceration after a trial, but they leave unaddressed the issue of pretrial incarceration.

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California Policymakers :

There are a few options for improving mental health care outside of prisons and jails, and the option that California policymakers pick will have implications for the state's longer-term model and especially its budgeting.

Judges :

Judges refer defendants who are unfit to stand trial to state mental hospitals, but there are not enough beds for all the individuals referred to them.

Mental Hospitals :

Each state hospital bed costs more than \$200,000, which is less than mental health beds in state prisons.

Counties :

Fixing the shortage of state hospital beds would lend credibility to calls to shift some mental health responsibilities back to the state level, but judges should be able to refer defendants to county-level facilities as well, although suitable treatment does not exist in every county.

2.2.8. Penal Code

Overhaul the California Penal Code

While these recommendations represent concrete steps toward reducing overcriminalization, a focused, in-depth approach is necessary to excise all the aspects of the California Penal Code that are outdated, unjust, or otherwise counterproductive. Unfortunately, California's situation is not unique.

Stakeholder(s):

Manhattan Institute :

A Manhattan Institute report noted that in a five-state sample, the average penal code was many times longer than the Model Penal Code drafted by the American Law Institute.

American Law Institute

California :

The California Penal Code, with nearly 600 sections, is more than five times longer than the Model Penal Code. To systematically roll back overcriminalization, California should reevaluate its penal code, section by section, and remove any law that is unnecessary, outdated, or unjust.

California Legislature :

Furthermore, given that the legislature passes new laws every year, it could help prevent the return of overcriminalization by placing a mandatory sunset clause on all new criminal laws.

Executive Branch Bureaucracies :

This sunset clause, taken from an idea at the federal level to restrain executive branch bureaucracies, would require renewed debate over the merits of criminal laws and help ensure that the California Penal Code does not again grow to an unmanageable scale.

2.2.9. Over-Policing

Prevent Over-Policing

Over-policing is similar to overcriminalization.

Stakeholder(s):

Police Officers :

Police officers are increasingly asked to deal with a myriad of issues, including wellness checks, mental illness, drug overdoses, interfacing with the homeless, and traffic accidents and citations.

Los Angeles Police Department :

Examining the Los Angeles Police Department's dispatches throughout 2018, only 12 percent of dispatches were for violent crimes, compared to almost 40 percent for nonviolent complaints and 38 percent for property crimes (see Figure 3.5). The number one reason for dispatches: noisy parties.

Juveniles :

Examining Los Angeles' police dispatches leads to another concern. Although only a small fraction of

the total, almost 10,000 dispatches involved juveniles.

Social Workers :

Rather than armed police, social workers or others with appropriate training would seem to be the right authorities to handle these situations.

Minority Communities :

The overuse of police in these instances increases the possibility of a more serious criminal offense occurring. Such over-policing also erodes trust in the police in minority and low-income communities and places both police officers and civilians in danger.

Low-Income Communities

2.2.10. Restorative Justice

Expand Options for Restorative Justice

These programs, like drug and mental health courts, are yet another option for policymakers when looking to replace the current system of punishments with options that place less burden on convicted individuals and their families.

Stakeholder(s):

Policymakers :

Particularly for the juvenile justice system and in schools, policymakers in some jurisdictions have introduced new restorative justice options in recent years, but adoption of these is still far from widespread.

Juvenile Justice System

Schools

California Courts :

Restorative justice, as noted by the California courts' handbook on the subject, focuses on repairing the damage that a crime has caused instead of punishing the offender. In general, restorative justice options include restitution of some sort, as well as education designed to help offenders understand that their ac-

tions have had negative consequences for others.

Programs both within and outside California provide lessons for potential wider implementation.

Yolo County :

In Northern California's Yolo County, a Neighborhood Court restorative justice program featuring listening sessions has outperformed the traditional system of punishments, with a significantly lower recidivism rate.

Brooklyn, New York :

In Brooklyn, New York, the school system's restorative justice program has become a national model, so there are a variety of programs from which California can draw best practices for future implementation.

2.3. Fines & Fees

Curtail the use of fines and fees as punishment, especially in cases where they pose a disproportionate hardship on low-income offenders.

Stakeholder(s):

Low-Income Offenders

Criminal Justice Reformers :

Criminal justice reformers often focus on incarceration, but it is important to recognize that the criminal justice system can heavily burden low-income individuals, even without detention, through the imposition of excessive fines and fees.

Offenders :

Although there is enormous variation from case to case and offense to offense, the base fine for adult felony in California generally ranges from \$300 to \$10,000, while misdemeanor base fines run from \$150 to \$1,000. Fines for traffic offenses run from \$35 to \$490. On top of the fine, offenders are often hit with a variety of fees, assessments, penalty surcharges, and restitution requirements. They may also be subject to asset forfeiture.

Governments :

Fines and fees represent a substantial source of revenue to both the state and local governments.

State of California :

In California's fiscal year 2018–2019, the state collected \$1.4 billion in fines and fees from the criminal justice system. That's just the tip of the iceberg;

Californians owed an additional \$10.6 billion that had not yet been paid.

Judicial Branch :

Roughly 40 percent of the revenue from these fines and fees goes to the judicial branch, while a similar amount goes directly to municipal governments.

Municipal Governments

State Programs :

The remaining 20 percent is distributed to a variety of state programs and funds.

Policymakers :

This can create a substantial conflict of interest for state and local governments. On the one hand, policymakers have an interest in both reducing crime rates and safeguarding the rights of defendants and offenders. On the other hand, they stand to benefit from an increase in convictions and the imposition of financial penalties.

Judges :

Judges in particular are conflicted because they determine whether to impose fines, but the judicial branch can boost its revenue if judges convict more often or impose harsher penalties.

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Transient Offenders :

While the revenue from fines and fees creates a bias for policymakers to maintain the status quo, it makes for an unreliable source of revenue. Default rates are high, and collection—especially from transient or low-income offenders—can be costly. Overall, 40 percent of cases where fines and fees were assigned in 2019 were past due by September of that year.

Low-Income Offenders

Counties :

The administrative costs of collection are relatively high, roughly 15 percent. Some counties with high default rates can end up spending more on collection than they take in.

Los Angeles County :

For instance, in 2019, Los Angeles County collected \$3.4 million in fees while spending \$3.9 million for collection.

California State Auditor :

Even the state auditor has suggested that fee revenue is inconsistent and inefficient.

California Legislature :

And, in 2018, after the legislature directed the Judicial Council (a judicial branch policymaking body) to study fines and fees, the Judicial Council was unable to fulfill the legislature's statutory direction on time because the 58 different collection programs (one for each county) had uncoordinated data collection programs.

Judicial Council

Low-Income Californians :

If the benefits to state and local governments are uncertain, the burden for low-income Californians is not. For example, fines are not generally tied to ability to pay. The collection of criminal debt can often add 40 percent or more in interest and processing fees. As a result, fines can pose an enormous and disproportionate hardship on people who are poor.

Defendants :

Fees can be even more onerous because they are usually assessed uniformly regardless of the crime or the defendant's income.

Public Defenders :

Some fees, like public defender fees, are only likely to be levied on people with lower incomes, so not only are fees harder for lower-income people to pay, but lower-income people must pay more types of fees than other defendants. Failure to pay promptly can carry significant consequences.

Collection Agencies :

Within 20 days, collection agencies begin adding interest and penalties. Wage garnishments, bank levies, and suspension of drivers' licenses are common.

Drivers :

For instance, in 2019, more than 4.2 million Californians had suspended licenses because they could not afford fines or fees or had not appeared for a citation. That amounts to more than one of every six adults in California. Losing a driver's license can lead to a cascade of adverse consequences, including job loss, that can plunge a family further into poverty.

Poor People :

A traffic ticket or citation for other minor offenses may be a modest annoyance for a middle-class individual. For people who are poor, this same penalty can amount to financial ruin.

Families of Offenders :

The families of offenders often share the burden imposed by excessive fines and fees, which can sometimes total more than a family's annual income. Paying off the court-ordered debt and thereby avoiding both new interest and penalty charges and avoiding the possibility of jail frequently comes at the cost of food, rent, or other necessities.

U.S. Justice Department :

In some cases, failure to pay fines or fees can even result in jail time. When fines are included on top of jail time, the accumulated debt can make reentry into society that much more difficult. The U.S. Justice Department has warned that excessive fines mean that "individuals may confront escalating debt; face repeated, unnecessary incarceration for nonpayment despite posing no danger to the community; lose their jobs; and become trapped in cycles of poverty that can be nearly impossible to escape."

California Lawmakers :

Recently, California lawmakers have begun to make reforms to the fine and fee systems.

Local Jurisdictions :

Some local jurisdictions, such as San Francisco and Los Angeles, have eliminated most criminal justice administrative fees.

San Francisco

Los Angeles

California State Legislature :

Last year, the California State Legislature passed AB 1869, which ends California state agencies' ability to impose and collect 23 administrative fees, most of which disproportionately fell on minorities and people who are poor. It is expected to relieve Californians of as much as \$16 billion in outstanding criminal justice debt.

Counties :

In addition, Senate Bill 190, passed in 2017, prohibited the use of fees in the juvenile justice system and for adult defendants ages 18–21, though some

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counties, notably San Diego and Orange, appear to have ignored the law to some degree.

San Diego County

Orange County

Courts :

Moreover, the courts do not always appear to be conducting “ability to pay” hearings as the law requires.

2.4. Criminal Records

Establish a mechanism to automatically expunge criminal records after a designated period for those who do not reoffend.

Stakeholder(s):

Criminals :

Currently, an astounding 20 percent of Californians—more than 8 million people—have a criminal record. Having a record can cause profound and long-lasting disadvantages.

Former Offenders :

More than 4,800 California laws impose some form of sanction or restriction on those with criminal records even after they have completed their sentence. This can mean the loss of employment and even bar a person from hundreds of regulated jobs, as well as from government employment or government contracts. He or she can also be barred from enlisting in the military. As a result, in 2017, roughly 46 percent of former offenders said that they were having difficulty finding a job.

California State Agencies :

California has taken steps to help those with criminal records. In 2014, the state became one of the first to pass “ban-the-box” legislation, which prohibited state agencies from asking most job applicants about their criminal history.

Private Sector :

That prohibition was extended to the private sector in 2017 with passage of AB 1008.

Cities :

Several cities, including San Francisco and Los Angeles, have also passed their own versions of ban the box.

San Francisco

Los Angeles

National Helping Individuals with Criminal Records Re-Enter through Employment Network :

In addition, California participates in the National Helping Individuals with Criminal Records Re-Enter through Employment Network, which connects

California :

Beyond current reforms, California could explicitly prohibit counties from levying administrative fees in the criminal justice process. On the other hand, California could expand ability-to-pay evaluations for criminal justice fines to avoid unduly burdening people with fines. For those who are found unable to pay the fine associated with an infraction, California could expand restorative justice options, including education, rehabilitation, and community service.

ex-offenders with potential employers who have indicated a willingness to hire people with a record.

Employers :

Despite those positive reforms, a criminal record remains a barrier to many employment opportunities. For example, a criminal history can prevent someone from receiving an occupational license, in some cases permanently. Moreover, the consequences of a criminal record go far beyond employment.

Housing Developments :

For instance, “crime-free housing” laws, which have proliferated in California cities, effectively shut people with criminal records out of housing in these cities.

Immigrants :

Immigrants, including lawful permanent residents as well as those who remain undocumented, can be deported for even extremely minor offenses, and having a criminal record can prevent individuals’ immigration status from advancing or disqualify individuals from the Deferred Action for Childhood Arrivals program. It is also important to recognize that those convicted of crimes that were reclassified because of Propositions 47 and 57 did not automatically receive relief from those criminal records. Rather, they must apply for reclassification, a process that leaves much discretion in the hands of local district attorneys.

Prosecutors :

Further, while prosecutors are required to clear or reclassify criminal records for individuals convicted of minor marijuana-related offenses, implementation of this requirement has varied significantly by jurisdiction. Some have required a case-by-case review, while others, such as San Francisco and Los Angeles, made it automatic.

States :

Several states have recently begun to experiment with a new approach to criminal records, a mechanism

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whereby a record is automatically expunged after a designated period without the person reoffending.

Pennsylvania :

Pennsylvania's Clean Slate Act, passed in 2018 and extended in 2019, is widely considered a model for this approach. The Pennsylvania law immediately expunges any record for which an individual was not convicted (acquitted or the charges dropped), even if they were convicted of other charges in the case. In addition, records of a conviction are automatically sealed after 10 years for summary and most misdemeanors, including drunk driving, prostitution, and shoplifting.

Young African American Men :

Some observers have criticized clean-slate (and ban-the-box) reforms, saying that these will (and in the case of banning the box, already have) increase other areas of discrimination. This argument is built on data from ban-the-box policies that show that, although banning the box increased the likelihood that people with criminal records would receive a callback from a job, it decreased the likelihood that young African American and Hispanic men would receive a callback, ostensibly because employers, prevented from discriminating based on criminal record alone, instead discriminated against demographic groups who they view as more likely to have a criminal record.

Young African Hispanic Men**People with Criminal Records :**

This unintended consequence is clearly cause for concern, but it is cause for a more tailored clean-slate policy and a more effective ban-the-box policy rather than discarding these policies altogether and re-opening the door to significant discrimination against people with criminal records. Indeed, expungement itself has been suggested as a further reform that would increase the effectiveness of banning the box.

Employers :

Beyond the potential unintended consequence of discrimination, opponents of clean-slate reforms have expressed concern that employers will rely on sometimes-spotty background check systems that will use data produced before records were expunged.

Opponents of Clean-Slate Reforms :

A few different considerations are cause for optimism about clean-slate policies. First, even opponents of the reforms acknowledge that ban the box accomplished its central goal of decreasing discrimi-

nation against people with criminal records. Second, in part because ban-the-box reforms were focused on employment, the evidence of increased discrimination may not be generalizable to policy areas like housing or education, where expungement would help people with criminal records gain access to resources from which they are currently banned by law.

Clean-Slate Proponents :

That said, clean-slate proponents have a duty to allay the very real data-driven concerns that opponents of reform raise.

Policymakers :

Several additional considerations for policymakers could help minimize these unintended outcomes. First, more education is necessary for employers: a significant share of hesitancy over hiring applicants with criminal records appears to stem from concerns about legal liability, which are not, in fact, grounded. As such, one potential step forward would be to educate employers about the minimal risks they expose themselves to by hiring people with criminal records.

California Legislature :

Relatedly, the legislature can clarify the law on this point and shield employers from liability related to hiring people with criminal records. This would decrease real or imagined barriers to employment of people with criminal records.

Rehabilitation Services :

Second, additional rehabilitative opportunities can help make people with criminal records more employable.

Third-Party Background Checkers :

Third, given that opponents to clean slate and ban the box highlight third-party background checkers as a source of unintended consequences, potential reforms could focus on this aspect.

Criminal Justice System :

One way forward would be to limit the access that these background checkers receive to conviction and arrest records by increasing privacy for individuals in the criminal justice system. Limiting public release of names and other information about people involved with the criminal justice system could further strengthen expungement.

2.5. Prison System

Upgrade programs within the prison system to prepare offenders who have completed their sentence for transitioning into society.

Stakeholder(s):

Prison System

Offenders

Incarcerated Individuals :

Nearly 95 percent of all incarcerated individuals will eventually be released from prison. California has an obligation, therefore, to ensure that, when the time comes, these individuals are prepared for reentry into society. Those leaving prison, especially those who have been incarcerated for long periods, need help adjusting to technology and life changes that have occurred while they were in prison.

Recently Released Prisoners :

And prisoners who have been recently released need help with locating employment and housing, continuing their education, and obtaining medical and mental health care, as well as legal assistance to deal with outstanding fines and fees and to clear their records where possible.

Reentry Programs :

So far, California's efforts in this regard have fallen short. Its reentry programs remain largely ad hoc, underfunded, and lacking state support or coordination.

Previously Incarcerated People :

This is one reason why nationwide data show that half of previously incarcerated people are unable to find stable work within a year after reentry and are almost 10 times more likely to be homeless.

Recidivists :

The lack of transitional services is also a significant contributor to California's nearly 50 percent recidivism rate. (In fairness, the recidivism rate is inflated by petty larceny and drug-related offenses, which account for the majority of reoffending.)

Rehabilitation & Transition Programs :

Campaigners for Propositions 47 and 57 promised that savings from reduced incarceration costs would be used to provide additional support for rehabilitation and transition programs.

California State Auditor :

Yet, according to a report from the state auditor, only 38 percent of at-risk inmates have their rehabilitative and transitional needs met.

Prison Rehabilitative Services :

Worse, on March 17, 2020, all prison rehabilitative services were suspended because of COVID-19. As the auditor's report illustrates, however, even before COVID-19 forced this shutdown, those services were both inadequate and mismanaged.

Educated Inmates :

Take education, for example. We know that inmates who receive educational instruction while incarcerated are 43 percent less likely to reoffend after their release.

California Community Colleges :

And while California community colleges provide services to prison inmates, beyond pilot programs, access to four-year degrees is still limited.

Prisons :

This is a clear area for improvement, especially given new funding sources for prison education through Pell Grants.

Mental Health Services :

Similarly, take mental health. The "deinstitutionalization" of mental illness in the 1950s and 1960s, across the United States, was intended to divert patients from state mental health hospitals to federally funded mental health services in communities.

Counties :

Then, in California, another wave of changes in the 1990s, now known as mental health realignment, systematically transferred responsibility of mental health services from the state level to the county level. Realignment also shifted some funding from the state level to the county level.

Prisons & Jails :

An inadvertent consequence of this policy has been the emergence of prisons and jails as institutions that house those in the most need of mental health care.

Stanford University :

A 2016 Stanford University study found that more than 30 percent of incarcerated Californians were receiving treatment for a "serious mental disorder" at that time (a 150 percent increase since 2000).

Department of State Hospitals :

Over 90 percent of people treated by the Department of State Hospitals in 2016–2017 were referred there by criminal courts.

Defendants Incompetent to Stand Trial :

And, between 2011 and 2016, the number of defendants deemed incompetent to stand trial after arrest rose by 60 percent (see Figure 3.6).

Los Angeles County Jail System :

An increasingly large share of the demand for mental health services in California is filled by prisons and jails, with Los Angeles County Jail System the single largest mental health facility in the nation, according to some sources.

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Stakeholders (continued)

Los Angeles County Jail Population :

Data from September 2018 demonstrates that an average of 30 percent of the Los Angeles County jail population was receiving mental health care, either through psychotropic medication or housing in mental health units.

Los Angeles County :

Los Angeles County's debate over mental health care and incarceration is an instructive case for the rest of the state as it determines how to provide better care for incarcerated individuals.

Los Angeles Men's Central Jail :

The Los Angeles Men's Central Jail has inadequate mental health care facilities, and county supervisors voted to tear it down and build a replacement that focuses more on mental health care.

Los Angeles County Supervisors :

In response to calls for greater diversion efforts and decarcerating individuals with mental health conditions, the supervisors voted to cancel the contract altogether. The concern here is that the supervisors are letting ideas of "the perfect be the enemy of the good" and failing to make incremental improvement.

3. Education & Workforce

Reform education and develop the workforce

Education Reform and Workforce Development ~ Access to a quality education is vital to escaping poverty. Yet despite spending \$12,500 per student, California’s public schools underperform compared to nationwide averages—and particularly fail low-income communities. The type of innovation necessary to transform California’s education system is unlikely to occur in a system dominated by a government-run monopoly. At the same time, it is unfair to keep low-income and minority students trapped in schools that fail to meet their needs. Schools should exist to serve the needs of children and their parents, not the schools themselves, the teachers, or the school system. California schools should be opened to greater competition, parental control, and choice.

3.1. Charter Schools

Remove barriers to the growth of charter schools and other alternatives to traditional education models.

Stakeholder(s):

Lawmakers :

Specifically, lawmakers should eliminate the LCFF funding gap between districts and high-need charter schools.

California Children :

Roughly 10 percent of California children attend charter schools, with a higher rate of African American enrollment than in traditional public schools.

African American Children

California Charter Schools :

California charter schools generally outperform traditional public schools, particularly for disadvantaged students.

Disadvantaged Students

Center for Research on Education

Outcomes :

A study by the Center for Research on Education Outcomes at Stanford University found that “charter students in poverty have growth equivalent to 14 more days of learning in reading and 29 more days of learning in math than their [traditional public school] peers.”

Policy Analysis for California Education :

Another study by Policy Analysis for California Education came to a similar conclusion.

University of Southern California :

A 2019 study by the University of Southern California and Innovate Public Schools found that charter schools made up 27 percent of the top performing schools in Los Angeles compared to about 18 percent of schools overall and 57 percent of San Francisco Bay Area schools, using criteria such as math and reading scores, suspension rates, and completion of the so-called A–G requirements for admission to the University of California system.

Innovate Public Schools

Los Angeles

San Francisco Bay Area Schools

University of California System

African American Students :

African American and Latino students in particular had a much higher A–G completion rate in charter schools than did their peers in traditional public schools.

Latino Students

California Charter Schools Association :

And a report by the California Charter Schools Association found that African American and Latino graduates of charter schools not only apply to University of California schools at a higher rate but also have nearly twice the acceptance rate of minority graduates of traditional public schools.

California’s Education System :

Other studies are more ambiguous, and certainly there are poorly performing charter schools, but the body of research suggests that charter schools are one of the brighter spots in California’s education system, especially for low-income families.

Low-Income Families

Traditional Public Schools :

Despite this, California remains surprisingly hostile to charter schools. The most frequent complaint is that charter schools somehow harm overall district finances, thereby depriving traditional public schools of funding. However, an overwhelming body of research shows that, to the extent that charter school expansion has any ill effects on districts’ fiscal situations, these can be easily offset by refund programs.

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Stakeholders (continued)

School Districts :

On the other hand, charter-related challenges account for a minuscule share of school districts' fiscal troubles overall.

California State Assembly :

At one point in 2019, the California State Assembly considered legislation to establish a moratorium on all new charter schools. While the moratorium was ultimately rejected, the legislature did enact new restrictions to slow the spread of charter schools, including AB 1505, which gives school districts more authority to reject charter applications that they feel are redundant or would harm the district's finances. The legislature also passed AB 1507, which prohibits charter schools from operating outside their authorizing district in most situations.

Charter Schools :

Charter schools are also underfunded compared to traditional public schools.

Low-Income Communities :

Traditionally, schools are funded through local property taxes, but this has left low-income communities, where property values are low, at a severe disadvantage compared to their wealthier neighbors. This problem was further complicated by California's Proposition 13, which held down property taxes, leading the state government to step in to provide school funding that would have otherwise come from property taxes.

California :

California has made a number of reforms to school financing over the years, but the most recent major school financing reform was 2013's LCFF, which was designed to reduce disparities in education fund-

ing between districts while also providing additional support to those districts with high concentrations of disadvantaged students.

Disadvantaged Students :

Using the LCFF, the state provides districts with a base grant per student to help equalize funding between districts and provides additional funding to districts with concentrations of high-need students.

High-Need Students :

The LCFF treats charter and traditional schools similarly in terms of the base grant. However, the LCFF caps the amount of supplemental funding that some charter schools can receive for high-need students. This cap impacts roughly a third of charter school students and reduces charter schools' supplemental funding allowance by roughly 20 percent compared to what similar traditional schools receive. This disparity is even greater—as much as 24 percent in some cases—for those charter schools with the highest concentrations of disadvantaged students.

Traditional Schools :

Yet the evidence shows that any impact that charter school funding has on traditional school funding is negligible—if it can be found at all. According to some reports, the disparity between charter and traditional school funding was created to discourage districts from packing disadvantaged students into charter schools. While that is clearly a concern, especially as it could potentially exacerbate segregation, the right approach to this potential problem is not to place an undue financial burden on schools that serve high concentrations of disadvantaged students but to ensure that these students and their families have access to high-quality schools.

3.1.1. Funding Gap

Eliminate the Local Control Funding Formula funding gap between districts and high-need charter schools

Stakeholder(s):

Lawmakers :

Specifically, lawmakers should eliminate the Local Control Funding Formula funding gap between districts and high-need charter schools.

High-Need Charter Schools

3.2. Tuition Tax Credits

Establish a tuition tax credit program to finance scholarships for low-income families to attend the school of their choice.

Stakeholder(s):

Charter Schools :

While charter schools offer an alternative to traditional public schools, they are still, in the end, government-run schools.

Government :

Government oversight puts limits on how innovative charter schools can be. Therefore, an approach that is liable to yield even greater fruit for poor and disadvantaged students is to open America's large and thriving private education sector to them.

Private Schools :

First, and perhaps most important from the standpoint of alleviating poverty, private school choice would enable low-income families to take advantage of better schools. Although the quality of private schools is far from uniform, the evidence from more than 30 years of studies shows that private schools consistently outperform public schools in terms of test scores, graduation rates, future income, lower violence levels, parental satisfaction, and other critical metrics. Currently, some 664,231 students attend 3,915 private schools in California. However, the cost of attending these schools can be quite high.

Private Elementary Schools :

The average cost of attending a private elementary school in California is more than \$11,080;

Private Secondary Schools :

the cost of attending a private secondary school is more than \$19,830.40

Low-Income Households :

As a result, only about 13 percent of students enrolled in the state's private schools come from low-income households. In effect, wealthy Californians can escape underperforming schools, while low-income families remain trapped.

Parents :

One way to rectify this disparity of opportunity is to provide parents with financial assistance if they wish to send their child to a private school. Essentially,

this means allowing education funding to follow the child regardless of where that child attends school.

Low-Income Californians :

The best way to open more educational opportunities to low-income Californians would be to establish a program of tuition tax credits or educational savings accounts. These programs provide tax credits to individuals and corporations that contribute to a scholarship fund operated by private charitable foundations. These scholarships are then offered to parents to cover tuition, fees, and other expenses needed to send their children to private school or, in some cases, a public school in another district. In this way, these scholarships operate much like vouchers, with the critical difference being that the money contributed to the scholarship fund never passes through the state treasury or any other publicly managed account.

States :

Today, 19 states operate tuition tax credit programs, and roughly 225,000 students have received scholarships through those programs (see Figure 4.5).

Public Policy Institute of California :

Many Californians want their children to have the expanded access to private schools that a tuition tax credit would provide: according to April 2021 polling by the Public Policy Institute of California, 42 percent of parents surveyed reported that they would send their youngest child to private school if they could.

Parents :

Notably, 14 percent said that they would choose public charter schools, a higher share than the roughly 10 percent of California students enrolled in charter schools, so Californians appear to be interested in increased access to charter schools as well.

Voters :

A measure to establish a tuition tax credit program in California will likely be on the 2022 ballot.

3.3. Pensions

Restructure future pension obligations to shift more resources to the classroom.

Stakeholder(s):

Classrooms :

Whatever one thinks about the level of total education funding in California, increases in spending do not necessarily translate into more resources in the classroom. Thus, we see a 27 percent increase in education spending since 2012, while teacher salaries (to cite one example) have risen by only 7 percent. The biggest single culprit for this funding drain is pensions.

California State Teachers' Retirement System :

Today, district contributions to the California State Teachers' Retirement System (CalSTRS) consume 19.1 percent of payroll, up from 8 percent as recently as 2013 (see Figure 4.6).

Public Employee Pensions :

Public employee pensions in California are troubled across the board, but the education system's pension obligations are especially problematic. Despite rising contributions, the program faces more than \$100 billion in unfunded obligations. To put that in perspective, those unfunded obligations exceed the entire amount of the state's K–12 education funding for 2020.

Teachers :

California is one of several states whose teachers don't participate in the Social Security system. Rather, they receive their full retirement benefits through the CalSTRS system. The benefits are fairly generous. Teachers who retire at age 60 after 25 years in the classroom receive 50 percent of their final pay annually; that amount increases to 60 percent if they taught for 30 years.

California's Supreme Court :

California's Supreme Court has repeatedly ruled that public pension benefits in effect on the date of hire are a contract creating a vested right for employees, meaning that existing benefits can't be cut and that employee contributions can't be raised without compensation. But those pensions were promised at a time when the plan's investments were riding high. That changed with the Great Recession, when the market's downturn wiped out nearly 25 percent of the fund's value in 2009. Since then, the system has compounded the problem in an attempt to obfuscate the true size of the shortfall by relying on overly optimistic estimates for future returns.

School Districts :

The court-imposed limits on changes to benefits and contributions put both the state and local districts in a vice. Still, there are some steps that can be taken to reduce future obligations and allow more education funds to go directly to classrooms and students.

Jerry Brown :

To California's credit, then Governor Jerry Brown and the legislature passed the Public Employees' Pension Reform Act (PEPRA) in 2013 and a CalSTRS funding plan (AB 1469) in 2014 with the goal of averting long-term fiscal crises stemming from public pensions. The combination of cost savings and increased pension contributions mandated by PEPRA and AB 1469 will, in theory, ensure that CalSTRS is fully funded by the mid-2040s, which is when the AB 1469 funding plan expires. The goal of these reforms—a fully funded pension system—is laudable, but several structural challenges remain.

California Legislature

CalSTRS :

First, and perhaps most importantly, despite these reforms, it is still not a foregone conclusion that CalSTRS will be fully funded on time—or ever. A variety of possibilities, including a downturn in the stock market or decreased tax revenues, could knock CalSTRS off its path toward fully funded status. When these events occurred in 2020 as a result of the coronavirus pandemic, not only did CalSTRS' investments fall short of expectations, but the state delayed a planned increase in contributions to the fund. Combined, this increased CalSTRS' shortfall between assets and liabilities. Second, the CalSTRS funding plan requires spending more on pensions, which while necessary to keep CalSTRS solvent does not address the concern that pension costs crowd out classroom spending. While the ongoing challenge of pension costs will be a factor in future decision-making for all California school districts, other analysts suggest that this challenge will pose a greater problem for high-poverty districts and disadvantaged students.

California School Districts :

To put California's school districts on sounder fiscal footing, and to ensure that money is spent most efficiently toward the goal of educating students, it's worth asking some fundamental questions about public pensions, and possibly making some structural changes.

Policymakers :

Policymakers need to reevaluate the purpose of public pensions. Clearly pensions are one part of a broader package of teacher compensation, which is intended to recruit and retain good teachers. It is a dubious proposition that pension spending is as efficient toward the goal of recruiting and retaining talented teachers as other components of teachers' compensation packages are: teachers receive the benefits of pension spending years or decades in the future, while the economic truth remains that a dollar today is worth more than a dollar tomorrow. This is

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Stakeholders (continued)

not to say that retirement benefits should be entirely eliminated from California teacher compensation packages, but some share of spending that goes toward pensions—projected to reach about 40 percent of payroll—would be better spent on benefits that are more efficient at recruiting and retaining talented teachers.

Taxpayers :

Given that California policymakers have a duty to spend taxpayers' money in the most efficient way possible, they must consider how to decrease pension costs going forward so that more money is available for uses that directly support students' learning.

Future Teachers :

As previously noted, pension obligations for currently serving teachers cannot be retroactively revised, so any restructuring would apply to future hires. While this would seem to limit potential savings, it's important not to understate the savings that can be gained from forward-looking pension reform: efforts to limit the growth of overall pension obligations will mean that less money needs to be set aside to fund these obligations.

Private Sector :

There are many options for controlling pension costs. One of the most suggested options is switching from the current defined-benefit program to a defined-contribution—commonly called “401(k)-style”—program, which is standard in the private sector.

Employees :

Switching to a defined-contribution program has several benefits: perhaps most importantly, because contributions to the plan are made at the same time as employees earn benefits, there is no possibility of an unfunded liability. Defined-contribution programs also allow employees greater flexibility. These plans commonly offer different investment options that allow the employee to choose a portfolio in line with their personal financial situation and goals. Employees can also more easily keep their benefits (i.e., their savings account) if, for instance, they work in a different district or choose a different job.

University of California System :

A noteworthy example is the defined-contribution plan offered by the University of California system. From a fiscal perspective, beyond the benefit of fully funding retirement liabilities at the time they are created, defined-contribution plans also share investment risks and returns more fairly between taxpayers and employees. One of the key problems of CalSTRS is that it relies on estimates of financial market returns that are, at best, an educated guess: any time the stock market drops, the gap between CalSTRS

assets and liabilities widens substantially, placing the program farther from the goal of full funding. On the other hand, unexpectedly high returns on CalSTRS investments are not passed on to program members as they would be under a defined-contribution program. And while the exact costs of a defined-contribution plan depend on the details of that plan, there is a potential for cost savings in the billions of dollars per year for local governments.

Little Hoover Commission :

All that said, previous reform attempts have shown that both a defined-contribution and a hybrid defined-benefit/defined-contribution plan are politically difficult in California. A brief review of reform attempts includes a hybrid plan as a point of PEPR, the Little Hoover Commission's recommendation to institute a hybrid plan, as well as a more recent proposal from Assemblyman Kevin Kiley, which would have created a defined-benefit plan and incentivized participation using higher salaries for plan members.

Kevin Kiley :

PEPRA, as enacted, omitted Governor Brown's hybrid plan proposal, and Kiley's proposal died in committee. Nationwide, however, there are several reforms that can serve as examples for California.

Federal Government :

The federal government, for instance, uses a hybrid plan and enrolls employees in Social Security (from which many California public employees are excluded).

States :

Some states also provide workers a choice between different pension plan options.

California Schools :

PEPRA and the CalSTRS funding plan are admirable first steps in what will be a long-term effort to ensure fiscal solvency for California's schools. These laws put California's public pension program on a sounder fiscal footing, but the current situation is not sustainable. Pension spending equal to 40 percent of teacher salaries and a new gap between assets and liabilities every time the stock market underperforms is simply not a responsible long-term plan for California's teacher pensions.

Students :

Reforming the system would provide more choices for teachers, more realistic financial planning for districts, and more resources for students.

3.4. VoTech Ed & Apprenticeships

Increase emphasis on vocational and technical education and make greater use of apprenticeships.

Stakeholder(s):

Apprentices

Apprenticeship Programs :

California has one of the more robust apprenticeship programs in the country. Currently, some 74,000 Californians are enrolled in one of 1,400 such programs, in such fields as automotive services, information technologies, health services, and hospitality, among others.

Californians Aged 18–24 :

Still, that represents less than 4 percent of Californians aged 18–24 who do not attend (or have not graduated from) college. To be eligible for an apprenticeship, Californians are generally required to be at least age 18 and a high school graduate.

High School Students :

Yet research suggests that allowing high school students to participate in apprenticeships can lead to better job prospects and higher wages after graduation.

Low-Income Students :

Moreover, participation in such programs tends to increase the likelihood of high school graduation for low-income students by as much as 7 percentage points.

California's Education System :

In addition to apprenticeships, California's education system should place greater emphasis on vocational, technical, and other education programs that will better prepare students for a career if they do not go on to college.

Vocational Schools :

Currently there are 74 public vocational schools in California, with a total enrollment of 470,000.

Community Colleges :

Notably, many of these resources exist in California's community colleges. While California's community colleges provide an important resource, particularly

for disadvantaged communities, and reforming education past the 12th-grade level is beyond the scope of this paper, there is a strong argument for moving some of these vocational resources to high schools. Clearly, moving vocational opportunities to earlier in a student's educational path helps the student gain earning potential earlier in life, helping them enter the workforce and support themselves sooner, instead of relying on family or government support while they gain job training after high school.

Workers :

Furthermore, the apprenticeships and vocational training that do exist are imperfect. As others have noted, key challenges nationally include connecting potential workers to apprenticeships and more closely integrating education and apprenticeship programs.

Disadvantaged Californians :

Although there is progress to be made, California is well-placed to make policy changes that will expand apprenticeships and vocational education and, through doing so, increase disadvantaged Californians' earning potential.

California Students :

In part because vocational training is already situated in the community college system, California can implement a dual enrollment model, in which students can be enrolled in both high school and college classes, for internship and vocational training programs. This model has worked elsewhere in the country, and while dual enrollment is an option for some California students, it is not implemented on a wide scale for vocational fields. Shifting to a dual enrollment model and locating some services for apprenticeship participants in high schools would also expand the opportunities for students to connect with apprenticeship programs, helping to overcome a key challenge that apprenticeship programs face in trying to attract participants.

4. Welfare

Reform welfare

Welfare Reform ~ California maintains a robust social safety net. On a combined basis, federal and state anti-poverty programs spend more than \$100 billion every year in California to fight poverty. That spending has reduced poverty rates from what they would be in the absence of those programs. But while mostly successful in reducing material poverty, California's welfare system is much less successful at reducing dependency and assisting low-income Californians to attain prosperity. In particular, eligibility rules for many programs can discourage work, savings, child support, and other steps that can help those living in poverty take greater control over their lives and situations.

4.1. Assets

Abolish asset tests for California Work Opportunity and Responsibility to Kids, or CalWORKs, and other programs.

Stakeholder(s):

Savers :

Too often, the importance of savings and wealth accumulation gets neglected in the context of poverty discussions. The logic behind this omission is obvious: immediate needs for food, shelter, and so on must be met before more long-term goals can be addressed. Yet even a relatively small amount of savings can make a significant difference in the short term, enabling payment of a car repair or health care bill and preventing such unanticipated expenses from forcing a family into a cycle of debt and poverty.

Single Mothers :

Over the longer term, savings are even more critical. For example, studies show that single mothers with savings are significantly more likely to keep their families out of poverty than other single mothers, even after correcting for a variety of social and economic factors.

Families :

Other studies show that families with assets have greater household stability, are more involved in their community, demonstrate greater long-term thinking and planning, and provide increased opportunity for their children.

Asset Poor People :

Clearly the ability to save and accumulate assets offers a wide array of benefits. Some observers suggest that the whole definition of poverty should be revised to consider the accumulation of assets or the lack of them. One common definition of "asset poverty" would define people as "asset poor" if they lack sufficient savings or other assets to survive for three months at the poverty level. This form of poverty can be measured two ways: 1) by net worth (i.e., the value of all assets, such as car, home, savings account, etc.) minus debts or 2) by liquid assets, meaning cash or assets that can easily be converted to cash. Studies have long shown that levels of asset poverty exceed levels of income poverty in the United States.

Americans :

Using the first measure, net worth, roughly one out of five Americans can be considered asset poor. Looking at liquid assets measurements, the picture is even worse: more than a third of Americans can be regarded as asset poor.

Lower-Income Americans :

However, even these measures may understate the severity of the lack of savings or assets among lower-income Americans.

Federal Reserve :

For instance, according to the Federal Reserve, 46 percent of adults in 2015 said that they either could not cover an emergency expense costing \$400 or would cover it by selling something or borrowing money. It should be no surprise that asset poverty is a much bigger problem for people who are poor. Using a liquid assets measure, more than 80 percent of Americans in the lowest income quintile can be considered asset poor.

Poor Households :

The consequences of asset poverty for poor households are substantial. Most obviously, a lack of savings or other assets leaves a family more vulnerable to unanticipated expenses or a sudden change in economic circumstances. Events like job loss, divorce, or a health crisis can cause financial difficulties for all families. For those without savings to fall back on, these problems can become a full-blown crisis.

Investors :

Lack of savings and assets also makes it harder for people to invest in things that can help them escape poverty, such as relocating, purchasing a house or car, starting a business, or pursuing education for themselves or their children. In addition to effectively imposing a high marginal implicit tax on saving, asset tests can be arbitrary, capricious, and confusing, treating similar assets differently depending on

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Stakeholders (continued)

the state, the program, or even the attitude of investigators.

Federal Reserve Bank of Boston :

As the Federal Reserve Bank of Boston points out in a 2006 study, while one family may be able to retain its retirement savings when it applies for a means-tested program, another similar family that uses a different retirement saving vehicle or lives in a different state may be ineligible for the same program unless it depletes its retirement savings.

Households :

Also, a household may qualify for some programs but not for others based solely on different rules for the various programs.

State of California :

Finally, asset tests can be an inefficient use of state resources. California spends more than \$6.4 million annually on asset testing and verification but has found that only 1 percent of cases exceed asset limits, most of those by insignificant amounts. In recent years, California has taken steps to reduce its use of asset testing for welfare programs.

CalFresh :

For instance, the state eliminated asset limits for CalFresh in 2015.

4.2. Cash

Prioritize Cash Payments System over In-Kind Benefits or Indirect Payments

Shifting from the current hodgepodge of programs to a single, cash-based approach (to the degree practicable) would offer several advantages. Shifting from in-kind benefits to cash would also increase transparency and equity, treat recipients fairly while encouraging responsibility, and reduce bureaucratic oversight of participants and associated administrative overhead.

Stakeholder(s):

California Localities :

Several California localities have taken the COVID-19 response as an opportunity to experiment with what proponents called a universal basic income, among them Oakland, Stockton, and Marin County. None of these experiments implemented a true universal basic income—all were means tested, and in the cases of Oakland and Marin County, they were limited to specific groups such as low-income women of color—but they did move in the direction of providing cash benefits with minimal strings attached.

Oakland

Stockton

Marin County

Federal Welfare Programs :

The cash benefit portion of these experiments is particularly important. By placing strict limits on

California Legislature :

And, in the 2019–2020 legislative session, the legislature increased the exempt value for vehicles under CalWORKs to \$25,000.

CalWORKs Applicants :

However, the state continues to impose asset limits for other programs. For instance, other than the vehicle exemption, CalWORKs applicants can have no more than \$10,000 in total assets.

SNAP :

Asset testing for SNAP has been eliminated in California, but asset limits remain for older adults to qualify for Medi-Cal; and any assets valued above \$5,000 counted against Section 8 eligibility.

Medi-Cal

Section 8 Program

Older Adults

Social Welfare Programs :

California should review these and other social welfare programs to remove—or at least increase—asset limits and encourage savings.

TANF, the 1996 federal welfare reforms accelerated an already growing trend toward substituting “in-kind” benefits or indirect payments to vendors in lieu of cash. Today, most benefits are provided not in cash but as “in-kind” benefits. Indeed, direct cash assistance programs, including refundable tax credits, now make up 24 percent of direct federal transfers. See Figure 5.1 for federal spending on social welfare programs.

Welfare Service Providers :

In-kind programs, such as food stamps, housing assistance, and Medicaid provide people with assistance but only for specific purposes. In most cases, the payments are made directly to service providers.

Welfare Recipients :

The person being helped never even sees the money. People who are poor are not expected to budget or choose among competing priorities the way individuals who are not on welfare are expected to do.

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Stakeholders (continued)

Direct cash payments provide substantial advantages over other types of assistance. Cash benefits offer a greater degree of transparency and consistency, treating similarly situated people the same. Too often, existing programs reward those who can best navigate the system rather than those most in need. On the distribution side of the program, cash requires less bureaucracy to administer and can even save taxpayers money and allow more resources to go toward beneficiaries. Providing cash also treats low-income people like adults. The recipient, rather than the government, chooses how much they should spend for housing, food, education, health care, and so on. Most of the rest of us make such budgeting decisions.

WIC Program :

Moreover, many programs go even further in limiting the use of benefits to government-approved purchases. For example, WIC can only be used to buy certain foods determined by government regulation.

Low-Income People :

Finally, while most economic and racial segregation in housing can be traced to housing policies, the current welfare system also contributes to the geographic concentration of poverty. Because only certain providers are both qualified and willing to accept payment through many social welfare programs, low-income people are often forced to live in areas with high concentrations of poverty. Often these areas have more crime, fewer economic opportunities, and a lack of social cohesion.

Children :

Children are often stuck with failing local schools, which leave them less prepared for the job market and limit their opportunities.

CalEITC :

California has an existing program that can be better utilized to expand and accelerate the move to cash-based benefits. Currently, in addition to the federal EITC, low-income Californians are eligible for the state version of the credit (CalEITC). However, the state program is much smaller and more narrowly targeted than its federal counterpart. For example, in 2017, Californians received more than \$6.4 billion in benefits from the federal EITC, compared with \$351 million from the state version.

California Legislature :

The legislature significantly expanded the program in 2019, a move that was expected to increase California benefits to roughly \$1 billion annually. Despite this expansion, only one out of seven Californians who receive benefits under the federal EITC also receive state EITC benefits.

Families with Children :

Currently, to be eligible for CalEITC, families with children must have incomes below \$22,000 annually, while childless adults must have annual incomes below \$15,000. This is well below the federal threshold (as high as \$54,000 for families, depending

on filing status and number of children, and \$21,000 for childless adults).

Childless Adults**California :**

Rather than to continue to throw more money at current and new safety net programs, California should use existing resources to expand CalEITC. To do so, California should consolidate existing anti-poverty programs and fold them into a single fully refundable tax credit. Those eligibility requirements and restrictions present in the consolidated anti-poverty programs but not incorporated within the current CalEITC should be eliminated.

Federal Government :

As part of this change, the state should request that the federal government also consolidate funding for targeted anti-poverty programs into a single block grant that California can combine with existing funding to support the new, expanded CalEITC.

Groups with Special Needs :

Of course, initially, certain programs targeted to disabled people, older adults, foster children, and other groups with special needs, as well as certain health care programs such as Medi-Cal, may have to remain outside this framework. However, even in these cases, the state should pursue efforts to consolidate such programs, create a single point of delivery, and shift to cash benefits, either separately or as part of the new EITC where possible.

Disabled People**Older Adults****Foster Children****Employers :**

Finally, to the degree possible, the new CalEITC should be provided as a true wage supplement. That is, payments should be made regularly throughout the year (ideally tied to wage payments), rather than once annually only after filing taxes.

Workers :

By eliminating certain unemployment or household requirements, the change would also increase incentives for work and marriage. The income-based phasing out of benefits under California's current welfare programs (including its EITC) creates a situation where workers' payroll taxes, benefit phaseouts, and costs of going to work (transportation, clothing, childcare, and so on) can leave an individual worse off if they try to increase their income outside the welfare system. Replacing existing welfare programs with a more comprehensive state EITC would not eliminate such disincentives, but it could significantly reduce them.

Married People

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Stakeholders (continued)

Taxpayers :

Finally, because it would incorporate funding from existing programs and cut administrative costs, this

reform could be accomplished without any net increase in spending. Over the long term, such a shift would be a win for both recipients and taxpayers.

4.3. Welfare Diversion

Expand welfare diversion programs.

Most welfare programs suffer from an internal contradiction. Welfare benefits help meet immediate material needs but simultaneously set up incentives that can penalize work, marriage, and other routes to self-sufficiency. For example, the combination of lost benefits, taxes, and employment costs can often mean that someone leaving welfare for work will see little, if any, increase in short-term income. This problem is exacerbated by the fact that many people apply for welfare because of a short-term financial problem—for instance, divorce, fear of eviction, or a sudden health issue. In such cases, signing up for traditional welfare may do more harm than good, failing to solve the immediate crisis while locking the recipient into long-term dependency.

Stakeholder(s):

California :

California is one of 32 states that maintains a welfare diversion program, which provides a lump-sum cash payment in lieu of traditional welfare benefits when certain qualifications are met.

CalWORKs :

These programs are designed to assist families facing an immediate financial crisis or short-term need. Families are given a single cash payment in the hope that once the immediate problem is resolved, there will be no need to go on long-term welfare. In exchange for receiving the lump-sum payment, welfare applicants forfeit their eligibility for TANF (CalWORKs) during their benefit term

Counties :

This CalWORKs diversion program is administered at the county level. The county assesses whether an applicant would benefit from a lump-sum diversion program, considering factors such as the applicant's work history, prospects for employment, housing situation, and childcare arrangements.

Families :

If the county determines that the family is eligible for the program, the family is given the option of participating. The county and the participating family then negotiate a cash or noncash payment (or service) in

exchange for the family agreeing not to apply for TANF during the period of the diversion.

TANF Program :

If the family does apply for TANF, the family either repays the lump sum out of its TANF benefits or has its five-year TANF time limit reduced. The lump-sum diversion payment generally is not considered income in determining food stamp eligibility.

Medicaid :

Moreover, during the period of the diversion, the applicant's family may be eligible for Medicaid benefits and childcare. (However, Medicaid eligibility is not automatic; the county is supposed to follow existing procedures for making a Medicaid determination.) In addition, any child support collected by the applicant or recovered by the county cannot be used to offset the diversion payment.

Individuals :

Several studies indicate that for individuals who have not previously been on welfare, diversion programs significantly reduce their likelihood of ending up there. Studies also suggest that diversion program participants are subsequently more likely to become or remain employed than they are to become recipients of traditional welfare.

5. Economic Inclusion

Encourage inclusive economic growth

Economic Inclusion ~ California has experienced strong economic growth for many years, averaging 5.8 percent for the past five years. A growing economy is essential to reducing poverty. Therefore, California should generally pursue tax and regulatory policies that encourage continued growth. But economic growth can have a significant effect on poverty reduction only if all Californians can fully participate in the opportunities it offers. Economic growth will do little to reduce poverty if all the benefits from that growth accrue solely to those at the top of the economic scale. All too often, government regulations can block the poor from joining in on those benefits, making it more difficult to get a job or start a business. However well-intentioned, government actions can create a two-tier economic system that locks out the poor while protecting those with more connections or resources to navigate the system.

5.1. Occupational Licensing

Repeal occupational licensing that is not strictly necessary to protect health and safety.

Stakeholder(s):

California :

California has one of the broadest and most onerous occupational licensing regimes in the United States.

Professions :

More than 126 professions require a license to practice in the state.

Employees :

In 2015, 20.7 percent of all employees in California were required to have a license for their profession.

Occupations :

An additional 6.9 percent of occupations require some form of official certification. And while most people think of licensed professions as those including doctors, engineers, or pilots, the category also includes locksmiths, travel agents, makeup artists, and tree trimmers, among many others.

Low-Income Professions :

In fact, a recent study shows that California is more likely to impose licensing requirements on low-income professions than any state except Arizona and Louisiana. (Arizona has undertaken significant reform of its occupational licensing system since that

study was released.) California is often one of a handful of states to license many professions.

Low-Income Californians :

Licensing requirements can be costly and time-consuming. On average, obtaining a license takes 827 days, costs \$486, and requires passing two exams. That burden is especially heavy for low-income Californians, who often lack the time, money, and other resources to navigate the licensing system.

Archbridge Institute :

A study by the Archbridge Institute found that occupational licensing in California increased inequality in the state (as measured by the Gini coefficient) by as much as 12.77 percent and decreased upward mobility among low-income Californians by 5.53 percent. This is consistent with studies from other states.

Arkansas :

An Arkansas study, for instance, found that a two-thirds reduction in the number of jobs requiring a license reduced African American poverty by 15.3 percent.

African Americans

5.2. Occupational Zoning

Rethink occupational zoning.

Stakeholder(s):

Californians Living in Poverty :

Section 2 of this report looks at the ways in which residential zoning prices Californians living in poverty out of affordable housing and helps block the provision of shelter and services for the state's homeless population.

Low-Income People :

Zoning can reduce low-income people's access to jobs as well.

Single Parents :

Home-based employment is particularly well-suited for low-income single parents, who lack the resources for childcare or transportation.

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Small Business Startups :

These are frequently the types of businesses that can be started with minimal capital investment or by those with limited skills, including daycare, cosmetology, catering, baking, auto repair, and so on.

Telecommuters :

In addition, telecommuting and other “work from home” opportunities have expanded dramatically since the start of the pandemic. Some estimates suggest that 42 percent of workers have been working from home. However, there has been a significant class divide for workers able to take advantage of remote work.

High-Income Professionals :

Roughly a quarter of corporate executives, information technology managers, financial analysts, accountants, and insurance underwriters have opportunities to work from home, as do roughly 14 percent of “professional and related” workers such as lawyers, software designers, scientists, and engineers. For workers in occupations that fall in the top 10 percent of earnings, more than a quarter have telecommuting options.

Low-Income Workers :

However, less than 1 percent of workers in occupations with average wages in the bottom 25 percent have the same options.

Bureau of Labor Statistics :

In the bottom 10 percent of average wage occupations, the percentage of workers who can work from home is so small that the Bureau of Labor Statistics cannot even measure it.

Workers :

Some jobs will never be easily transferable to telecommuting. However, even when they are, there are

numerous regulations and zoning laws limiting the type of jobs that can be done from home, the number of people that can work there, and the time that workers can spend in the home.

Home-Based Business :

For example, in most California counties, only county residents can be employed by a home-based business.

California Counties :

In those counties, such as Los Angeles, most allow no more than one noncounty resident employee.

Business Owners :

This forces business owners to increase their overheads by purchasing office space.

Entrepreneurs :

In certain areas of California where office space is particularly expensive, entrepreneurs may choose not to expand their business because the cost is too high.

Fresno :

Fresno prohibits customers from visiting home businesses (with limited exceptions for instructional classes), and

Los Angeles :

Los Angeles and Sacramento limit the number of customers to no more than one per hour.

Sacramento

California :

And under the California Homemade Food Act, qualifying home businesses can earn no more than \$50,000 per year. Moreover, counties must opt into the act’s provisions, and 57 of California’s 58 counties have not done so.

5.3. Childcare

Deregulate childcare to reduce costs and increase supply.

Efforts to make childcare more affordable should not ... focus on subsidizing over-regulated and high-cost institutional care. Rather, reform efforts should focus on expanding childcare options and reducing costs by eliminating regulations not directly related to health and safety.

Stakeholder(s):

Childcare Providers

Children

California :

Even before the pandemic, childcare options in California had been steadily declining for years. Between 2014 and 2019, the number of home-based and center-based childcare providers decreased by 5.5 percent, which is over 57,000 providers. Despite the state’s extensive efforts to keep them afloat, COVID-19 forced many more to shut down.

Californians :

It is likely that when the 2020 data are released, nearly 60 percent of Californians will live in regions where there is little or no affordable childcare.

Childcare Centers :

Even when childcare is available, it is often prohibitively expensive. The average annual cost of center-based childcare is \$16,945, and the average annual cost of home-based childcare is \$11,200. For comparison, the cost of tuition at a college in the

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University of California system averages \$12,570. In fact, center-based childcare exceeds the cost of tuition at a University of California college.

California Counties :

In six counties, even home-based childcare is more expensive than college (see Figure 6.1).

California Families :

Since the average income of a two-parent household in California is \$68,034, many families will spend almost a quarter of their income on childcare.

Taxpayers :

So far, efforts to fix childcare scarcity have largely involved shifting costs from individual families to taxpayers through subsidies at both the state and federal levels.

Congress :

The COVID-19 relief bill that passed Congress in March 2021, for example, included roughly \$39 billion in childcare subsidies. Yet increasing subsidies has a dangerously limited ability to deliver long-term and affordable childcare to the market.

Industries :

First, as we have seen in areas as diverse as higher education and health care, there is a tendency for industries to absorb subsidies by raising prices without increasing capacity or reducing costs.

Parents :

Second, the structure of subsidies often limits parental choices. Surveys have consistently shown that many parents prefer small, local, informal childcare options rather than large institutional settings. But many of those informal options are not eligible for existing government-backed subsidies.

Childcare Market :

Third, subsidies fail to deal with the underlying issues at play in the childcare market, such as artificially restricted supply and the associated increase in prices.

Children :

Of course, few would oppose local regulations designed to ensure children's health and safety in childcare settings.

Large Institutional Childcare Providers :

However, an increasing number of regulations have more to do with protecting large institutional childcare providers from competition or increasing salaries for childcare professionals than they do with legitimate health and safety concerns.

Childcare Personnel :

For example, childcare personnel must have at least 12 post-secondary semester credits or equivalent quarterly units in early childhood education or a current Child Development Associate credential (with the appropriate age endorsement) from the Council for Professional Recognition.

Childcare Facilities :

Childcare facilities are also heavily prescribed. Facilities must have at least 25 square feet of indoor space and 75 square feet of outdoor space per child. The indoor space requirement does not count space for bathrooms, hallways, offices, food areas, storage, or any area occupied by shelving or cabinets. Outdoor space does not include pools or swimming areas. Outdoor areas must also be surrounded by a fence at least four feet high. Such regulations add heavily to the cost of childcare. For instance, tightening the ratio of children to staff members by one child reduces the number of childcare centers in a given market by 9.2–10.8 percent. Other studies suggest that such a staff restriction can add as much as 9–20 percent to the cost of caring for a child. Similarly, increasing the average years of education required for childcare staff can reduce the availability of providers in a market by 3.2–3.8 percent.

Low-Income Communities :

In both cases, the additional costs appear to fall most heavily on low-income communities. Moreover, such regulations tend to protect large institutional childcare from competition by local and informal care options. Yet institutional childcare is not only more expensive but often is not available in low-income communities.

5.4. Entrepreneurship & Jobs

Reduce barriers to entrepreneurship and job creation.

While many changes are apt to spark the usual partisan debates, there are many initiatives that should draw broad bipartisan support: reducing fees involved in running a business, deregulating the cannabis industry, eliminating caps on liquor licenses, and reconsidering some minimum wage increases would make California more competitive, prosperous, and inclusive.

Stakeholder(s):

Entrepreneurs :

Entrepreneurship is good for economic growth generally, but it also plays an important role in upward and intergenerational mobility.

Job Seekers

Low-Income Workers :

For low-income workers and communities of color, starting a business is a popular option despite the risks.

Communities of Color

Black Entrepreneurs :

Black entrepreneurs have 12 times the wealth as black people who work for an employer.

Black Women :

Some 50 percent of small businesses that are run by women are owned by black women.

Immigrants :

Immigrants are twice as likely to start a business than native-born Americans. After all, starting one's own business is part of the American dream.

Low-Income Individuals :

Excessive taxes and regulations make it inordinately more difficult for low-income individuals to start a business.

California Legislators :

Despite benefiting greatly from Silicon Valley, a mecca of tech startups, California's legislators rarely pay attention to the negative effects of taxation and regulation on small, minority-owned businesses.

California Businesses :

California has consistently ranked as one of the worst states to start a business.

Regulators :

Regulators should reform several areas that greatly hinder widespread entrepreneurship.

5.4.1. Business Permits

Reduce and Streamline the Business Permitting Process

Stakeholder(s):

Small Businesses :

There are 4.1 million small businesses in California that employ almost half the state's workers.

Low-Income Communities :

These small businesses are especially important to low-income communities, providing services in places that larger companies frequently avoid and, more importantly, providing jobs and a chance to break into the larger economy. However, it is not always easy for these businesses to get up and running.

Startups :

California's business environment is a mixed bag for startups.

Business.org :

For example, Business.org ranks six California cities (San Francisco, San Jose, San Diego, Los Angeles, Sacramento, and Riverside) among the most startup friendly cities in the nation.

San Francisco

San Jose

San Diego

Los Angeles

Sacramento

Riverside

Tech Industry :

However, these rankings are heavily influenced by the thriving tech industry.

Underserved Communities :

When looking at other types of businesses, particularly small businesses in underserved communities, the environment is decidedly less welcoming.

Small Business and Entrepreneurship Council :

The Small Business and Entrepreneurship Council, for instance, ranks California next to last in the

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nation (ahead of only New Jersey) in terms of policy environment for small business.

Local Governments :

Many of the barriers to small businesses are not statewide large-scale policies but rather the sort of petty bureaucracy that can thrive at the local level.

Restaurants :

For example, on top of dealing with state taxes, higher property values, and a changing regulatory climate, restaurants must also obtain all the proper permits required by their municipality. It is common for a restaurant to have to get a building permit, health permit, and signage permit, just to name a few.

Entrepreneurs :

Sometimes it can take years for a business to acquire everything it needs to open, and in some cases the excessive processes can cause entrepreneurs to give up.

San Francisco :

In San Francisco, starting a storefront business can take years and cost tens of thousands of dollars,

according to San Francisco Supervisors Hillary Ronen and Matt Haney.

Hillary Ronen**Matt Haney****Municipalities :**

Municipalities need to consider whether every required permit is necessary or just another obstacle.

Business Owners :

Other fees and taxes also make it difficult to start a small business. Many business owners cite California's \$800 per year franchise tax as a particular burden for small businesses.

Policymakers :

And, of course, all this takes place in a generally high-tax, high-regulation state. Therefore, policymakers from Sacramento to local city councils should carefully consider the effect of new fees, taxes, and regulations on small business entrepreneurship.

5.4.2. Gig Economy

Reboot the "Gig" Economy

Ideally California should repeal AB 5 in its entirety. At the very least, legislators should clarify its applicability and extend exemptions to jobs and employers that would most benefit low-income communities.

Stakeholder(s):**Gig Economy :**

Roughly 10 percent of Californians work in the so-called gig economy, doing short-term jobs instead of ongoing, managed employment.

Ride-Sharing Services :

Ride-sharing services such as Uber and Lyft are perhaps the most visible examples of this class of employment, but the gig economy also includes all sorts of freelance, part-time, and temporary jobs, including those for musicians, designers, and nurses.

Uber**Lyft****Musicians****Designers****Nurses****Independent Contractors :**

Such jobs can offer many advantages to workers, including the freedom to set their own hours. On the other hand, because gig workers are classified as independent contractors rather than employees, most gig jobs do not provide benefits such as health insurance and sick leave.

Courts :

Moreover, several recent court cases—most notably *Dynamex Operations West Inc. v. Superior Court of Los Angeles*—have called into question how contracted gig economy workers should be defined.

Dynamex :

Workers for Dynamex, a package delivery service, accused the company of violating their wage rights by misclassifying employees as independent contractors. The court agreed, ruling that Dynamex had to pay lost wages.

California Lawmakers :

California lawmakers attempted to deal with these issues by passing AB 5, which established a new definition of "employee" based on the Dynamex decision.

Employees :

Henceforth, a worker would be classified as an employee if (a) the worker is free from control or direction of the hiring entity, (b) the work is outside the company's usual business, and (c) the worker is independently involved in an occupation, trade, or business of the same nature as the work performed. Ride-sharing services, which were among the pri-

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many targets of AB 5, were quick to fight back, and in November 2020, California voters passed Proposition 22, exempting app-based transportation and delivery companies from AB 5 provisions.

California Legislature :

In addition, the legislature created exemptions for more than 100 industries and employment categories. AB 5 is now in a way obsolete. Still, large portions of the gig economy remain under regulatory threat.

Opponents of AB 5 :

Opponents of AB 5 contend that as many as 400 different job categories, from cleaning services to truck drivers, remain subject to AB 5 provisions. Many of these jobs offer the type of flexibility or lack of entry-level costs that make them appealing to low-income workers. Even if such estimates are exaggerated, the applicability of AB 5 is often unclear, creating an open-ended source of litigation.

Cleaning Services**Truck Drivers****5.4.3. Cannabis**

Deregulate the Cannabis Industry

Stakeholder(s):**Cannabis Industry****California :**

In 1996, California became the first state to legalize medical marijuana. In 2016, the state took another huge step by making recreational cannabis legal to be bought and sold. Now California accounts for a quarter of all marijuana sales in America. As a result, California has more cannabis businesses than any other state.

Cities :

One of many obstacles to the growth of the industry is that not all cities have opted into the selling of recreational marijuana.

State Legislators :

To stimulate the industry, state legislators should urge all municipalities to do so. In addition, Califor-

Small Businesses :

Small businesses in particular are ill-suited to navigating this complex question. As a result, many have cut back or shied away from hiring in situations where AB 5 might apply.

Alameda Appellate Court Judge :

In addition, Proposition 22 is currently under fire after an Alameda appellate court judge ruled it unconstitutional. This could be detrimental to apps like Uber and Lyft and the clientele that rely on them for things such as getting to work or getting home from a night out.

Uber & Lyft Drivers :

Uber and Lyft had already begun to offer drivers more benefits as part of Proposition 22. However, those fighting against it do not believe that is enough, ignoring that for most drivers Uber or Lyft are only side jobs.

nia marijuana grower and retailer licensing differs by location. Obtaining a license should be a quick, simple, and transparent process open to all.

Retailers :

There can be punitive fees of up to \$96,000 for retailers depending on expected revenue.

Microbusinesses :

For microbusinesses permitted to grow and distribute cannabis, fees can amount to \$300,000.

Low-Income Entrepreneurs :

While wealthier entrepreneurs might be able to shoulder these fees, they completely price out low-income people from entering the market.

5.4.4. Liquor

Make It Easier to Obtain a Liquor License

A major barrier that stops many restaurants from maximizing their revenue is liquor licenses.

Stakeholder(s):

Restaurants :

As part of California's COVID-19 lockdowns, restaurants were forced to shut their doors, and some never reopened.

Minorities :

The restaurant industry is notoriously risky and is an industry that many minorities rely on for employment.

Restaurant Employees :

In America, one in two restaurant employees is a minority, a quarter alone are Latino, and 40 percent of restaurant owners are minorities, compared to 29 percent of businesses across the country.

Los Angeles :

Caps on liquor licenses in areas increase prices of licenses dramatically. For instance, in Los Angeles and San Francisco, caps on licenses have led to some being sold on the secondhand market for hundreds of thousands of dollars.

San Francisco

Startup Restaurants :

While large corporations can easily purchase a liquor license, startup restaurants struggle immensely.

5.4.5. Minimum Wage

Reevaluate Minimum Wage Increases

Given the uncertainty surrounding the post-COVID-19 recovery, California should reevaluate and possibly postpone any scheduled increases in the minimum wage until the pandemic has passed and unemployment has returned to pre-pandemic levels.

Stakeholder(s):

California :

California's minimum wage is scheduled to increase incrementally to \$15 an hour statewide by 2023.

Localities :

In addition, many localities have minimum wages higher than the statewide mandate, running as high as \$16.30 per hour in Sunnyvale and Mountain View. Several other minimum wage hikes are pending or scheduled.

Sunnyvale

Mountain View

Communities :

In addition, more than a dozen communities have enacted variations of "Hero Pay," mandating a temporary minimum wage increase for certain categories of low wage essential workers who continued working despite the pandemic.

Low-Wage Essential Workers

Economists :

In recent years, there has been increasing disagreement among economists about the employment effects of modest increases in the minimum wage in a growing economy, though there remains a consensus that there is a tradeoff between increasing incomes for some workers and decreasing employment opportunities for others.

Workers :

Workers most likely to lose jobs because of these increases are those with the least training, employment skills, and attachment to the labor force.

Businesses :

However, the COVID-19 era does not have a normal growing economy. Many businesses that rely on minimum wage workers, particularly small service-based businesses, ordinarily operate on low profit margins. Pandemic restrictions have further reduced those margins.

Restaurants :

A restaurant that can only operate at a fraction of its previous capacity will not be able to employ as many people for as many hours at previous wage levels. Mandating an increase in wages under these circumstances will inevitably lead to fewer jobs.

Kroger :

For example, grocery store chain Kroger responded to Long Beach's "Hero Pay" ordinance by closing three underperforming stores.

Harvard Business Review :

Even when minimum wage increases do not result in a loss of jobs, workers may still end up worse off. A recent study in the Harvard Business Review found that minimum wage hikes in California decreased hours worked and, therefore, total compensation for

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many workers. It found that for every \$1 increase in the minimum wage, the average number of hours each worker worked per week decreased by 20.8 percent. For an average business in California, these changes resulted in five fewer hours per worker per week, which meant a 13.6 percent reduction in total wage compensation for a minimum wage worker. In many cases, the decline in hours also led to a loss in

eligibility for other benefits. The study found that a \$1 increase in the minimum wage resulted in the percentage of workers working more than 20 hours per week (the cutoff for retirement benefits) decreasing by 23 percent, while the percentage of workers with more than 30 hours per week (the eligibility threshold for health care benefits) decreased by 14.9 percent.

5.4.6. Banking

Don't Overregulate E-Banking and Other Alternative Forms of Banking

Stakeholder(s):

E-Banks

Low-Income Californians :

Low-income Californians frequently lack easy access to banks and banking services. In fact, California has the most banking deserts of any state in the nation (see Figure 6.2). Some 62 urban areas statewide, and 48 rural areas, can be classified as banking deserts.

Los Angeles :

For example, in Los Angeles, nearly one in five neighborhoods lacks banks or credit unions.

Check Cashing Services :

Without easy access to a traditional bank, low-income Californians are often forced to rely on alternative financial arrangements, such as check cashing services and short-term lenders.

Short-Term Lenders

Payday Lenders :

They also may keep large amounts of cash in their homes or on their persons, making them targets for both crime and police harassment. As Figure 6.2 shows, there is a direct overlap between areas of California with few traditional banking services and those with many payday lenders and other alternatives. For individuals with no bank account, these centers may be the only way that they can access banking services, such as cashing a paycheck, getting a money order, paying bills, purchasing or reloading a prepaid debit card, or wiring money out of state or overseas.

Low-Income People :

The immediacy of payout is also important for low-income people who must contend with daily expenses and cannot wait for a check to clear through traditional banking. However, such convenience can come at a steep price. Fees for many alternative services are high and creeping upward. Generally, this reflects the risk being assumed by the centers operating in an environment with a high default rate.

Alternative Banking & Lending Services :

Attempts to regulate alternative banking and lending services by, for example, capping interest charges have generally proven counterproductive, forcing

people who are poor to use even riskier, costlier, and less-regulated services. A far better approach is to expand access and competition within the alternative banking industry.

Governments :

There are two paths to expanding bank access. The first is direct government provision.

Gavin Newsom :

For example, in 2019, California Gov. Gavin Newsom legalized public banking, and Los Angeles became one of the first cities to consider opening a public bank. Arguments for a public bank include the ability to lend to severely low-income individuals and to create new jobs.

State-Run Banking Services :

However, while banks have every reason to base lending on whether people can pay their loans back, state-run banking services have far less incentive to do so. The 2008 banking crisis is a prime example of what happens when those incentives are undercut. Political pressures are bound to push government-run banks to adopt unsound lending measures and other poor business practices.

Los Angeles Community Development Bank :

A previous government-banking experiment, the Los Angeles Community Development Bank, failed in 2004 because it gave out too many loans that were not paid back.

California Legislators :

Despite it now being legal, California legislators should not be tempted to open public banks.

Companies :

Fortunately, there is another approach. Several companies have begun using computers and other technology to make financial services available in low-income areas either through existing physical structures or to forgo a brick-and-mortar presence altogether, operating entirely online.

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Fintechs :

Because they do not operate traditional bank branches and, therefore, do not have the overheads of traditional banks, these “fintechs” are able to offer low-cost, easily accessible alternatives to traditional banks.

Low-Income Californians :

Low-income Californians, especially younger Californians, may not have easy access to a brick-and-mortar bank, but nearly all have cell-phones and, therefore, access to e-banking.

Younger Californians

Amazon :

Among the companies seeking to enter the electronic banking market are Amazon, Facebook, and Walmart.

Facebook

Walmart

Underbanked People :

Already, fintech has helped underbanked people with access to their COVID-19 stimulus checks.

IRS :

Fintech firms worked with the IRS to get unbanked people their money through MasterCard prepaid cards, which helped many people who would have

otherwise had to wait weeks for the IRS to send them a check.

MasterCard

Kroger :

In addition, many companies that have a significant California presence, but have not traditionally offered financial services, such as Kroger, Walmart, Walgreens, and CVS, have begun offering financial services. Combined with e-banking, these expanded banking alternatives promise to give low-income Californians greater access to safe, affordable, and convenient banking.

Walgreens

CVS

California :

While most banking regulation takes place at the federal level, California should be careful not to stifle these new and innovative alternative banking options. AB 1864, which became law in 2020, gives the state more power over its financial institutions, including fines of up to \$1 million a day for various rule infractions. While regulations have not been finalized, most observers believe this legislation could lead to far greater oversight and regulation of alternative financial institutions. California legislators should be wary of how this new power is exercised.

Administrative Information

Start Date: 2019-04-01

End Date:

Publication Date: 2021-11-21

Source: <https://www.cato.org/sites/cato.org/files/2021-10/California%20Project%20Final%20Report.pdf>

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