dating the state's inmate population growth. According to LAO, the legislature should consider actions which would reduce the actual growth of the inmate population; such measures might include the adoption of policies which would divert nonviolent offenders to other less costly forms of punishment. Finally, LAO suggested that the legislature authorize a general obligation bond measure for the November 1996 ballot to finance necessary prisons.

LEGISLATION

SB 60 (Kopp), as amended July 28, requires the State Bar to conduct a plebiscite of its active members in good standing to determine whether the members favor abolishing the State Bar as the agency regulating lawyers. The bill specifies the contents of the ballot for the plebiscite, which includes an analysis by the Legislative Analyst. The Board of Governors is required to report the results of the plebiscite to the Supreme Court, Governor, and legislature by July 1, 1996. This bill was signed by the Governor on October 12 (Chapter 782, Statutes of 1995).

AB 921 (Friedman). Existing law authorizes the establishment of an administrator training and evaluation program to provide school administrators support and development activities designed to improve clinical supervision skills. As amended May 1, this bill would require LAO, in consultation with the Commission on Teacher Credentialing, to convene a School Administrator Evaluation Work Group to develop a set of criteria to assist school districts in assessing the competencies of school administrators, particularly school principals. The bill would require LAO to prepare and submit a report no later than July 1, 1996, to the legislature on the criteria developed and to distribute and make the report available to school districts upon request. *[A. Rules]*

AB 1390 (V. Brown). The State Government Strategic Planning and Performance Review Act requires the Department of Finance (DOF), by March 1, 1995, and each March 1 thereafter, in consultation with the Bureau of State Audits (BSA) and LAO, to conduct a survey of all state agencies, departments, offices, and commissions, with certain exceptions, containing specified information regarding strategic plans for performance reviews, and to report the results of the survey to the Governor, the legislature, and the Joint Legislative Budget Committee. As amended September 7, this bill would change the dates that DOF conducts the survey and reports its results from March 1, 1995, and each March 1 thereafter, to December 1, 1995, and each December 1 thereafter.

The Act requires each agency, department, office, or commission for which strategic planning efforts are recommended to develop a strategic plan and to report to the Governor and to the Joint Legislative Budget Committee by April 1, 1995, and by each April 1 thereafter, on the steps being taken to develop and adopt a strategic plan. This bill would change the dates that this report is due from April 1, 1995, and each April 1 thereafter, to February 1, 1996, and each February 1 thereafter.

The Act further requires DOF, by March 1, 1996, and by each March 1 thereafter, after consultation with the Controller, BSA, and LAO, to recommend to the Governor and to the Joint Legislative Budget Committee a plan for conducting performance reviews for agencies, departments, offices, and commissions that have completed strategic plans. This bill would repeal this requirement, and instead require the Director of Finance, by March 1, 1996, and each March 1 thereafter, to convene a Joint Performance Audit Task Force, chaired by the Director and including the Controller, the State Auditor, the Legislative Analyst, the Chair of the Joint Legislative Budget Committee, and the Chair of the Joint Legislative Audit Committee, for the purpose of establishing a plan for conducting performance audits for agencies, departments, offices, and commissions that have completed strategic plans pursuant to the Act. It would also require the Task Force, on or after July 1, 1996, and each July 1 thereafter, to direct the commencement of performance audits, in accordance with specified guidelines. *[S. Inactive File]*

SB 974 (Alquist, et al.), as amended May 15, would create the Performance Audit Joint Task Force, consisting of the Governor and the Controller, that would be required to periodically identify state executive branch agencies, programs, or practices that are likely to benefit from performance audits. The bill would provide that agencies, programs, or practices that are so identified would be in addition to those otherwise identified under the Act. *[A. Appr]*

SCR 26 (Hayden), as amended July 6, would state the following:

• The state budget process needs fundamental overhauling and both expenditures and revenues need to be carefully reviewed to make sure they are functioning adequately, efficiently, and fairly.

• There are $24 billion in tax loopholes that constitute a hidden drain on state revenues.

• There are 268 tax expenditure programs, 197 at the state level and 71 at the local level.

• In 1985, the legislature required the Legislative Analyst to review, every two years, the state's tax expenditure program; that process has been suspended due to a decrease in funding and staff due to Proposition 140.

• In its last report in 1991, the Legislative Analyst recommended the following "Action Steps for Legislative Review of Tax Expenditures": review and agree upon the basic rationales and objectives of individual tax expenditure programs, review the available evidence of the overall effectiveness and economic efficiency of individual tax expenditure programs, and take actions with regard to individual tax expenditure programs including elimination or modification, or both.

Accordingly, the resolution would state that it is the intent of the legislature to promote the regular review of state tax expenditure programs to determine the economic impact of these programs and to review their cost-effectiveness; and direct the Legislative Analyst, utilizing existing resources, to analyze each tax expenditure program and determine if its objectives are being realized, whether each tax expenditure program's benefits exceed its revenue cost, and whether there is a less costly way of providing the same benefits. Based on this analysis, the Legislative Analyst shall report to the legislature whether and to what extent these specific programs have been effective in influencing taxpayer behavior, including the extent to which new jobs are created or new businesses are formed; whether these specific programs have been cost-efficient; whether these programs continue to provide targeted tax benefits; and its recommendations on which programs, if any, should be reauthorized or revised. The measure would provide that the Legislative Analyst, in carrying out these provisions, shall analyze select tax expenditure programs, in consultation with the Committees on Revenue and Taxation in each house of the legislature, subject to workload considerations.

The measure would also state the intent of the legislature to periodically review tax expenditure programs to ensure that they continue to be cost-effective and provide their intended benefits. *[A. Rules]*

SENATE OFFICE OF RESEARCH

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Established and directed by the Senate Committee on Rules, the Senate Office of Research (SOR) serves as the bipartisan, strategic research and planning

unit for the Senate. SOR produces major policy reports, issue briefs, background information on legislation and, occasionally, sponsors symposia and conferences.

Any Senator or Senate committee may request SOR's research, briefing, and consulting services. Resulting reports are not always released to the public.

MAJOR PROJECTS

A Safe Place, A Mentor and Something To Do: Promoting Responsible Youth Development (May 1995) examines public policies affecting the out-of-school activities available to California's children during non-school hours, the potential and risks of such policies and activities, and some of the options available to state government to improve child care and youth development.

The report referred to research gathered by the Carnegie Corporation, which revealed that in a week of 168 hours, children aged 9 to 14 have 37 hours of "discretionary" time in which they watch television, play, take part in sports and hobbies, and participate in other miscellaneous activities. The report focused primarily on the role played by local parks and recreation programs in providing constructive activities for young people during these discretionary hours. In a December 1994 survey of local park and recreation agencies, the California Park and Recreation Society found that such agencies have gradually shifted their dependence for funding from local tax revenues to user fees, shifted away from low-income neighborhoods, and found an increased need for facilities and trained professionals to run the programs; SOR's report suggested that these changes have resulted in part from Proposition 13's reduction in local property taxes, which had been a major source of revenue for discretionary programs, and the shifting of fiscal responsibility for such programs from the state to the county level.

SOR's report also noted some of the specific program changes that were reported to the California Park and Recreation Society. The result of these changes is that children from low-income families participate in out-of-school programs less because of the user fees required; programs are run by volunteers and low-paid workers who need better education and training; and funding has shifted from the prevention of trouble by constructive activities to the punishment of youths who get in trouble because they have nothing else to do.

According to SOR, three categories of school-age youth receive various out-of-school programs: younger children, aged 5 to 9, for whom child care or "latchkey" programs may be provided; preteens and young teens, aged 10–15, for whom some after-school and recreation programs are available; and senior-high school students, aged 16–18, who sometimes have school-to-work transition programs available to them. The report states that although state subsidies may be used for child care programs for children through age 14, few children over the age of 8 actually receive such subsidized care. Few state resources are provided for the care of children older than 9 or 10 and not yet in high school.

SOR concluded its report with several recommendations based on the current trends in the availability and quality of child care and recreational programs and the examples provided by several model programs. For children in kindergarten through third grade, SOR recommended expanding child care options in the state-subsidized system by lowering the state's administrative costs to free funds for more care; charging the market rate for care rather than the higher state rates to families paying the full costs of child care, so that more middle-class and lower wage earning families are able to take advantage of state-subsidized care; encouraging the use of school facilities; and streamlining licensing contracts to further reduce administrative costs.

For children aged 10 to 15, SOR recommended focusing on positive youth development by restoring local park and recreation programs, possibly through grants from the state and federal funds; expanding local staffing and promoting better training for after-school staff; establishing community centers; reviewing and improving the quality of facilities and local park systems; keeping schools open after school hours; and amending the California Constitution to permit the approval of local general obligation bond issues by majority vote rather than two-thirds vote.

The Constitutionality of the Proposed California Civil Rights Initiative (July 1995) summarizes the opinions of four California law school professors on the constitutionality of the so-called "California Civil Rights Initiative" (CCRI), which would add a section to the California Constitution to disallow either discrimination or preferential treatment based on race, sex, color, ethnicity, or national origin in state or local public employment, education, or contracting. The law professors who contributed their opinions were Erwin Chemerinsky of the University of Southern California Law Center, Joseph Grodin of Hastings College of Law, Brian K. Landsberg of McGeorge School of Law, and Jonathan D. Varat of the UCLA School of Law. In the report, the scholars discussed the viability of several legal challenges to the initiative's constitutionality if it is approved as drafted, and provided answers to several related questions.

According to the report, the CCRI's ban on preferential treatment based on race, sex, color, ethnicity, or national origin is where the question of constitutionality primarily arises. In reviewing the CCRI, most of the professors considered whether the ban is valid on its face or as applied to government agencies and educational institutions in California. The report summarized three facial challenges to the constitutionality of the ban. The first test involves the equal protection clause of the fourteenth amendment, which prohibits the states from engaging in intentional racial or sexual discrimination unless the state action is narrowly tailored to serve a compelling state interest; the professors opined that the ban would likely survive this test unless some evidence of discriminatory intent behind the initiative is found. The second argument suggests that the equal protection clause would be violated if the ban is meant to prohibit constitutionally-valid affirmative action programs that provide a preference based on race or gender. The third argument reasons that by singling out race- and sex-based affirmative action programs, the initiative unconstitutionally impairs the equal ability of minorities and women to pursue beneficial legislation through the political process. Two of the professors thought the ban would survive these arguments and would be found constitutional on its face, while another professor opined that the ban could be found unconstitutional on its face based on the third argument.

According to the report, all of the professors thought that the ban on preferences would be found unconstitutional as applied in contexts where affirmative action programs have been instituted by court or consent decree to remedy past discrimination by a public entity in violation of federal law. The professors were split on the question of whether a prohibition on voluntarily-adopted affirmative action plans would be constitutional. Most thought that the CCRI may not constitutionally prohibit affirmative action plans implemented by public entities in accord with federal constitutional principles where there is evidence of past discrimination; however, two professors thought that the CCRI could constitutionally prohibit voluntary affirmative action plans that are not based on evidence of past discrimination.

The proposed initiative seeks to end programs that require state agencies contracting for goods and services to have goals

of providing a certain percentage of their contracts to minority-owned businesses; however, the report suggests that the CCRI could be held unconstitutional "to the extent that it deprived a government entity of requiring affirmative action...to remedy acts of private discrimination in which the government has become a 'participant' to such an extent that it could be held responsible for the acts of discrimination that have occurred."

The report listed a number of other possible legal actions suggested by the professors that could arise if the CCRI passes, including litigation to validate voluntary affirmative action plans in order to avoid future litigation questioning their validity, challenges to existing affirmative action programs that are not shut down, and litigation to seek redress from discrimination for white people or males who believe the CCRI has been violated by public entities by giving advantages to minorities or women. The report concluded that if the CCRI is approved by the voters, it will cause a "stampede of litigation"; although the CCRI will likely survive a facial constitutional challenge, it will probably be found unconstitutional in various situations involving past discrimination by governmental entities.

Putting Premium Dollars to Work: Fostering Community Investing by the Insurance Industry (July 1995) reviews the history of the federal Community Reinvestment Act (CRA), which requires the banking industry to invest a share of its capital in low-income communities, and discusses whether the insurance industry should be encouraged to pursue similar investments.

The report first discusses the history of the CRA, which was enacted by Congress in response to reports that banking institutions were "redlining" low-income neighborhoods (denying or avoiding lending commitments on property within a geographic area without a reasonable basis of risk). Specifically, residents in low-income areas were less likely to obtain loans or have easy access to bank branches than those in middle- or upper-class neighborhoods; although banks would take deposits from low-income neighborhoods, they would not reinvest in those communities. The CRA requires banking institutions to meet the credit and deposit needs of disadvantaged communities and has caused billions of dollars to flow into those communities since it was enacted in 1977. Further, many banks have realized that lending under the CRA is more profitable and less risky than expected, with risks comparable to non-CRA activities.

SOR reports, however, that non-banking institutions such as credit unions, insurance companies, mutual funds brokers, and finance companies have recently captured a greater share of the nation's financial assets, while the share of assets held by banking institutions has declined from approximately 60% in 1974 to about 40% in 1992. As a result, the idea to apply CRA investment obligations to all financial institutions has emerged.

The report next discusses the reinvestment potential and the investment record of the insurance industry, and suggests that although insurers collect premiums from low-income neighborhoods like banks collect deposits, insurers may not reinvest that capital in those communities to the same extent that banks have under the CRA. Insurance companies collect over $60 billion annually in premiums from California and typically invest premiums in stocks, bonds, mortgage loans, and real estate; they currently have no reinvestment responsibilities like banks have under the CRA. There are indications, however, that insurers do not invest significantly in low-income communities in California, and the industry has long been accused of redlining by limiting the availability of insurance or charging higher rates in certain communities. The insurance industry refers to investing in the nation's housing, health, education, small and minority businesses, and urban and neighborhood revitalization needs as "social investing." A study quoted in the report found that, as of 1990, 65% of the 157 insurance companies surveyed made no social investments and 36% had total all-time social investment portfolios of less than $1 million. A 1994 report found that only $1.8 billion in social investments was made by the nation's life insurance industry in 1993; in 1994, Bank of America alone invested $5.9 billion in CRA programs in the western United States. On the other hand, the insurance industry gains many benefits from state laws requiring people to purchase certain types of insurance, an exemption from the federal antitrust laws, and funds set up by states to pay off claims against insolvent insurance companies, the costs of which are allowed to be passed on to policyholders. There is also some evidence that social investments made by insurance companies do earn favorable returns. However, the report indicates that more information must be obtained to determine the impact of social investments in California.

SOR proposes two different legislative options for promoting more community reinvestment by the insurance industry: incentives, such as providing credits against premium taxes for selected social investments; and mandatory reinvestment obligations similar to the CRA. The report notes that the incentives approach is currently being tried in 18 states; however, such an approach may not be feasible in California because of persistent budget constraints. In Massachusetts, affordable housing advocates are sponsoring legislation to implement the second approach which calls for mandatory reinvestment by insurance companies. If California were to pursue similar legislation, the report suggests that new reporting requirements could be imposed on social investing by insurance companies, objective investment standards could be used in reviewing licenses to operate, and minimum levels of social investing could be linked to the premium dollars collected in the state.

California Counties: Their Fiscal Situation (July 1995) summarizes fiscal information provided by twenty-five California counties for fiscal years 1993–94, 1994–95, and 1995–96 in response to a survey conducted by SOR. The information provided consists of data on county revenues, expenditures, and actions taken or planned to address budget shortfalls. The counties responding with this information represent a spectrum of the most to the least populous counties and, collectively, are home to 60% of California's residents.

The report displays each county's revenues and expenditures in pie charts for each of the surveyed fiscal years, provides summaries of each county's budget shortfalls, and lists the strategies that each county used to address budget shortfalls in each of the surveyed years. Examination of this information revealed that nearly every responding county has experienced a budget shortfall in each of the three years surveyed, and all have used a variety of strategies to balance their budgets. Some of those strategies include county workforce changes, budget restructuring, reduction of county services, and revenue increases. Workforce changes involved hiring freezes, layoffs, furloughs, wage freezes, elimination of positions, and salary and benefit reductions. Budget restructuring primarily involved actions such as reducing reserves and transferring funds from special accounts, although some counties also achieved administrative efficiencies and deferred capital projects. In reducing county services, most counties made program or line-item reductions, some made across-the-board reductions, and one eliminated overmatches (a practice of spending more on matching grant programs than is required by law). A few counties used revenue increases such as fee increases and Teeter plans, which are methods of borrowing against accounts receivable, to address budget shortfalls.

Finally, SOR reported that the information gathered in the survey reveals the following:

- The state's property tax shifts, which took effect in the 1992–93 and 1993–94 fiscal years, reduced property tax revenues by 3–7% in almost all of the responding counties.
- Total state and federal aid increased for almost every county by about 5% over the previous year's aid in both the 1994–95 and 1995–96 fiscal years.
- For most counties, the proportion of expenditures for major budget categories, such as general government, public protection, and public welfare, did not change during the three years surveyed, although health expenditures have fluctuated noticeably in some counties.
- Drawing across-the-board conclusions based on general revenue and expenditure data is limited because each county's finances are unique and depend on such things as size, jail construction, hospital administration, and the percentage of the population living on unincorporated land.
- Some counties received significant infusions of state or federal funds in certain years, but these funds did not alleviate overall budget shortfalls because they were earmarked for specific uses.

California Rankings: Comparing California to the Other States in the Nation (July 1995) documents California's ranking among the other states in the areas of employment, economy, and demographics; state and local finance; education; health; housing; criminal justice; elections; the environment; energy; transportation; and the arts. The report presents information compiled by SOR from a number of sources in the form of 134 charts that show how California compares to the other states on specific topics in these areas.

The report notes that California ranks highest among the states in exports, unemployment, legal immigrants, number of new homes, pupil-teacher ratios in public schools, alcohol-related traffic deaths, the teen pregnancy rate, bomb incidents, and crimes with firearms. However, the high ranking in some of these numerical categories may result from California's standing as by far the most populous state, with 32 million people; per-population ratios sometimes reveal a different ranking. In addition, California is among the top states in median home values and apartment rents, average size of public elementary schools, abortion and crime rates, salaries for correctional officers, and complaints of judicial misconduct.

However, according to the report, California ranks last in terms of the size of year-end reserves; California is also near the bottom in reading and math proficiencies among fourth graders, in the percentage of two-year-olds fully immunized, and in per-beneficiary spending for the Medicaid health care program. The state ranks in the middle in the ratio of families with incomes below the poverty level, the share of personal income used to pay state and local taxes, the percentage of women in state legislatures, the number of automobiles per 1,000 population, and the percentage of adult population with high school diplomas.

Beyond Bricks and Mortar (Volume II): Issues Facing Senior Housing in California (September 1995) is the second of a two-part study examining the issues facing senior housing facilities and residents in California, conducted by SOR in compliance with SCR 21 (Mello) (Chapter 103, Resolutions of 1991). According to the report, senior housing facilities include facilities which provide an independent or congregate living environment primarily or exclusively for elderly persons and which may or may not offer supportive services such as meals, housekeeping, laundry, and transportation. Such facilities are distinguished from licensed residential care facilities for the elderly (RCFEs), which provide personal care and supervision of residents, in that senior housing facilities do not assume responsibility for the safety and well-being of the residents. The report states that although senior housing facilities currently house a small proportion of the elderly population, demand will likely increase since the elderly are the fastest-growing age group and these facilities are attractive to seniors because of the quiet living environment, contact with other seniors, and availability of security and various supportive services.

The report explains that the role of senior housing facilities is expanding in California as its residents become older, because facilities are required to make "reasonable accommodations" to allow increasingly frail and impaired residents to reside in the facilities; as a result, they must integrate housing and supportive services. SOR noted that a significant percentage of senior housing residents have needs for supportive services in order to live independently, but several barriers—such as waiting lists for home and community-based programs and the cost of supportive services—prevent them from accessing such services. The report found that a large majority of facilities offer basic amenities to accommodate frail elderly residents, including grab rails in hallways, entrance ramps, and wheelchair-accessible units. Most facilities also offer similar amenities in at least some units, such as grab bars in bathrooms and kitchen modifications. However, few facilities directly provide services such as personal care, home health care, case management, help with medications, and protective supervision because of licensing restrictions, though most do provide access to such services through contracts or arrangements with outside entities.

The report found that many activities undertaken by senior housing facilities to facilitate access to services could be construed as activities that would subject the facilities to licensure as RCFEs under current law. SOR suggested that senior housing facilities should be able to contract with outside care agencies to provide services, have facility staff available 24 hours a day to respond to emergencies, provide an emergency response call system, and employ a service coordinator to assess needs for services and refer residents to services (provided residents individually determine whether to access the services) without being subject to licensure. Facilities would still be prohibited from directly providing care or arranging for personal care and supervision. SOR also made the following recommendations to facilitate the expansion of service coordinators and supportive services in senior housing facilities:

- The state should convene a task force to examine ways to use population-based data to better target services administered by the Department of Aging and Area Agencies on Aging (AAAs) to areas of highest need, as measured by concentrations of low-income and minority elderly.
- The Department of Aging and AAAs should develop a training program and educational materials for senior housing managers and operators to increase their understanding of the availability of supportive services, how to access such services, how to recognize residents' needs for services, and the range of activities they can undertake to facilitate access to such services without being subject to licensure as residential care facilities.
- The current exemption of senior housing facilities from licensure as residential care facilities should be clarified to ensure that senior housing facilities have the flexibility needed to facilitate access of their residents to supportive services. The revised exemption should give senior housing facilities the ability to house persons needing personal care and supervision, provided they do not assume responsibility for their care and supervision, and provided that the resident does not have unmet needs for care and supervision.

An Economic Study of California Gambling (September 1995) is a report commissioned by SOR which estimates

current and likely future levels of gambling activity in the state, taking into account possible changes in the legal and regulatory environment. The report explained that California traditionally has permitted certain forms of legal gambling, such as parimutuel wagering on live horse races, cardroom gambling, and charitable gambling sponsored by nonprofit organizations. Beginning in the 1980s, various new gambling ventures were introduced in California, including large casino-style cardrooms, class II tribal gaming, the State Lottery, simulcast wagering on horse races, tribal gaming devices, and cardrooms at racetracks.

The report estimates that approximately $2.408 billion was spent at various gambling facilities in fiscal year 1993–94 and that $2.564 billion was spent in fiscal year 1994–95; it projects that $2.826 billion will be spent in fiscal year 1995–96.

The report notes that by increasing opportunities to gamble, the state could boost its economy by capturing dollars now spent by Californians in Nevada; however, many citizens and communities contend that the overall economic and social costs of increased gambling activities would outweigh the benefits.

California's Share: Funding From Major Federal Formula Grants, 1992–93 and 1993–94 (September 1995) illustrates how much Californians receive from dozens of federal grant programs funding everything from AIDS relief to wildlife restoration. SOR notes that although 12% of the nation's residents live in California, that ratio is not always reflected in the share of federal funding that California receives from the federal programs; in some cases, California gets a higher ratio of funding than its share of the overall national population, while in other cases, California's share of federal money drops significantly below the 12% benchmark. For example, the report explains that, in terms of gross population figures, California in 1993–94 received slightly more than its overall population ratio for school breakfasts (14%), school lunches (13.3%), child nutrition (15.8%), food stamps (14.8%), and unemployment insurance (18.3%), while receiving less than its overall population share for highway safety (9.1%), pesticide programs (0.4%), weatherization assistance for low-income persons (2.6%), senior centers (9.4%), transit construction (3.6%), airport improvements (9%), and historic preservation (3.1%).