manager of a licensee, or security guard who, in the course of his/her employment, carries a firearm to complete a course of training in the carrying and use of firearms and to receive a firearms qualification card prior to the carrying of a firearm. Existing law requires a person entering the employ of a licensee to perform the functions of a security guard or a security patrolperson to complete a course in the exercise of the power to arrest prior to being assigned to a duty location. As amended March 23, this bill would revise and recast these provisions and would exempt peace officers, as defined, from the training requirements of these provisions. *[A. CPGE&ED]*

AB 1226 (Martinez). Existing law, added by initiative statute, prohibits any attorney from disclosing or permitting to be disclosed to a defendant the address or telephone number of a victim or witness, unless specifically permitted to do so by the court after a hearing and a showing of good cause; the initiative statute provides that any amendment of its provisions by the legislature shall require a two-thirds vote of the membership of each house. As amended April 25, this bill would require the court, when the defendant is acting as his/her own attorney, to endeavor to protect the address and telephone number of a victim or witness by providing for contact only through a private investigator licensed by BSIS and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court. *[A. Floor]*

AB 1610 (Archie-Hudson). Existing law voids any home solicitation contract or offer for the repair or restoration of residential premises signed and dated by the buyer within a prescribed period from when a disaster causes damages to the residential premises, except as otherwise provided. Existing law also provides a buyer with a right to cancel this type of home solicitation contract or offer that is not void under the above-described provision within a prescribed time period. Existing law defines a disaster for purposes of these provisions to mean an earthquake, flood, fire, hurricane, riot, storm, tidal wave, or other similar sudden or catastrophic occurrence. As introduced February 24, this bill would revise this definition to mean a sudden or catastrophic occurrence for which a state of emergency or local emergency has been declared, as specified. *[S. Jud]*

SB 258 (O'Connell). Existing law does not regulate persons who perform home inspections for a fee. As amended May 11, this bill would define terms related to paid home inspections, establish a standard of care for home inspectors, and prohibit certain inspections in which the inspector or the inspector's employer, as specified, has a financial interest. The bill would also provide that contractual provisions seeking to limit the liability of home inspectors to the cost of the inspection are contrary to public policy and invalid. The bill would, in addition, identify and limit the persons who can bring an action arising out of a home inspection. *[S. Jud]*

SB 1077 (Greene), as amended March 29, would abolish DCA's Tax Preparer Program, and instead require tax preparers to post a $5,000 bond with the Secretary of State. The bill would preserve existing law requiring tax preparers to complete a minimum of 20 hours of continuing education each year. SB 1077 is similar to 1994's SB 2037 (McCorquodale), which followed comprehensive 1993 oversight hearings by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions *[14:2&3 CRLR 19]*; that bill was killed on the Senate floor on the last day of the 1993–94 session for reasons unrelated to the abolition of the Tax Preparer Program. *[A. CPGE&ED]*

LITIGATION

A series of cases challenging the state's diversion of money from agency special funds to the general fund is proceeding toward trial. ***Malibu Video Systems, et al. v. Kathleen Brown, et al.***, No. BC082830 (Los Angeles County Superior Court), and ***Abramovitz, et al. v. Wilson, et al.***, No. BC120571 (Los Angeles County Superior Court), both class actions filed by Los Angeles attorney Richard I. Fine on behalf of state licensees, allege that the State of California illegally diverted money from the reserve funds of special-funded agencies in California. "Special-funded agencies" (including all the regulatory programs in DCA) receive funding support not from the general fund but from licensing and other fees imposed on their licensees; those fees are generally passed on by the licensees to the consumers of their services as a cost of doing business. In the Budget Acts of 1991–92, 1992–93, and 1993–94, the legislature included provisions which reduced the reserve funds of special-funded agencies down to three months' worth of operational expenses, and diverted the rest to the general fund. In *Malibu Video Systems*, Fine claims that the 1991–94 diversions reduced the total amount in special-funded agencies' reserve funds by 46% (from $1.569 billion in 1991 to $848.5 million in 1994); in *Abramovitz*, Fine makes similar allegations as to the 1994–95 budget. Fine alleges that these funds were collected for consumer protection purposes, and that diverting them to help pay the state's deficit both deprives consumers of protection from incompetent and dishonest practitioners and serves to double-tax taxpayers who are consumers of the services of state licensees. *[14:4 CRLR 22; 12:4 CRLR 1]*

At this writing, the two cases have been consolidated and a settlement conference is scheduled for December 6; petitioners' motion for class certification is scheduled to be heard on January 22, 1996; and petitioners' motion for summary judgment is scheduled to be heard on February 14, 1996. Fine also plans to file a new action challenging similar diversions required by the 1995–96 budget. A similar federal court lawsuit filed by Fine, ***Malibu Video Systems, et al. v. Kathleen Brown, Treasurer of the State of California, et al.***, No. CV942093-RMT(EX) (C.D. Cal.), has been stayed pending resolution of the state court cases.

OFFICE OF THE LEGISLATIVE ANALYST

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Created in 1941, the Legislative Analyst's Office (LAO) is responsible for providing analysis and nonpartisan advice on fiscal and policy issues to the California legislature.

LAO meets this duty through four primary functions. First, the office prepares a detailed, written analysis of the Governor's budget each year. This analysis, which contains recommendations for program reductions, augmentations, legislative revisions, and organizational changes, serves as an agenda for legislative review of the budget. Second, LAO produces a companion document to the annual budget analysis which paints the overall expenditure and revenue picture of the state for the coming year. This document also identifies and analyzes a number of emerging policy issues confronting the legislature, and suggests policy options for addressing those issues. Third, the Office analyzes, for the Assembly Ways and Means Committee and the Senate Appropriations and Budget and Fiscal Review Committees, all proposed legislation that would affect state and local revenues or expenditures. The Office prepares approximately 3,700 bill analyses annually. Finally, LAO provides information and conducts special studies in response to legislative requests.

LAO staff is divided into nine operating areas: business and transportation, capital outlay, criminal justice, education, health, natural resources, social services, taxation and economy, and labor, housing and energy.

MAJOR PROJECTS

LAO Analyzes Governor's 1995–96 Proposed Budget. In February, LAO released its *Analysis of the 1995–96 Budget Bill, The 1995–96 Budget: Perspectives and Issues*, and *Highlights of the Analysis and P&I*. The Analyst made the following major findings, which are described in more detail below:

• California faces a $2 billion budget gap in 1995–96, because the plan adopted by the state last July to pay off the 1993–94 budget deficit over a two-year period and achieve a balanced budget by the end of 1995–96 is out of balance by about $2 billion.

• The Governor proposes to eliminate the budget gap and end 1995–96 with a small surplus by taking several steps. These include $1.4 billion in program reductions (primarily welfare grant reductions) and savings, and shifting $0.9 billion of costs from the state to the federal government and localities (through a state/county restructuring proposal).

• The Governor also proposes a phased-in 15% reduction in income tax rates, in combination with leaving in place high-income tax brackets that are scheduled to expire in 1996. The estimated net revenue loss from this tax proposal is $255 million in 1995–96 and a cumulative $7.6 billion over four years.

• A number of major budget risks could jeopardize achieving a balanced budget in 1995–96; these risks include pending budget-related litigation and reliance on future federal actions. The Governor's budget optimistically assumes the state will win those lawsuits and be awarded all funding requested from the federal government.

• If the Governor's fiscal priorities for education, corrections, and tax reductions are achieved over the next four years, the remaining 40% of the budget will probably face program cutbacks (primarily health, welfare, and general government).

According to LAO, the state's economic performance during 1994 is not to blame for its current budget problems; in fact, the state is experiencing a modest revenue increase due to improved economic growth. Instead, the current budget problem reflects the large gap between the July 1994 plan's assumption that the state would receive $3.6 billion of federal funds for immigrant costs through 1995–96, and actual federal appropriations and authorizations to date, which will provide about $300 million.

The Department of Finance (DOF) expects economic growth to slow to 2.5% in 1995 and 2.2% in 1996, with inflation in the 3% range in both years. The state's recession was worse and its recovery has been slower than the nation's. A variety of indications suggests that the state's economy is now on a sustained recovery path; for example, DOF predicts that personal income, employment, and corporate profits will all experience growth. The budget forecasts general fund revenues of $42.4 billion in the current year and $42.5 billion in the budget year; special fund revenues are forecast to be $12.2 billion in the current year and $13.5 billion in the budget year.

The Governor's budget contains two proposals which reduce general fund revenues by over $1.2 billion. First, the budget contains a state/local realignment proposal which would shift close to one-quarter cent of the state sales tax ($710 million) and trial court funding monies ($311 million) to localities to pay for increased program responsibilities which are also being shifted to local governments under enhanced "realignment." Second, the budget proposes a tax reduction for personal income taxpayers and bank and corporation taxpayers; the revenue reduction in budget year 1995–96 would be $225 million. If these proposals are adopted, general fund revenues will increase by $185 million, or 0.4%, in the budget year; without these proposals, general fund revenue growth would be $1.4 billion, or 3.4%.

According to LAO, despite the $2 billion dollar budget gap, the Wilson administration still proposes to eliminate the 1993–94 carryover deficit by the end of the budget year and allow for a $92 million reserve. Program reductions and savings fill most of the budget gap ($1.4 billion); the bulk of the proposed reductions are in health and welfare programs. The largest amounts of savings come from proposed welfare grant reductions and restrictions in the Aid to Families with Dependent Children (AFDC) and SSI/SSP programs. The budget also includes a net savings of $241 million from realignment; however, resources provided to counties would fall short of costs shifted to them by this amount, which the budget proposes to offset with county savings from proposed mandate relief legislation. Approximately one-half of the loss of $255 million in revenues due to the first year of a three-year reduction in personal and corporate income taxes is offset by a reduction in education funding due to the resulting reduction in the Proposition 98 minimum funding guarantee.

According to LAO's preliminary estimate, assuming a moderate economic and revenue growth scenario, the state can expect to receive about $24 billion in cumulative additional resources between 1995–96 and 1998–99, compared to the Administration's $28 billion figure. The distribution of these revenues would be $7.6 billion for the tax cut, $8.6 billion for Proposition 98, $2.4 billion for debt service and employee retirement, and $5.4 billion for all other programs. This means that spending growth for all of these other programs could increase at an average annual rate of 3%.

Given other commitments, however, LAO estimates that the spending situation is actually much tighter. For example, the Governor has been committed to full funding of corrections which, if continued, would absorb $3.9 billion in increased revenues over the four-year period. In addition, the Governor has called for specific levels of funding for the University of California and California State University systems, which would absorb about $1.1 billion over the four years. These two commitments alone would consume virtually all the remaining resources available over the period. LAO reports that this would leave basically no room for growth in the remaining 40% of the budget—primarily health, welfare, and general government spending.

In April, LAO released a *California Update* of its budget analysis, including a review of some of the major budget-related changes which occurred after the Governor's proposed budget was released in January. LAO identified spending increases of $0.8 billion and savings of $0.3 billion, leaving a net spending increase of $0.5 billion. The spending increases included the federal government's refusal to pay Medi-Cal administrative claims, a school property tax shortfall, and a federal audit exception on allocation of employee retirement savings. The savings include slower than expected growth in AFDC caseload and prison populations and reduced interest costs. LAO noted that this net spending increase alone would eliminate the proposed $92 million reserve and require several hundred million dollars of additional savings or revenues to avoid a deficit in 1995–96.

However, the April *Update* also found that other adjustments have improved the state's cash outlook, which means that less borrowing will be needed and automatic spending cuts are less likely to be implemented; this net improvement totals $0.4 billion. The *Update* also found that March general fund revenues were $28 million lower than the forecast of $2.6 billion; the main shortfall in the March receipts involved sales and use taxes.

LAO Publishes Profile of State Programs and Finances. In January, LAO released *Cal Guide*, an informative looseleaf publication which describes how California government is organized and financed. The Guide offers simple and concise explanations of state programs, demographics, and economic trends accompanied by numerous charts and graphs.

Accommodating Prison Population Growth (January 1995) projects California's future prison population and discusses available funding for prisons and the state budget implications of accommodating growth in the state's prison population.

In August 1994, the California Department of Corrections (CDC) released its annual five-year facilities master plan for new prison construction; the plan was delayed so that it could incorporate the additional need for new prison beds resulting from the so-called "three strikes" sentencing measure. The plan projects a total of 211,000 inmates by June 1999, revised down from an earlier estimate of 246,000.

LAO predicted that the "three strikes" law will have a far greater impact on the prison population than has any other single piece of legislation. However, given the sweeping scope of this new law, population projections are subject to great uncertainty. For new prison planning purposes, LAO believes that CDC's projections provide at least a reasonable estimate of future inmate population. CDC's inmate population projection represents an increase of 86,000 inmates in the next five years, from 125,000 to 211,000; this equals the same increase that the state prison system incurred over the past ten years.

The state's prisons, however, fall far short of having the space to accommodate this projected growth. The state prison system is already very overcrowded. Even the more moderate task of building sufficient capacity to maintain the current level of overcrowding would be extremely difficult and require unprecedented expenditures ($4.5 billion for 15 new prisons). Given the time it takes to plan and construct a prison, as well as hire and train its staff, LAO noted that it is unlikely that additional prisons, beyond those already authorized, will be completed before 1999.

To compound the problem, LAO reported that no new funding was authorized for new prisons in 1994; also, no general obligation bond measure for prison construction or renovation was placed on the 1994 ballots. Currently, less than $10 million is available from past prison bond measures for appropriation by the legislature. Barring a special election, the earliest that voters could authorize additional general obligation bonds for prisons would be at the March 1996 statewide election. Funding with lease-payment bonds does not require voter approval; however, lease-payment bonds are more costly than general obligation bonds (*see below*).

According to LAO, the recently-enacted federal crime bill should provide funds to California to assist in prison construction; if not altered by the new Republican Congress (*see below*), the bill could provide as much as $1.2 billion in prison construction grants over the next six years. *[15:1 CRLR 29]*

Implementing New Federal Education Legislation (February 1995) is a report by LAO detailing how California can implement several federal education programs enacted within the past year—the federal "Goals 2000: Educate America Act," which encourages states to implement "systemic" reform of the K–12 education system; the "School-to-Work Opportunities Act," which promotes reform in high schools in order to increase student achievement and better prepare students for working; and the "Elementary and Secondary Education: Improving America's Schools Act," which reauthorizes the Elementary and Secondary Education Act that has provided significant funding for services to low-achieving students and a variety of other programs for the past 30 years.

LAO noted that these new acts reflect a strategy that is evident in four common themes. First, the new acts require states to set goals for what all students should learn, thereby raising the standards for compensatory programs and reducing the fragmentation of services provided to students. Second, instead of a process-oriented oversight role, the acts seek to judge local programs by how well students are educated, providing more state and local flexibility over how to achieve improved outcomes. Third, a set of state improvement activities are defined that are common to each act; these activities revolve around technical assistance and staff development activities, plan approval and fund allocation, and setting specific performance standards. Finally, the acts encourage increased coordination among federal education programs to reduce fragmentation at both the state and local levels.

LAO believes that the new federal legislation offers California several important opportunities for improving the state's K–12 system—including a new regulatory structure, new funding, consolidation of the various federal programs into a unified improvement effort, and a structure for consolidating and restructuring the state's K–12 programs.

LAO developed a seven-point approach to help the legislature implement the new federal acts and create a springboard for the state to create its own effective and flexible policy and program structure. Specifically, LAO recommended that the legislature develop clear goals and standards; resolve state assessment issues; require a consolidated state plan for the three federal acts; require consolidated local plans for the federal acts and certain state categorical programs; improve the state Department of Education's organizational ability to implement the federal strategy; use "Goals 2000" funds for improving data collection and evaluation; and take advantage of the federal waiver authority to allow for additional flexibility, reduce the number and complexity of funding sources, and allow the state to administer programs currently operated by the federal government.

Trends in K–12 Education Funding (March 1995) is a *California Update* detailing funding sources for public education. The update discusses K–12 education funding from all sources, as proposed in the 1995–96 Governor's Budget and over the past ten-year period.

According to LAO, proposed 1995–96 funding for K–12 education from all sources, including both Proposition 98 and non-Proposition 98 sources, totals $30.2 billion; in raw numbers, this is a 3.8% increase over what is expected to be available in 1994–95. Of this total funding, 90% is from state and local sources, including 76% provided under Proposition 98; 8.4% of total funding comes from federal aid, and 1.9% comes from California Lottery revenues. However, the *Update* stated that per-average daily attendance funding, after adjusting for inflation, has decreased by 3.3% since 1986–87 and will continue to decrease if the Governor's proposed 1995–96 budget is enacted.

Uses and Costs of Lease-Payment Bonds (May 1995) is an LAO status report detailing the legislature's use of these bonds and the resulting debt service costs of the bonds. LAO explained that, unlike true revenue bonds which are used to finance revenue-producing projects, lease-revenue or lease-payment bonds finance projects that do not generate revenue which can pay off the bonds. Instead, the annual debt service payments on these bonds is made from "lease" payments, which are appropriations—usually from the general fund—to the state agency using the facilities constructed with the bonds. According to LAO, the legislature has authorized $6.4 billion in lease-payment bonds since 1983; the Governor's Budget proposes $3.3 billion in new authorizations for 1995–96. Annual debt service costs on lease-payment bonds have increased by almost $200 million over the last three years. For several reasons, total debt service costs for lease-payment bonds are significantly higher than general obligation bonds; accordingly, LAO recommended that the legislature minimize the use of lease-payment bonds in the future, and establish a multi-year plan to address its highest-priority capital outlay needs using less costly financing alternatives—either direct appropriations or general obligation bonds.

Personal Responsibility Act of 1995: Fiscal Effect on California (April 1995) reviews H.R. 4, federal legislation which would enact the so-called Personal Responsibility Act (PRA) of 1995; if enacted, the PRA would repeal or amend provisions of several major public assistance programs and replace them with block grants. LAO concluded that the PRA would result in an estimated loss of $13 billion in federal funds for California over the first five years of implementation. The fiscal effect on state funds could range from a cost of about $13 billion over five years, if the state chooses to backfill for the loss of federal funds in order to maintain current service levels, to a net state savings of roughly $4 billion over five years if the state does not backfill and conforms its policy to proposed federal restrictions on the eligibility of legal aliens for federally-funded programs. LAO noted that by eliminating Aid to Families with Dependent Children as an entitlement, the PRA would "give the state flexibility to achieve additional major savings." However, LAO observed that "much of these savings...could be offset by costs at both the state and local levels for general assistance and services such as emergency health care."

The Impact of Federal Spending and Tax Proposals on California (May 1995) is a *California Update* report which discusses the impact that federal policies have on the state. According to LAO, the federal government spent about $147 billion in California in 1992–93; about 80% of this spending occurred outside the state budget. Direct payments to individuals accounted for the largest single share of spending (44%); federal procurement spending for defense and other programs, plus pay and benefits for federal employees located in California, accounted for one-third of total federal spending in the state. LAO noted that the following three federal bills, which were recently passed by the U.S. House of Representatives, could have a significant fiscal impact on California if enacted:

• The "Personal Responsibility Act of 1995" (H.R. 4) would reduce federal spending on public assistance programs in California by $13 billion (*see above*); according to LAO, the impact on spending from state funds could range from a net savings of roughly $2 billion (if the state conforms its policies to proposed federal changes) to a net cost of about $13 billion (if the state backfills the reduced federal funds and maintains current program policies).

• The "Taking Back the Streets Act" (H.R. 3) would eliminate funding for various crime prevention programs provided in the federal crime bill signed by President Clinton in September 1994 *[15:1 CRLR 29]*, and use the savings to augment funds for police, jails, and prisons. In California, the magnitude of this funding shift from prevention programs to law enforcement and incarceration programs could be several hundred million dollars over the next five years.

• The "Contract With America Tax Relief Act" (H.R. 1215) would reduce the federal taxes of Californians by a net of nearly $24 billion over the next five years; according to LAO, if the state chooses to conform its tax laws to these proposed federal changes, there also would be significant reductions in state tax liabilities and corresponding revenue reductions to the state.

LEGISLATION

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. Rls]*

AB 1390 (V. Brown). Under the State Government Strategic Planning and Performance Review Act, the Department of Finance (DOF), in consultation with the Controller, the Bureau of State Audits, and LAO, is required to develop a plan for conducting performance reviews of all state agencies, as specified. As introduced February 24, this bill would require DOF, by July 1, 1995, to consult with the Controller, the Bureau, and LAO to prepare a priority listing of the state agencies that are appropriate for performance reviews to be conducted; report to the legislature on the number of performance reviews that may be accomplished in the 1995–96 fiscal year; and, along with the Controller, adopt a working plan to conduct the performance reviews. The bill would require that the performance reviews be completed by June 1, 1996. *[S. GO, Rls]*

SB 974 (Alquist, Johnston, Killea, Leonard, Mello, O'Connell), 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 State Government Strategic Planning and Performance Review Act. *[A. CPGE&ED]*

SCR 26 (Hayden), as introduced March 29, would direct LAO to analyze each tax expenditure program, as specified, to determine if program objectives are being realized, whether each program's benefits exceed its revenue cost, and whether there is a less costly way of providing the same benefits, and to report thereon to the legislature. *[S. Rls]*

ASSEMBLY OFFICE OF RESEARCH

Established in 1966, the Assembly Office of Research (AOR) brings together legislators, scholars, research experts, and interested parties from within and outside the legislature to conduct extensive studies regarding problems facing the state. AOR investigates current state issues and publishes reports which include long-term policy recommendations. Such investigative projects often result in legislative action, usually in the form of bills.

AOR also processes research requests from Assemblymembers. Results of these short-term research projects are confidential unless the requesting legislators authorize their release.

MAJOR PROJECTS

Partisan Split in Assembly Results in Dismantling of AOR. In the November 1994 elections, the Republican party gained control of 39 seats in the Assembly, bringing it even—at this writing—with the Democrats' 39 seats for the first time in decades. As both parties wrestle for a majority of the 80-member house through