HIGHLIGHTS OF THE LEGISLATIVE ACCOMPLISHMENTS OF 1993

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HIGHLIGHTS OF THE LEGISLATIVE ACCOMPLISHMENTS OF 1993

A Summary of Significant Legislation that Reached the Governor's Desk

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INTRODUCTION

The 1993 legislative session was a fruitful one, yielding long-sought reforms on difficult issues that ranged from environmental regulation to workers' compensation. Bent on promoting economic development in a state battered by defense cutbacks, the Legislature focused on making California a more attractive place to do business.

The new state budget posed numerous challenges, given California's fiscal constraints, but it was signed into law before the July 1 start of the 1993-94 budget year — along with 18 accompanying budget bills. That bipartisan agreement portended other successes in fashioning gridlock-smashing accords before the close of the year's session on September 11.

Bills sent to Governor Pete Wilson were aimed at promoting infrastructure to keep economic development on track and streamlining regulations that affect business expansion. Tax credits will encourage the purchase of manufacturing equipment and continued research and development. New loans will assist fledgling small businesses in opening their doors.

Reforms in the state's once-heavily criticized workers' compensation system already are being credited with persuading previously reluctant employers to stay in California. Employer- and labor-supported legislation, signed earlier this year by the governor, will cut costs in the system, increase benefits to injured workers beginning in mid-1994, and save employers a projected $1.5 billion.

Immigration, government reform, and a host of health and welfare issues also captured legislative attention in 1993. A heavily publicized spate of immigration bills was narrowed on the way to Wilson's desk, but still produced a significant list of changes in an arena usually dominated by federal decision-making. Perhaps most notably, new California motorists will be required to prove they are in the country legally before getting their drivers' licenses. Job-seekers who turn to the state Employment Development Department for help will have to show they belong in the United States.

The death of farm labor leader Cesar Chavez prompted legislation to declare a holiday in his honor, to be negotiated among state agencies and schools through collective bargaining. But Wilson vetoed the bill as "imprudent" in view of budget shortfalls.

Wilson did sign legislation aimed at saving young lives by requiring those under 18 years of age to wear helmets when riding their bicycles. And passengers in the backs of pickup trucks will have to wear safety belts.

California's presidential primary election will be moved on a one-time basis from June, at the end of the nation's primary season, to March under a long-sought bill that could affect the outcome of the 1996 presidential nominating process. If the approach proves popular, the Legislature may consider permanently relocating the primary.

Breast-cancer prevention and detection will be enhanced by a bill that imposes an additional 2-cent-per-pack tax on cigarettes. Landmark legislation will allow licensing and regulating non-nurse midwives, who previously were not permitted to practice without the supervision of a physician.

In the education arena, public debate in 1993 focused heavily on the school voucher initiative, Proposition 174, which appeared on the November 2 special-election ballot. If voters had endorsed it over the objections of Wilson and much of the public-education establishment, lawmakers would have been required to draft legislation to implement many of its provisions. It was defeated.

Schools were protected in 1993 from the kinds of sharp cutbacks that have become a hallmark of California budgeting decisions. Per-pupil funding from kindergarten through high school was held at the previous year's level, despite the state's multibillion-dollar shortfall.

Legislators also took steps to mitigate the soaring fees at public colleges and universities. But Wilson vetoed bills to permit students to perform community service to help reduce their loans, and to order academic researchers to study ways to cut costs and avoid higher fees. Fees will be waived for some hardship categories.

Although the budget package cut welfare grants by 2.7 percent in 1993-94, it took a number of steps to encourage welfare recipients to move into jobs. Two-parent families who otherwise remain eligible for Aid to Families with Dependent Children will not be disqualified if they work more than 100 hours per month. Employed persons on aid can keep the first $30 and one-third of the remainder of their incomes without reductions in their grants.

As a cornerstone of the budget package, the Legislature and Wilson agreed to ask voters on November 2 to permanently continue a half-cent sales tax increase. The tax, imposed in 1991 and extended

through 1993, was earmarked for public safety in the budget agreement. Voters approved it.

Other budget legislation is detailed in "An Overview of the Budget Solution for 1993-94," published by the Senate Office of Research in July, 1993, when the bills took effect.

Wilson signed 1,309 measures and vetoed 229 in 1993; this document highlights only some of them. We also provide relevant background and context for the Legislature's actions on key issues. Unless otherwise noted, the legislation described here becomes law on New Year's Day in 1994.

ECONOMIC-DEVELOPMENT MEASURES APPROVED BY THE LEGISLATURE IN 1993

Sustainable Development

California's record-setting population growth — 25 percent in the last decade — poses a tremendous challenge. Net domestic migration to California is falling, but overall growth continues despite the worst economic downturn in more than 50 years. Unless properly managed, these factors could threaten California's long-term prosperity and environmental quality.

In California as elsewhere, hard economic times have fueled a clash between interests promoting economic growth and those committed to protecting the environment. But there is growing awareness that society does not have to choose between good jobs or a clean environment. Instead, policy makers are searching for ways to balance both concerns through sustainable development.

The concept of sustainable development seeks to preserve natural resources and protect environmental quality while meeting critical economic needs for present and future generations.

Sustainable development was the focus of last year's U.N. Conference on the Environment and Development. Programs to implement the sustainable development agreements negotiated at the conference in Rio de Janeiro are under way at the state, national and international levels.

The Legislature endorsed the concept of sustainable development by passing **SJR 18 (Presley),** calling for the state to develop and implement a long-term sustainable development plan, and inviting the United Nations and the federal government to establish research centers on sustainable development in California.

This year, the Legislature made progress in promoting California's sustainable development in three critical areas:

- Ways to provide additional investment in infrastructure and resources,
- Efforts to guide the conversion of the state's economy, and
- Measures to reform environmental regulations.

All three areas are important to ensuring that California's economy is sustainable in the long term.

Economic Development

The Legislature also addressed improvements in the state's business climate as a way to promote the economic health of its residents.

Steps were taken to assist defense industries in converting to a peacetime economy, encourage use of new environmental technologies, promote business expansion through tax incentives, and to foster job growth through business loans, employment training and trade promotion.

A. INFRASTRUCTURE INVESTMENT

When public investment in infrastructure projects declines, productivity suffers. This undercuts the business profits needed to support economic expansion, create jobs and permit California to compete in national and international marketplaces.

In the 1960s, California spent about 20 percent of its state budget on building schools, colleges, highways, parks, water systems and other basic infrastructure. This public investment provided the foundation for a quarter-century of sustained prosperity.

Now only 5 percent of the state budget is invested in infrastructure to support economic development, environmental quality and population growth. The backlog of unfunded public facilities is estimated to exceed $50 billion.

To stimulate community investment, legislation was sent to Governor Wilson to authorize a new Economic Development Financing Authority to provide grants and loans for public infrastructure and private economic-development projects.

This "infrastructure and development bank," vetoed by Wilson, would have provided flexible financing for a range of job-creating investments in communities throughout the state, financed by revenue bonds and other sources of local, state and federal money **(SB 820, Torres).**

To increase funding for schools, the Legislature approved a measure to allow school districts to levy parcel taxes to support school operations. The tax would have to be approved by a majority of the voters **(SB 1, Hart).** This measure also was vetoed. Libraries would have been allowed to establish a special assessment district to pay for library services under another vetoed bill **(SB 566, Roberti).**

To cope with the shortage of affordable housing, legislation will permit the state to increase its participation in programs providing back-up insurance and loan guarantees to low and moderate-income home buyers and investors who build or rehabilitate rental housing **(AB 214, W. Brown).**

In addition, a measure on the November 1993 ballot (Proposition 173) would have permitted the state to sell $185 million in general-obligation bonds to finance a mortgage-insurance program to assist first-time home buyers **(AB 215, W. Brown).** It was defeated.

B. ECONOMIC CONVERSION

California faces two fundamental economic-conversion challenges: coping with federal defense cutbacks and capitalizing on new opportunities for promoting environmentally sound industries and technologies. This year, the Legislature took action on both fronts.

The state and national economies are undergoing a fundamental restructuring. Secure, high-wage, strong-benefit manufacturing jobs with opportunities for advancement are becoming more scarce. Job growth has been concentrated in lower-wage, lower-benefit service jobs.

Defense Conversion

Federal defense cutbacks affecting California already total more than $30 billion, with billions more expected as the federal government continues to wind down from the Cold War. Military bases employing thousands of civilian workers are closing, without firm plans for their conversion and reuse.

Coupled with state and local budget cuts and the continuing recession, these cutbacks have dealt a severe blow to the state's high-tech aerospace and allied industries and to local communities dependent on the ripple effects of military payrolls.

Of the estimated 800,000 jobs lost so far in California during this recession, nearly one-fourth can be attributed directly or indirectly to the defense reductions that have taken place since 1990.

Over the next four years, defense cutbacks will result in the direct loss of 125,000 jobs in California (90,000 aerospace jobs and 35,000 civilian defense jobs). Almost three-fourths of this loss will occur in the private aerospace industry; the balance will come through military base closures. New figures compiled by the state Department of Finance indicate employment will fall a record 17 percent this year in major defense-related industries.

California suffered 60 percent of the total national personnel reductions from the first two rounds of base closures — more than all the other states combined. In the third round, California suffered 88 percent of the total national personnel reductions — seven times more than the rest of the states combined.

While only 14.8 percent of the Defense Department's military and civilian personnel reside in the state, California's share of job losses for all three rounds of base closures stands at 69 percent.

When combined with closures in previous rounds, California stands to lose 200,000 jobs and $7 billion in personal income because of the direct and indirect impacts of the closings.

The Legislature approved a package of bills, backed by the leadership and Governor Wilson, to provide state coordination and financial support in converting industries and communities from military-supported to civilian economies. Governor Wilson signed the six-bill package on September 23.

These measures will:

- Create a Defense Conversion Council charged with developing a strategic plan to coordinate federal, state, and local defense-conversion programs and provide one-stop permit-citing to California firms **(SB 458, Hart; AB 2222, Lee);**

- Provide $4 million in state grants to match federal grants to assist California businesses converting from military to civilian work **(SB 268, Roberti);**

- Promote and define the role of regional technological alliances **(AB 1246, Quackenbush);**

- Establish an appointed state representative in Washington, DC, to help identify and secure defense-conversion funds **(SB 1X, Ayala).**

- Create the New Business Incubator Enterprise Program, which will provide loans to assist start-up companies seeking to use military technology in the private sector **(AB 648, Epple).**

Also signed by the governor was a measure to establish a state Spaceport Office to work with the federal government and private corporations to convert Vandenberg Air Force Base into a commercial and educational space-launch facility **(AB 485, O'Connell).**

At the start of the legislative session, the governor signed **SB 2X (Ayala)** to provide up to $10 million for employment-training programs in the event Norton Air Force Base is selected as the site for a federal defense finance and accounting facility.

Environmental Technologies

California, despite its current economic woes, has great potential as a center of the development and production of cutting-edge technology for the 21st Century.

The state was a leader in agriculture's technological revolution of the 1960s, the microelectronics revolution of the 1970s, and the biotechnology revolution of the 1980s.

In the 1990s and beyond, the worldwide drive for sustainable development could spark a similar California-led revolution in environmental technology.

Transportation:

The field of transportation holds special promise. New transportation technologies can make California more competitive in national and international trade, and also provide environmental benefits such as reduced air pollution and energy consumption. Efforts already are under way to convert defense-related factories into facilities that can produce mass-transit and clean-fuel vehicles.

This year, the Legislature took several steps to capitalize on these emerging opportunities.

A consortium of public and private organizations working on advanced transportation programs would have been established in the state Department of Commerce to share ideas and explore joint projects **(AB 564, Polanco).** The bill was vetoed.

Up to $150 million in additional bond proceeds would have been made available for financial assistance in designing, manufacturing, and producing clean-fuel vehicles under vetoed legislation **(SB 766, Rosenthal)**. Regional and local agencies would have been required to plan for the installation of charging stations to recharge electric vehicles under a third vetoed bill **(SB 531, Hayden).**

Legislation **(SB 1209), Bergeson)** was signed by Wilson to authorize the state Department of Transportation to contract for outside services for state highway projects. The department will not be limited to use of state employees to perform engineering work.

Auto Pollution:

To encourage reduced air pollution from motor vehicles, purchasers of new low-polluting vehicles would have been allowed to pay a fee between $50 and $100 to exempt the cars from their first biennial smog check **(SB 100, Kopp).** Revenues from the fee would have been used to pay up to $500 to buy high-polluting vehicles, removing them from the road. The state would have offered up to $4,800 to assist consumers in buying low-polluting vehicles to replace the smoggy ones. The bill was vetoed.

Water Conservation:

As California's population grows, reliable water supplies are increasingly important. Agriculture uses about 80 percent of the developed water in the state.

New water-conservation technologies can reduce agricultural water use, but it may take many years to pay back equipment costs. To provide an additional financial incentive to install water-conservation systems, the value of water-conservation equipment would be excluded from the "full cash value" of farms for purposes of assessing property taxes **(SB 50 and SCA 4, Thompson)**. This proposed constitutional amendment requires approval from California voters in 1994.

C. REGULATORY REFORM AND ENVIRONMENTAL PROTECTION

Sometimes job creation and environmental protection seem on a collision course in California. The sheer complexity of the state's regulatory systems and the overlapping jurisdictions of many agencies have compounded the time, effort and costs businesses must expend on complying with well-intended environmental requirements. This in turn drives up the cost of running a business, expanding a work site, or developing a new facility.

This year, the state's business community focused the attention of policy makers on the economic burdens created by state regulations. The Legislature approved more than 30 bills to reform the regulatory process with the aim of allowing business to expand more quickly with less red tape. Most were signed by the governor.

Many of those bills were comprehensive measures that addressed multiple issues. Such reform necessitated much negotiation and cooperation among groups representing environmental and business concerns and the Legislature. The agreements reached represent solid regulatory reform that can maintain California's stature as a leader in environmental concerns.

CEQA Reform

At the top of the business agenda was a drive to streamline the environmental and land-use permitting process and revise the 23-year-old California Environmental Quality Act (CEQA), often criticized as an impediment to business expansion and economic activity.

Two bills represent the bulk of the CEQA reform package: **SB 919 (Dills)** and **AB 1888 (Sher/Allen).** They will reduce the need for businesses to provide duplicate information on the environmental impact of their projects, tighten requirements for bringing court suits against projects, shift some of the burden of performing environmental impact studies from businesses to regulatory agencies, and require regulatory agencies to weigh a project's impact on the environment against the impact on high-skilled jobs.

Another major CEQA reform bill was **SB1031 (Thompson, Dills and Torres),** which would have clarified the CEQA definition of "project," mitigated negative declaration procedures, exempted from CEQA certain types of low-income housing projects, proposed several changes in litigation procedures, and required that an EIR not discuss in detail non-significant potential impacts on the environment. SB 1031 was vetoed by the governor.

SB 722 (Kopp) established an "expanded notice of preparation" process for environmental impact reports (EIRs). The bill declares legislative intent that the courts not interpret CEQA beyond statutory requirements of the act, and provides that when an EIR is certified by a local agency's non-elected body, the decision may be appealed to the elected body of that agency, if any.

Reducing Regulatory Overlap

Regulatory agencies sometimes have overlapping authority. At the state level, such overlap occurs either among various state agencies or between state agencies and federal or local agencies. This overlap often leads to duplicate or conflicting requirements.

Criticisms of current regulatory procedures include:

- Businesses must sometimes provide agencies with similar information, using separate reporting documents.
- Regulatory agencies can take too much time processing permits, costing businesses time and money.
- Regulations are sometimes not based on sound scientific information.
- Many regulatory agencies are funded through their own fee structure. Some have been increasing fees substantially.
- There is often no clear indication that fee charges by the agencies lead to significant improvements in the regulated areas.
- Businesses face much uncertainty regarding the approval of permits and court challenges.

Three bills, **SB 1082 (Calderon), SB 1185 (Bergeson)** and **AB 2107 (Sher)** provide the most comprehensive reform of regulatory procedures. SB 1082 and SB 1185 were signed by the governor while AB 2107 was vetoed. The reforms approved by the governor will:

- Eliminate some regulatory overlap and duplication;
- Require adoption of quality government programs, fee accountability programs and performance objectives;
- Incorporate multiple environmental permits for a facility into a single document;
- Require Air Resources Board reports to be based on sound scientific knowledge and methods.

SB 1059 (Mello), calls upon the governor to study land-use practices of local governments, including the issue of whether the fees they are charging businesses are linked to increased costs to the local community, as established by the courts.

The Bottom Line

Criticisms of CEQA and the permitting process fell into four general categories: uncertainties, delays, high costs and opportunities for procedural abuses by opponents of development.

Proponents of CEQA and other regulations countered that the laws are essential to provide full public notice and disclosure of the effects of projects, and help ensure environmental harms are avoided or corrected. Taken together, the measures enacted by the Legislature change CEQA and the permit process in several ways.

In addition, **AB 2288 (Quackenbush)** conforms state law to the federal Clean Air Act of 1990, necessary for the state to avoid federal sanctions.

Reducing uncertainty

Under the new legislation, master environmental impact reports (EIRs) may be prepared for a plan, regulation, or large project. Developers of individual projects falling under the master EIR would know in advance what environmental impacts to expect and what mitigation programs will be required. Subsequent modifications in the project will then require a "focused" EIR if they occur outside the scope of the master EIR.

To assure better consistency in legal rulings, superior court judges in counties with 200,000 or more residents must be designated to develop expertise in CEQA and related laws.

Regulatory agencies can no longer require permit applicants to waive deadlines as a prerequisite to permit approval.

Delay

State agencies will be required to minimize duplication and conflict between federal and state rules. A permit applicant may request the California Environmental Protection Agency to delegate one "consolidated," or lead, agency which the applicant may deal with whenever permits from more than one environmental agency are required.

The proposed expansion of the NUMMI auto assembly plant in the Bay Area is exempted from CEQA, based on prior analyses and permits issued by the air quality district.

The timetable for approving or denying a development project has been reduced from one year to six months for projects which require an EIR and from six months to three months for projects that do not.

Agencies will be authorized to include legal and technological considerations in addition to economic and social considerations when determining whether mitigation measures or project alternatives are feasible.

When a project has been found to violate CEQA, courts may halt only those elements of the project that are not in compliance with the provisions of the law.

Cost

Previous reports may be used in determining the cumulative impact of a project. To reduce paperwork, a consolidated reporting form will be established for reporting hazardous materials. In addition, the Legislature called on the governor to examine whether laws governing local development fees are being followed.

Fees and variances collected by the South Coast Air Quality Management District (both individual and aggregate) are limited to increases in the state Consumer Price Index.

The South Coast Air Quality Management District will be limited from increasing permit or variance fees beyond inflation levels. Other air quality and pollution districts will be limited to annual permit fee increases of 15 percent for large districts and 30 percent for smaller ones.

Abuse

The standard of evidence will be increased for those arguing that a project requires an EIR because of potential harm to the environment. The reasons for a challenge must be presented to a permitting agency prior to its final decision, and a right to sue is limited to those who raised objections during the public review process.

Courts will be limited from imposing procedural or substantive requirements not explicitly stated in CEQA or the state guidelines.

Public notice, disclosure and assistance

The state will be required to review and update the CEQA guidelines every two years.

When an EIR is certified by a local agency's non-elected body, the decision may be appealed to the elected body of that agency, if any.

The Department of Permit Assistance will be created within the Trade and Commerce Agency, adding clout and resources to the function of permit assistance.

State agencies will be required to draft regulations that affect small business using plain, eighth-grade-level English, unless the subject matter is too technical in nature.

Reducing environmental harm

The state must develop a model land-evaluation system to identify and protect farmland from the impacts of development and include the system in the CEQA guidelines.

D. BUSINESS CLIMATE

Improving California's business climate was a major theme of the 1993 legislative session, which focused on enhancing California's competitiveness and encouraging businesses to invest in California.

Based on many conversations with business leaders and others concerned with the business climate and overall health of the California economy, the Legislature agreed that an aggressive tax-incentive policy was necessary.

An economic-stimulus package of tax incentives was adopted to encourage business expansion, retention and job growth. This comprehensive approach was embodied in two bills: **SB 671 (Alquist)** and **AB 66 (Alpert).** The governor signed SB 671 and vetoed AB 66.

Provisions of SB 671 include:

- **Unitary Method of Income Apportionment.** This allows multinational corporations to use the "water's edge" accounting method to determine their California tax liability. This provision is explained further in the trade section of this document, page 23.

- **Investment Tax Credit for Manufacturing Equipment.** This establishes a tax credit equal to 6 percent of the cost of qualified manufacturing equipment placed in service after January 1, 1993. This is limited to assets that can be depreciated.

  In lieu of this credit, a start-up firm has the option of a 6 percent sales tax exemption on manufacturing equipment during its first three years of operation. This provides the manufacturing sector with several incentives to invest in California. It is also designed to halt the exodus of manufacturing plants and jobs to other states. The credit would sunset January 1, 2001, if manufacturing employment — other than aerospace employment — does not increase by 100,000 jobs between January 1, 1994, and January 1, 2001.

- **Small Business Capital Gains Tax Cut.** This provides a tax exemption for 50 percent of the capital gain realized from the sale of qualified small-business stock held for five or more years. This approach is designed to encourage investment in small, emerging companies that are on the cutting edge of technology.

- **Business Meals.** This reduces from 80 percent to 50 percent the percentage of business meals and entertainment that may be deducted as a business expense. This measure raises revenue for the state and reduces the tax subsidy for business meals. It is also designed to offset the revenue loss from the other tax provisions in the package.

- **Subchapter S.** This reduces from 2.5 percent to 1.5 percent the tax rate applied to Subchapter S corporations (small business corporations with 35 or fewer shareholders). This reduces the tax burden on Subchapter S corporations and encourages investment and economic expansion.

- **Space Flight Material.** Space flight material used in a launch at Vandenberg Air Force Base would be exempt from state and local sales tax charges. This encourages the continued use of Vandenberg Air Force Base for commercial flight use and other related economic activities.

- **Research and Development Tax Credit.** This makes the credit for qualified research and development permanent by deleting the January 1, 1998, sunset date. This is aimed at encouraging new and improved products and methods of production to contribute to the state's long-term economic growth.

Provisions of AB 66 include:

- **Research and Development Tax Credit.** This would have extended the current tax credit for qualified research and development expenses incurred by business.

- **Dependent Care Credit.** This would have extended for five years a tax credit equal to a portion of work-related expenses for child and dependent care. The credit is denied to taxpayers with adjusted gross incomes over $100,000. This helps to reduce the work-related expenses of child care and care of other dependents.

- **Credit for Young Infant.** This would have extended through the 1997 tax year a special credit for a parent who remains at home during the first 12 months of his or her child's life. The credit is based the number of months the parent remains at home with the child and on household income. The maximum credit would have been $1,000 and joint filers with incomes over $45,440 would be ineligible. This provision was intended to help a parent remain home with his or her child during the child's early months.

- **Subchapter S Corporation.** This would have reduced the regular tax rate on Subchapter S corporations (small business corporations with 35 or fewer share holders) from 2.5 percent to 1.5 percent, and imposed a supplemental "surtax" on the income of S corporations equal to 1 percent of net income. In combination, the two tax rates would equal 2.5 percent (i.e., the current tax rate). In this way, the provision of SB 671 that reduced the tax rate to 1.5 percent would be reversed.

The Legislature also passed, and the governor signed, **(SB 883 (Leslie)** to prevent regional air quality districts from requiring that employers of fewer than 100 workers develop and maintain trip-reduction programs for their employees.

E. BUSINESS LOANS AND CAPITAL FORMATION

The California Legislature this year strengthened the state's response to difficulties businesses often have in obtaining the necessary funds for start-up, survival and expansion.

Many California policy makers and others believe that even in the best of economic times there are structural barriers to the efficient flow of financial capital to businesses. Small firms, in particular, may suffer from a lack of capital for potentially profitable endeavors because:

- Financial institutions may find it difficult to justify making small loans to small businesses since the interest earnings of the lender will be small.

- Financial institutions may be unwilling to incur the expense of performing an investigation or review of a small loan application, or they may not have the expertise to evaluate certain kinds of projects. This is most likely to be the case with businesses attempting to commercialize new technologies.

- Many rural areas are served by local branches of urban-based financial institutions, which may lend according to formulas instead of basing decisions on local conditions or the character of the individual.

- The ease of moving funds around the world to promising investment areas may induce lenders to transfer funds from areas in economic decline, thereby worsening that decline.

- Secondary markets, which have supported and expanded lending in certain sectors of the economy, notably housing, are lacking in other sectors. This underdevelopment of capital markets slows economic development.

Over the last three years the recession in California has greatly heightened concern about entrepreneurs' ability to get loans and build capital to get started and expand business.

Many business people have complained about a "credit crunch" — the unwillingness or inability of financial institutions to provide necessary loan funds. There has been some debate about the reasons this credit has dried up. Some analysts maintain the problem is simply a shortage of viable investment opportunities as the recession continues. Others blame new federal regulations and reserve requirements or other problems.

The California Legislature, encouraged by business groups, has looked at a combination of these causes. This view led the Legislature in 1993 to bolster existing small-business loans, loan-guarantees, and related programs with new efforts to increase access to capital and stimulate capital formation.

Potential Impact of Legislative Action

- **SB 820 (Torres)** vetoed by the governor, was designed to assist local economic development organizations, community development corporations, and private economic development projects. An Economic Development Financing Authority established by the bill would have been empowered to issue revenue bonds, facilitate credit enhancement, provide loan insurance, make loans and issue grants in certain circumstances, and generally use the state's access to capital markets more effectively for economic development.

- **SB 852 (Maddy),** signed by the governor, will stimulate the activities of the state's Regional Small Business Development Corporations (known as RDCs), which provide loan guarantees. Current law authorizes the RDCs to use a four-to-one leverage ratio, that is, they may guarantee four dollars of loans for each dollar in their funds.

  The RDCs have never reached this loan ratio. SB 852 will require them to expand their loan guarantee program up to the four-to-one ratio and subject RDCs to suspension if they fail to achieve this ratio. In addition, SB 852 will allow direct loans to farmers if 90 percent of the loan is guaranteed by the Farmers Home Administration. This legislation should make more business loans available in areas of need.

- **AB 1259 (Katz)** is one of the few new laws in this area that will create a new program or expand an existing one and that will also provide a direct appropriation for the specified activities. This bill will direct to the Small Business Expansion Fund (SBEF) a portion of the state's share of the increased federal motor vehicle fuel tax. This could provide the SBEF, which funds the RDCs from an account of $31 million, with up to another $7.5 million.

  AB 1259 also requires the RDCs to reach the four-to-one leverage ratio. It will target at least 15 percent of RDC loan portfolios for loans of less than $100,000 in federally declared disaster areas and the region affected by the 1992 civil unrest in Los Angeles.

- **SB 712 (Watson),** which was vetoed, also responded to last year's civil disturbance. It would have created a demonstration project designed to assist small business in South Central Los Angeles.

The project would have been called the Business Application Center and, supported by available local funding, would have helped small businesses obtain permits, financing, and other support services.

- **SB 1061 (Mello)** will authorize regional development corporations to make direct loans to small businesses in amounts not exceeding $50,000. The total of these "micro-loans" could not exceed 25 percent of the amount in each RDC trust fund. This legislation is a public policy response to complaints of the smallest small-business borrowers about the difficulty of obtaining funds through conventional private-sector channels. Supporters of this legislation note that sometimes the most successful corporations began in someone's garage.

- **AB 1496 (Peace)** will facilitate lending to businesses to upgrade pollution controls and comply with environmental regulations. It will create a Capital Access Loan Program (CALP) modeled on those existing in other states. The CALP is designed to increase lending by financial institutions by setting up a loan-loss fund that can be used to cover any losses resulting from loans to slightly higher-risk borrowers.

  Under this arrangement, borrowers contribute a small percentage of their loans to the loan-loss fund of participating financial institutions. That contribution is matched by both the lender and a state agency, in this case the Pollution Control Financing Authority.

- Another successful bill, **AB 648 (Epple),** will emphasize the role that business incubators play in business and economic development. Business incubators are sites where new businesses share facilities and common costs such as those for typing, document reproduction, business planning, technical and financial assistance. Businesses that start up in incubators have a higher rate of survival than average. This bill will specify several types of loans for businesses in incubators, but funding is contingent on future appropriations.

- **ACR 46 (Vasconcellos)** encourages the governor to consider proposals in a package called California Frontier Opportunities, generated by the Assembly Democratic Economic Prosperity Team. One of these proposals asks the governor to create a program providing state loan guarantees to leading high-technology companies in return for partial ownership interest, with returns of the endeavors designated as further funding support for the program.

F. HUMAN CAPITAL/WORK FORCE PREPARATION

There is concern that California is not adequately preparing young people to lead productive lives in the competitive workplaces of the future. In addition to increasing unemployment-insurance benefits and renewing its nationally recognized retraining program, the Legislature moved, with the Clinton administration and several other states, toward the new concept of comprehensive, integrated work force preparation.

Specific Legislation

- **SB 150 (Roberti)** would have increased the maximum weekly unemployment insurance benefit from $230 to $245 to assist the large number of unemployed persons in California. The bill was vetoed.

- The Employment Training Panel (ETP) program, funded by a 0.1 percent payroll tax, will be saved from existing "sunset" language by **SB 96 (Johnston).** The bill extends the sunset, or expiration, date of ETP to January 1, 1997. It also increases the emphasis of the program on training persons eligible for unemployment insurance, both unemployed and threatened workers, for high-skill, high-wage jobs valued by out-of-state competitors. This approach, and a provision to promote training new employees of firms expanding or locating in the state, would integrate the program more closely into the state's economic-development strategy.

- **SR 20 (Johnston)** advises federal officials that the California Legislature recognizes the state needs to develop a new approach to education that is responsive to the new economy. This approach emphasizes alliances among business, labor, government, education, and the community to build better links among schooling, training, and the workplace, emphasizing the need for a school-to-work transition mechanism.

G. INTERNATIONAL TRADE

International trade has been one of the few bright spots in California's economic picture during the recession. Indeed, international trade is viewed as vital to the continued overall growth of the state's economy. Yet downturns in Europe and Japan are hurting exports.

California is the nation's leading trading state. In 1992 exports of manufactured goods and agricultural products reached $68.9 billion, a jump of almost 10 percent from the previous year. One in 10 jobs in California is tied to trade.

California's exports play a key role in the national economy. Nearly one-fifth of all U.S. exports are of California origin. Even more significantly, the state is the leading exporter in certain strategic U.S. industries such as precision instruments and high-tech electronics.

The Legislature created a number of the state's most successful trade programs, including the California State World Trade Commission and the Export Finance Office, in response to the trade deficits of the 1980s and the Reagan administration's cuts in export-promotion efforts at the federal level.

In 1992 the Legislature passed **SB 1909 (Vuich, Chapter 1364)** to create the Cabinet-level Trade and Commerce Agency. This agency went into operation in January 1993. Governor Wilson appointed Julie Meier Wright, former director of the Department of Commerce, to head the new agency.

The Trade and Commerce Agency has been developing a plan to coordinate domestic and international business promotion activities, and to incorporate into the agency the state's five foreign offices. Those offices previously were administered from the Governor's Office.

The most important international-trade measure passed during the 1993 session was **SB 671 (Alquist),** which includes an investment tax credit on purchases of manufacturing equipment. From the standpoint of trade, the bill's most significant feature was revision of the state's unitary tax system — a levy against multinational companies based on their worldwide earnings.

The bill is intended to accomplish two objectives. First, it neutralizes a threat by the British government to retaliate against states that require multinationals to use the worldwide unitary method.

Second, the bill paved the way for the Clinton administration to advise the U.S. Supreme Court that it didn't recommend taking up a case that could cost California billions of dollars in liability. In that case, Barclays Bank contends California's worldwide unitary method is unconstitutional. President Clinton, as a candidate, had advised California he would side with the state in the Barclays case, but the threat of British retaliation had complicated the situation for his administration.

The legislation, which Governor Wilson signed, appeared to address the concerns raised by Britain. Multinationals already operating in California will find it possible to lower their tax obligations and have less paperwork. It also could make it more attractive for foreign companies who are considering investing in the state.

California Preferences

Deepening statewide unemployment, a prolonged recession and relentless state budget deficits have put new stresses on California's economic relations with other nations and states.

The Los Angeles Transportation Commission last year reversed a decision to award a multimillion-dollar contract for light-rail trains to the Sumitomo Corporation. The situation had sparked explosive reactions, fueled by Southern California's continuing job losses in the defense industry.

Legislation, vetoed by Governor Wilson, cleared both houses in 1993 to require state agencies to give preferences to California bidders and employees on public works projects and major purchases **(SB 258, Marks; AB 1497, Peace).** Also vetoed was legislation requiring state and local government agencies to purchase only foods and other agricultural commodities grown and processed in California **(SB 474, Mello).** In the past, California laws with "Buy American" provisions were ruled unconstitutional intrusions on the power of the federal government to set policy on international trade.

EDUCATION

K-12 Schools The Legislature sought in 1993 to maintain adequate funding for schools in light of ongoing budget shortages and to continue the momentum of educational reform in California.

In the 1993-94 budget for kindergarten through high schools, the Legislature was successful in maintaining the per-pupil funding level under Proposition 98 at the same level as the previous year.

Budget provisions for K-12 education were contained in **SB 80, (Alquist)** the 1993-94 budget act, **SB 1135,** and **SB 399 (Hart)** the budget-related education bill. These measures contain many hard-won budget provisions for schools — measures that allowed schools to fare better than almost any other area of government spending.

These bills also shifted $2.6 billion to local school districts from the local property-tax base of cities, counties and special districts, while an equivalent amount of General Fund support was reduced from the education budget to help close the gap between falling state revenues and rising state expenditures.

On the school-reform agenda, the Legislature for the first time passed two major bills to allow parents greater choice in selecting public schools their children will attend. As enacted, **AB 19 (Quackenbush)** and **AB 1114 (Alpert)** will significantly increase the attendance options both within a district and among districts. These measures are seen as an important way to strengthen the role of parents in their children's education.

Legislation which addresses school funding reforms was a priority in 1993 and debate will likely continue in 1994. Currently, this debate in the Legislature involves the extent to which schools should be financed by state and/or local revenues. One important measure, **SB 1 (Hart),** would have required a simple majority vote rather than a two-thirds vote to approve local parcel taxes dedicated to public schools. The bill was vetoed.

SB 1234 (Bergeson), while scaled back to a joint legislative review, is an important bill intended to realign and restructure state and local government financing, most notably school finance, in our state. It will be considered in 1994. **AB 1290 (Isenberg),** as passed by the Legislature this year, changes the process for distributing redevelopment funds among government agencies, including school districts.

The Legislature laid the groundwork for financing additional education facilities to help keep up with burgeoning enrollments. **SB 190 (L. Greene)** would place $1 billion in bonds for K-12 public schools on the ballot in November 1994. **SB 46 (Hart)** would place $900 million in bonds for public higher education on the same ballot. Both these measures await further action in 1994.

The Legislature passed two bills this year that recognize the importance of public libraries in educating the citizens of California. **SB 566 (Roberti),** vetoed by the governor, would have provided new financing options for local public libraries, which were heavily affected by the shift of property tax revenues from local government to school districts. As enacted, **AB 323 (Eastin)** grants state funds to school districts to purchase library materials.

Several bills passed by the Legislature and signed by the governor were aimed at curbing school violence and hate crimes in our public schools. **SB 1130 (Roberti)** will increase the criminal penalties for assaults against school employees. **SB 1198 (Hart)** and **AB 342 (Boland)** will strengthen the process for suspending or expelling students who are carrying guns, knives or explosives on school campuses. **AB 1714 (Umberg)** allows schools to require students to perform community service as alternative disciplinary action.

The issue of educating California's one million English Learners (also called Limited English Proficient [LEP] students) was the subject of considerable discussion in 1993. **SB 33 (Mello)** is a comprehensive measure to reinstate the requirements for primary language and other appropriate instruction to ensure academic achievement for English Learners. Legislative action on this bill will continue in 1994.

The Legislature also intervened in the historical conflict surrounding the authority of the state Board of Education and superintendent of public instruction. **SB 856 (Dills),** which was vetoed, sought to clarify the respective authorities of the state board and the superintendent of public instruction over state education policy and governance.

While legislation was not successful to facilitate the reorganization of the Los Angeles Unified School District (LAUSD) in 1993, legislation to enable the parents and communities of Los Angeles to vote on breaking up LAUSD will continue as a special focus in 1994. Two measures -- **SB 290 (Roberti)** and **AB 1232 (Boland)** -- both offer methods to make it easier for parents and communities in Los Angeles to place plans on the ballot to reduce the size of the district.

The Senate and Assembly Education Committees on September 14 held a special hearing on the school voucher initiative, Proposition 174, which was defeated on the November 2, 1993, state ballot. This hearing was televised through cable to permit greater input from parents and others about this critical constitutional amendment.

Higher Education

Legislative activity involving California's public higher education institutions focused primarily on mitigating the effects of the large increases in student fees over the last few years.

The Legislature developed a new response to fee increases for California's higher education students. **SB 1223 (Petris)** , which was vetoed, would have permitted higher-education students to perform community service while receiving living expenses and loan-reduction credits.

Two bills signed into law — **SB 460 (Thompson)** and **AB 39 (Archie-Hudson)** — provide specific fee waivers for certain classes of students. Another bill, **SB 1072 (Killea),** would have required public universities and the California Postsecondary Education Commission to study and report to the Legislature on cost-cutting alternatives to raising student fees. This bill was vetoed. Also vetoed was AB 2227 (W. Brown) to revise the distribution of financial aid.

A more detailed summary of major education bills heard in the Legislature in 1993 is available from the Senate Office of Research.

GOVERNMENT REFORM

Legislation was sent to the governor to revise government procedures to better serve Californians. Measures ranged from moving the presidential primary from June to March, to give Californians a greater say in picking presidential nominees, to opening up legislative documents to California's computer users.

This was a year of "reinventing government" for the state Senate, which heard from hundreds of Californians who telephoned with ideas for saving money and improving efficiency. The Senate Advisory Commission on Cost Control culled more than a hundred suggestions from the Senate's cost-cutting hot line to pass on to legislative budget-writers.

Specific Measures

- Governor Wilson vetoed **SB 82 (Thompson),** which would have reduced salaries for some state board and commission members.

- A state Constitution Revision Commission will be created by legislation, **SB 16 (Killea)**, similar to a bill vetoed last year by the governor. The commission will examine the process of enacting the state budget, the overall structure of state government and look at how state and local government responsibilities are delegated.

- Abuses of public money by local transportation agencies sparked a bill, **SB 40 (Kopp),** which would have prohibited the state from channeling funds to any transportation agencies that fail to enforce policies prohibiting the use of public funds for gifts, entertainment, membership in clubs, loans to employees and first-class air travel. The bill was vetoed.

- A trio of bills, **SB 36 (Kopp), SB 1140 (Calderon)** and **AB 1426 (Burton)** broaden the state's open meeting law, the Ralph M. Brown Act. The bills, triggered by the growing practice of out-of-town "retreats" by elected local officials, prohibit meetings outside the territory of the governmental agency unless necessary to inspect property or meet with other officials. They will prohibit meetings in places that are inaccessible to disabled persons or in places that require members of the public to pay, such as restaurants.

  They also prohibit local governing bodies from restricting broadcasts of their proceedings, require agendas to include descrip-

tions of all items, including those in closed sessions, and prohibit actions by secret ballot.

- **SB 504 (Hayden)** will require the University of California Board of Regents to hold open-door meetings when considering compensation, benefits and retirement packages for high-ranking university officials. The measure was prompted by the regents' closed-door decision last year to award outgoing President David Gardner a million-dollar retirement package.

- Californians who plug into Internet, a public computer bulletin board that provides access to federal government data, will be privy to the Legislature's electronic file of bills, committee analyses and vote tallies under **AB 1624 (Bowen).**

- **AB 2196 (Costa)** will move up California's presidential primary from the first Tuesday in June to the last Tuesday in March during the 1996 presidential-election year. California is among five states that hold the last primaries in the nation. Assemblyman Jim Costa's measure, similar to bills that have failed in the past, moves the primary one week before the pivotal New York primary. The last time California played a deciding role in the primary process was the Barry Goldwater race in 1964 and the George McGovern campaign in 1972.

- California's financially strapped counties received good news with the governor's signature on **AB 37 (Johnson)** to require the state to bear the costs of special elections to fill vacant legislative or congressional seats. Legislative term limits, imposed by California voters through Proposition 140 in 1990, have triggered a spate of resignations and special elections in the Legislature.

- Wilson signed legislation, **SB 37 (Maddy),** to restore the office of state auditor general after voters rejected putting it into the state Constitution. The office, which was threatened with extinction by budget cuts required under Proposition 140, is a state fiscal watchdog that monitors performance and efficiency in California government.

- **AB 70 (Katz),** signed by the governor, allows the Department of Motor Vehicles to rearrange its business hours so that local offices can be open on Saturdays, effective immediately. Six offices now operate on Saturdays: Arleta, Bell Gardens, Daly City, Fremont, San Diego/Claremont and Santa Ana.

- **SB 230 (Marks),** signed by the governor, will prohibit state executive employees from lobbying the administration on legislative matters for a year after resigning office. The bill closed a loophole in laws that had prohibited former administration officials from lobbying on administrative actions, but not legislative actions.

HEALTH CARE

Health Care Reform

A significant share of recent legislative business has been devoted to health care, an issue clearly on the front burner in Washington, D.C.

This section summarizes legislative accomplishments in a variety of health care-related areas, including health care reform, health insurance practices, managed care, physician referrals, AIDS prevention, physician discipline, communicable disease control, perinatal care, hospital security, and tobacco use.

On September 22 President Clinton outlined his proposals for federal health care reform to Congress and the American people. Congress is expected to take some action on health care reform in 1994.

Federal health care reform, regardless of what form it takes, is likely to call for new partnerships between the federal government and states in the areas of design of the delivery system, health care cost containment, and ensuring quality of health care services. In addition, it is likely to profoundly change existing partnerships in such areas as Medicaid, public health, and insurance regulation.

In 1993 the Legislature moved **SB 38 (Torres)** and **AB 16 (Margolin)** as companion state legislation for the federal reforms, when they are enacted, and passed **SJR 3 (Petris)** expressing the Legislature's goals for health care reform.

Health Insurance Practices

At the same time the Legislature considered major health care reform proposals, it took action on several incremental reforms. The Legislature passed **AB 1768 (Margolin)** and **AB 2059 (Margolin)** extending the small-group underwriting reforms contained in **AB 1672 (Margolin)** of 1992. The bills extend the pre-existing condition waiting-period protections contained in AB 1672 to individuals and groups of two persons and protect small members of associations who lose association coverage.

In addition, the Legislature passed **SB 590 (Torres)** and **AB 1100 (W. Brown)** to increase health insurance protections for persons with HIV or other chronic medical conditions. Finally, the Legislature passed legislation expanding the pilot project authorized by **AB 3757 (Bronzan)** of 1992 to test the feasibility of integrating occupational and non-occupational health coverages.

Medi-Cal Managed Care

Legislation accompanying the 1992 Budget Act (**SB 485, Thompson)** gave the Department of Health Services broad authority to expand managed care in California, with the goals of improving beneficiary access to care and making the program more cost-effective. Currently, approximately 600,000 of more than 5 million Medi-Cal beneficiaries are enrolled in managed care arrangements.

The principal managed care arrangements being used by the state include:

- Pre-paid health plans (health maintenance organizations or the equivalent);
- County organized health systems (COHS), where the county acts as the insuring entity (Santa Barbara and San Mateo counties operate such systems; Solano, Santa Cruz, and Orange counties are in the stages of implementing also);
- Geographic managed care, where DHS contracts with numerous managed care entities to cover all beneficiaries in an area; and
- Primary care case management (PCCM), in which a contracting physician group provides primary and specialty physician services for a capitated rate and shares cumulative savings with the state.

In March of this year, the Department of Health Services proposed to dramatically expand managed care under Medi-Cal. Under DHS' proposal, 13 counties would be targeted for managed care expansion. The department's plan calls for the department to contract with only two managed care plans in each of the designated regions, one a locally developed, comprehensive managed care system, referred to as the "local initiative" and the other a non-governmentally operated HMO, referred to as the mainstream option."

Legislation **(SB 456, Presley)** provides $13 million for the 13 developmental counties for local initiatives under Medi-Cal managed care.

Designated counties had until July 1, 1993, to advise DHS of their interest in developing a local initiative, and two years thereafter to develop the initiative. Other parties are allowed to submit proposals for local initiatives in the event the county fails to express interest.

Issues Raised By Proposal

Despite the intent of the plan to improve beneficiary access to care and control long-term costs, beneficiary and provider groups have expressed concerns about several aspects of the plan:

Impacts on safety-net hospitals

County health officials have expressed concern that the plan lacks sufficient safeguards to protect safety-net hospitals (particularly "disproportionate share" hospitals—those providing significant services to Medi-Cal and indigent patients) from the loss of patients and revenues. In particular they have objected to provisions of the plan allowing PCCMs and HMOs to enroll beneficiaries during the interim period before the local plan is developed. The plan attempts to address this by establishing maximum enrollment levels for the mainstream plan to ensure the local initiative has sufficient enrollees to protect traditional and safety-net providers from loss of patients and revenue, specifically disproportionate share payment revenues.

Enrollment "creaming"

Beneficiary and provider groups have expressed concern that the mainstream plan in each designated area will have incentives to target the youngest and healthiest beneficiaries, leaving the local initiative plan with the older, higher cost patients.

In 1993 the Legislature considered **SB 151 (Watson)** and **AB 45 (Margolin)** to subject expansion of managed care to greater local control and to set less ambitious enrollment goals for the expansion. **SB 151** disallows expansion of managed care in any county after July 1, 1993, unless it is pursuant to a local strategic plan that has been jointly developed by the county, traditional provider groups and beneficiaries. The number of expansion areas in 1993-94 and 1994-95 would be limited to five. AB 45 was vetoed by the governor and SB 151 will be heard further in 1994.

In addition, the Legislature passed legislation requiring Medi-Cal managed care contracts to include specific services related to screening, diagnosis, and treatment of health conditions for children. This bill, **AB 1604 (B. Friedman),** was vetoed.

Breast Cancer Prevention and Research

Breast cancer has emerged as a leading cause of death among women. In 1989, over 4,000 women in the state died of breast cancer and another 16,000 were diagnosed with it. Over 30 percent of the cases are diagnosed at a late stage, suggesting barriers to early diagnosis. Overall, the American Cancer Society estimates that one of every nine American women will contract breast cancer.

Legislation mandating coverage of mammography by health insurers was enacted in 1987. In addition, legislation requiring physicians to present patients with a summary of information on breast

cancer treatment alternatives has been in effect since 1980. State law also requires health coverage to include prosthetic devices, implants, or reconstructive surgery following mastectomy.

Breast cancer prevention and detection efforts were significantly enhanced by enactment of **AB 478 (B. Friedman),** imposing an additional excise tax on cigarettes of 2 cents per pack and designating the funds for breast cancer research, preventive services, and awareness and educational campaigns. In addition, the Legislature passed and Governor Wilson signed **SB 112 (Roberti),** ensuring that patients receive timely and up-to-date information about breast cancer treatment options.

Access to Perinatal Care

A number of studies have documented the problems of lower-income women in obtaining access to timely perinatal care. These problems include lack of health insurance coverage for perinatal services, lack of awareness of the importance of perinatal care, and a declining number of providers willing to serve Medi-Cal eligible and uninsured pregnant women.

In response to the problem of declining numbers of willing providers, a number of studies have recommended expanding the use of non-nurse or lay midwives. While the state has a certification program for non-nurse midwives it had not established a formal licensing program or allowed midwives to practice without the supervision of a physician.

The Legislature in 1993 passed landmark legislation providing for the direct licensure and regulation of non-nurse midwives under the California Medical Board, establishing education and training standards, and allowing non-nurse midwives to be supervised without the physical presence of a physician. The bill, **SB 350 (Killea)**, was signed.

Disabled Infants and Toddlers

The Legislature will make use of federal funds to improve coordination of services, and strengthen home environments, for infants and children under 3 years of age who are developmentally disabled. **SB 1085 (Bergeson)** creates an interagency, family-focused system for individualized care of these children.

Physician Referrals

A number of studies have documented that physicians who have an ownership interest in free-standing ancillary health facilities, such as laboratories, pharmacies, clinics, and diagnostic imaging facilities, tend to over-refer their patients to such facilities, resulting in over-utilization of the services and unnecessary health care costs. A study conducted by William Mercer, Inc., in 1992, for example, estimated that 10 percent of workers' compensation medical costs,

or approximately $356 million annually, could be saved by prohibiting referral of injured workers to facilities in which the referring physician has a financial interest.

The Legislature took action to address these problems by passing **AB 891 (Speier)** and **AB 919 (Speier)** to increase disclosure of and monitoring of physician ownership interests in health facilities that they refer patients to. Wilson signed the bills.

AIDS and HIV

Clean Needle Exchange

A number of studies have documented that needle exchange programs reduce HIV transmission and prevent the spread of AIDS among injection drug users by cutting down on the sharing of needles.

Needle exchange programs are operating in Hawaii, Seattle, Tacoma, Portland, and New Haven. A recent study of the New Haven needle exchange program found it reduced HIV infection among clients by 33 percent. Other studies have concluded that drug use does not increase significantly as a result of needle exchange programs.

Injection drug users are the second-largest group at risk of HIV infection (after gay/bisexual men) and one of the fastest-growing groups of AIDS cases; in 1992, the number of reported AIDS cases among injection drug users rose over 19 percent, compared to an overall 4.3 percent increase in reported cases. Injection drug users are also the primary source of heterosexual, female, and perinatal transmission of HIV in the United States.

In response to these findings, the Legislature passed **AB 260 (W. Brown)** to establish a clean needle and syringe exchange pilot project. Wilson vetoed it. **SB 1048 (Watson)**, proposing a similar pilot project, will be considered in 1994.

AIDS Testing Confidentiality

Historically, HIV tests have merited extra confidentiality because of a perceived stigma associated with the epidemic and because of the risks of discrimination against persons with HIV, including impacts on housing, employment, and health insurance opportunities.

While the confidentiality of HIV tests is protected, the results of related tests such as CD4+, which measures immune system strength, are not. The Legislature attempted to close this loophole this year by defining the CD4+ test as an HIV test, thereby making disclosure of its results illegal without the patient's consent. **SB 670 (Hayden and Roberti)** was vetoed.

Physician Discipline System

A number of reports have documented problems in the state's physician discipline system. A 1989 report by the Center for Public Interest Law, for example, found the board was allowing discipline cases, including those involving danger of public harm, to go uninvestigated. The report found the board lax in responding to reports of potential patient harm and in handling individual discipline cases.

In response, the Legislature passed **SB 2375 (Presley)** in 1990. The bill enacted a number of reforms, including setting time frames for the complaint investigation and prosecution process and establishing a dedicated unit within the Attorney General's Office to prosecute disciplinary actions and to review the board's investigative activities.

However, in February of this year, an independent probe found evidence of widespread "case dumping," in which cases were dropped or deleted from the board's records without being fully investigated, as well as numerous improprieties involving individual employees. The probe led to the suspension of five employees of the board's enforcement unit.

In 1993 **SB 916 (Presley)** was enacted to expand the reforms contained in SB 2375, including expediting the hearing of disciplinary cases, monitoring the board's performance in handling disciplinary cases, and making public information concerning licensees' felony convictions and malpractice judgments.

Hospital Security

Incidents of violence in hospital emergency rooms have increased in recent years. An informal survey of 103 California hospitals by the Emergency Nurses Association in 1991, for example, found that over 50 percent of hospitals had had weapons brought into their emergency departments; as well, over 50 percent reported violence-related injuries to staff, visitors, or other patients.

The Legislature addressed this problem by passing **AB 508 (Speier)** to upgrade hospital security personnel and training. Wilson signed it.

Tobacco Use

In December, 1992, the federal Environmental Protection Agency released a long-awaited study documenting the health effects associated with second-hand or involuntary exposure to tobacco smoke. A number of other studies have identified involuntary exposure to smoking as a leading preventable cause of death.

In response, the Legislature debated bills, **AB 13 (T. Friedman)** and **AB 996 (Tucker)**, to control workplace exposure to second-hand smoke, including bills to prohibit smoking in enclosed workplaces.

While no agreement was reached on these bills, the Legislature did vote to extend the Proposition 99-funded Cigarette and Tobacco Products Medical Research Program until January 1, 1998. The bill was vetoed.

Tuberculosis

After a long period of decline, the number of tuberculosis cases in California increased by 51 percent between 1985 and 1991; in 1991, the state's incidence rate was the third-highest in the nation.

An especially disturbing trend has been the development of tuberculosis strains that are resistant to medicines. These strains are much more difficult and expensive to treat and are more likely to result in death. Immune system suppression caused by infection with HIV also increases the incidence of tuberculosis. To address the resurgence of tuberculosis, DHS, the California Tuberculosis Controllers Association, and the American Lung Association convened a task force in 1992 on steps needed to eliminate the disease. The Legislature passed and the governor signed **AB 803 (Gotch),** implementing a number of the recommendations of that task force, including those to give new tools to local health officers and health care providers to track and manage active tuberculosis cases.

HUMAN SERVICES

Welfare Reform

For the third consecutive year, a multibillion-dollar budget shortfall forced cuts in welfare services. But the Legislature accompanied a reduction of 2.7 percent in monthly grants in 1993-94 with reforms aimed at encouraging welfare recipients to move into jobs. These included rewards for work, better child care, more job training, and opportunities to move off aid with transitional help with medical bills and child care.

As a part of the budget package, the Legislature made permanent changes, through **SB 35,** in Aid for Families with Dependent Children (AFDC):

- Two-parent families who otherwise remain eligible for AFDC will not be disqualified if they work more than 100 hours per month.

- Persons on AFDC can receive a reimbursement for child care that is directly reflective of the market costs of care; this replaces a reimbursement ceiling found to be artificially low in California.

- Working persons who are on aid can keep the first $30 and one-third of the remainder of their income without reductions in their grant: this provision no longer expires after a few months.

- The standard of need (one version of the poverty level) increased even though grant levels were reduced. This allows some individuals to earn more before their grant is modified to reflect their earnings.

- Individuals can choose to waive grant payments and still be eligible for child care and Medi-Cal assistance under a new program called Alternative Assistance.

Each of these changes — and an accompanying increase in the budget for GAIN (Greater Avenues for Independence), the state's employment and training program for AFDC recipients — was adopted at legislative insistence to mitigate the grant cut. In addition, the Legislature and Governor Wilson enacted the Cal Learn program, which adjusts the monthly grants of teen parents up or down depending on their educational progress.

Teen parents will be required to attend high school and make academic progress or will be subject to grant reductions. Teen parents who make good academic progress will be rewarded with a grant bonus.

Here are descriptions of specific measures enacted in the other areas of human services:

Child Support

One year ago, the Legislature addressed this volatile issue with a sweeping reform of the way in which courts calculate child-support awards. This year, the Legislature made changes in the significant areas of court discretion and award calculations **(SB 145, Calderon,** and **SB 541, Hart).** Governor Wilson signed the bills.

The Legislature gave courts discretion to phase in an increased support award over several years. The move to statewide standards had resulted in reports of some support awards increasing dramatically, particularly in counties where awards had traditionally been significantly below average. Concerns were brought to the attention of the Legislature and phase-in provisions were enacted.

Also, the Legislature narrowed the conditions under which courts can take a new spouse's income into account when calculating a child-support award.

Family Leave

In 1991, California became one of the first states to protect the rights of return to employment of most workers who take unpaid family-care leaves. In 1993, Congress passed and President Clinton signed the Family and Medical Leave Act of 1993 (FMLA).

The Legislature then acted to bring California's law into conformity with the FMLA while also allowing women to add family-care leave to California's four-month pregnancy-disability leave **(AB 1460, Moore).** Any business's personnel office will want to review the many details of the new federal and California laws.

Children's Services

Legislation, signed by the governor, will establish pilot programs in five counties to allow monies for children's services to be blended into one fund for use across relevant categories **(AB 1741, Bates).** These counties will establish interagency planning councils and write strategic plans for the delivery of integrated children's services.

Foster Care

Working closely with the administration, foster-care providers, and county departments of social work and of probation, the Legislature passed a foster-care initiative **(AB 2129, Bates),** signed by the governor. It requires counties to conduct home interviews with all applicant foster parents, enhance the foster-care training program, initiate an evaluation of independent living settings for adolescents in foster care, clarify rules for rate-setting for group homes, and establish a collection procedure for overpayments. A companion bill **(SB 415, Presley)** requires levels of service in group homes to match the levels of funding.

IMMIGRATION

Undocumented immigrants by the hundreds make their way undetected across the Mexico-California border daily, likely drawn by California's underground economy. It is against federal law to hire them in the United States, but legal barriers do not stop this human flow. More than a million apprehensions are made each year at the border. Yet there is no penalty for coming, other than deportation. Those who are caught may try again. The state Department of Finance estimates 100,000 arrive and stay each year.

Californians long have known undocumented immigrants form a hidden cog in the state's great economic machine. But a persistent recession has slowed the machinery, erasing jobs and depressing public revenues. The state's legally recognized population of citizens and immigrants also continues to grow, fueling demands for public services. Even a hidden population of uncounted, undocumented residents has its budget costs. Those costs now are being tallied against a backdrop of perennial state budget shortfalls.

The 1993 session saw controversy over unwelcome immigration reach a new intensity. Across the nation, public anger at the undocumented was fueled by events on both coasts. Foreign terrorists bombed the World Trade Center and were accused of plotting an assault on the United Nations. Vessels crammed with Chinese nationals invaded American waters, their passengers deeply in debt to criminal smugglers. A 1,500-foot tunnel was found under the border near Tijuana. News stories told of newcomers abusing California's Medi-Cal and disability systems, sometimes coached by middlemen.

Governor Pete Wilson in January called upon Congress and President Clinton to pay a share of California's costs for federal immigration policies and practices. He asked for $1.5 billion, but won less than half of that. In August, the Republican governor declared federal and court-ordered policies were costing the state $2.3 billion annually to educate, incarcerate or give emergency care to the undocumented. He suggested eliminating those requirements and denying citizenship to children born here of undocumented parents. Wilson suggested California become a "test state" for tamper-proof identification cards to curtail immigration fraud.

Some Democrats countered that jobs, not the prospect of schooling or emergency medical care, were luring the great majority of undocumented persons. Some backed tougher penalties, including

seizure of assets, against employers who make a habit of hiring undocumented immigrants.

Some questioned why illegal immigrants who commit crimes aren't returned to their own countries to serve. But treaties have made the process of deporting convicts cumbersome — and the prisoners' permission is required.

A spate of bills was introduced by both parties in both houses to address these and other immigration issues.

Among the successful measures, perhaps the most sweeping is **SB 976 (Alquist),** which prohibits the state Department of Motor Vehicles (DMV) from issuing drivers' licenses or identification cards to undocumented immigrants. The bill does not apply to Californians who are renewing their licenses.

The DMV will have to determine whether an applicant has provided proof that he or she is in the country legally. It will be a misdemeanor to help an undocumented immigrant obtain a license.

Under the bill, supported by Wilson, law-enforcement officers cannot detain drivers solely because they suspect them of being unlicensed. And beginning July 1, 1995, drivers' licenses will state: "This license is issued solely as a license to drive a motor vehicle in this state. It does not establish eligibility for employment, voter registration or public benefits."

Other bills signed by Governor Wilson in 1993 will:

- Toughen penalties for making false statements to obtain Medi-Cal benefits and make it a crime to coach others in abusing the system **(SB 1131, Leslie).**

- Order the state Department of Corrections to cooperate with the U.S. Immigration and Naturalization Service (INS) to expedite deportation hearings for imprisoned undocumented aliens **(SB 345, Hill).**

- Prohibit local governments from establishing so-called "sanctuary laws" that forbid local law-enforcement agencies from reporting undocumented immigrants who are criminal suspects to the INS **(SB 691, Kopp).**

- Require public job-placement agencies, such as the state Employment Development Department, to verify a client's legal right to work before providing services **(SB 733, Russell).**

- Require the Office of Statewide Health Planning and Development to establish a program to train foreign medical graduates to become licensed physician assistants at no cost if they commit to practicing in underserved areas **(AB 1065, Campbell).**

Bills vetoed by Wilson would have:

- Required the Department of Education and the California Community Colleges to operate citizenship centers to provide instruction and testing to immigrants seeking citizenship. The bill would have taken effect only if federal funding was available to pay for it **(AB 1791, Polanco).**

- Required the state Department of Corrections to turn over inmates who are undocumented immigrants to the INS **(SB 1258, Torres).**

WORKERS' COMPENSATION

Following months of hearings and negotiations, the Legislature passed and the governor signed an employer- and labor-supported package of workers' compensation bills. The package contains projected savings for employers totaling $1.5 billion. Benefit increases for injured workers will amount to $750 million, phased in over 3 1/2 years, beginning July 1, 1994.

In addition, the legislation makes fundamental reforms that will help cut costs in the long run by reducing litigation in the system, trimming ineffectual use of vocational rehabilitation services, replacing the current minimum rate law, limiting stress claims and claims in response to good faith personnel actions, and strengthening the anti-fraud provision in current law.

Benefits to Workers and Employers

The new laws are designed to cut $1.5 billion in annual costs from a system which currently costs more than $11 billion, and to use the savings for the benefit of workers and employers. Under the reforms, it will be harder for unscrupulous lawyers, doctors and others to conduct wholesale abuses by processing claims in huge volumes to generate substantial incomes. Physicians outside rural areas will be generally prohibited from referring injured workers to clinics in which the physicians hold financial interests.

Employers, who finance workers' compensation, will also receive an immediate overall rate reduction of 7 percent in the workers' compensation premiums charged by insurance carriers, to be implemented by the insurance commissioner.

Temporarily injured employees will see their workers' compensation benefits rise from a maximum of $336 to $490 per week over a three-year period beginning July 1, 1994. The benefit increases amount to $747 million.

Vocational Rehabilitation

Injured workers will be limited in most cases to one vocational rehabilitation plan with a ceiling of $16,000, including a limit of $4,500 on counseling fees. Claims previously had been averaging more than $20,000.

Stress Injuries

Jobs-related events must be the "predominant" cause of stress injuries to be deemed eligible for workers' compensation benefits. In the past, only 10 percent of these psychiatric injuries needed to be caused by employment.

Health Care Injured workers may use their own physicians immediately if the doctors were designated before the injuries. Depending on what health insurance options are offered, employers can control the health care of injured workers for 90, 180 or 365 days, rather than the 30 days provided previously. But the 365-day provision applies only when employees have access to their personal physicians.

Other Reforms The new law presumes the evaluation of an injury claim by the treating physician is correct. In disputed cases, each side - an applicant's lawyer and an employer's insurance company - will be limited to asking one physician to evaluate the severity of an injury, at the employer's expense, rather than using several doctors.

Workers who have lost their jobs will not be able to file claims unless they have evidence their injuries occurred while they were still employed.

The Bills The package consists of **Assembly Bill 110 (Peace), 119 (Brulte), and 1300 (W. Brown), Senate Bills 30 (Johnston), 484 (Lockyer), 1005 (Lockyer)** and **983 (Greene).**

Highlights of the package:

Assembly Bill 110
Omnibus Reforms

- Requires the insurance commissioner to implement a 7 percent premium rate reduction to provide immediate rate relief for employers.
- Expands employer rights concerning the cancellation of insurance policies.
- Increases the emphasis on injury prevention.
- Limits physician referrals to health-care facilities in which they have a financial interest.
- Places a $16,000 overall cap on vocational rehabilitation services.
- Places strict limits on the number of rehabilitation plans.
- Provides mechanisms for the termination of vocational rehabilitation liability for employers and premium refunds for alternative work.

- Limits the number of employer-paid medical-legal evaluations to no more than one per side.

- Authorizes managed care and other cost-containment incentives for the treatment of worker injuries and illnesses.

- Requires the revision of the medical treatment fee and medical-legal fee schedules, including new limits on hospital and prescription fees.

Assembly Bill 119
Psychiatric Injuries and Post-termination Claims

- Creates a new and higher standard of "predominant cause" in determining whether stress related to a job is subject to workers' compensation.

- Provides a slightly lower exception to the "predominant cause" standard for victims of violent crimes or direct exposure to violent acts.

- Establishes new limits for any claims that follow notice of termination or layoff.

Assembly Bill 1300
Fraud

- Allows prosecuting district attorneys to use half of fees recovered in fraud cases for additional fraud prosecutions.

- Requires that parties to a claim must file a statement, under penalty of perjury, that anti-fraud statutes have not been violated.

- Prohibits persons convicted of workers' compensation fraud from collecting benefits associated with the fraudulent claim.

Senate Bill 30
Competitive Insurance Rate Setting

- Replaces the current minimum-rate law on January 1, 1995, with a "file and use" rating system, which would provide new open rate competition among insurance companies.

- During the period prior to open competition, gives temporary authority to the insurance commissioner to regulate surcharging and dividend practices that are unfairly discriminatory.

- Gives permanent authority to the insurance commissioner to regulate rates when necessary to maintain insurance company solvency or to prevent an insurance company monopoly.

- Requires all workers' compensation insurance policies issued or renewed between January 1, 1995, and January 1, 1996, to include a notice containing a summary of the changes in the rating laws enacted during the 1993-1994 legislative session.

Senate Bill 484 Appropriation

- Provides the appropriations necessary for state administration of the new workers' compensation reforms.

Senate Bill 983
Collective Bargaining

- Permits a limited number of employers and labor organizations in the construction industry to experiment with alternative workers' compensation programs through their collective-bargaining agreements, as long as rights and benefits are no less than those provided by the law.

Senate Bill 1005
Health and Safety and Workers' Compensation Commission

- Abolishes the current Health and Safety Commission and reconstitutes it as the Health and Safety Workers' Compensation Commission composed of eight members, four from organized labor and four representing employers.

- Requires an ongoing examination of the workers' compensation system and the state's activities to prevent job-related injuries and diseases.

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