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A Special Report to the State Senate on the Office of State Treasurer

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A SPECIAL REPORT TO THE STATE SENATE
ON THE
OFFICE OF STATE TREASURER



Prepared by:
Senate Office of Research
Elisabeth Kersten, Director
February 1988

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SENATE OFFICE OF RESEARCH

Elisabeth K. Kersten, Director

February 9, 1988

Honorable David Roberti
President pro Tempore
State Senate

Dear Senator Roberti:

In response to your request, we have prepared the attached report on the office of State Treasurer. The report:

- reviews the duties of the Treasurer;
- describes the inner workings of the bond sale process;
- summarizes the qualifications of the Governor's nominee, Congressman Dan Lungren, based on the material he provided Senate Rules; and
- analyzes the Treasurer's responsibilities in 11 policy areas and describes the candidate's voting record on these same issues. A separate volume of appendices provides further documentation of the items in the report and a historical perspective on the Legislature's role in confirming constitutional officers.

Not since 1982 when Conway Collis was confirmed as a member of the Board of Equalization has the Senate considered an appointee to a state constitutional office under Article V, Section 5, of the State Constitution.

In addition to the staff of the Senate Office of Research, Senate Rules consultants Fred Silva, Christine Minnehan and Nettie Sabelhaus assisted in the preparation of this report.

Sincerely,

Elisabeth Kersten

ELISABETH KERSTEN

EK:ls
Attachment

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A SPECIAL REPORT TO THE STATE SENATE

ON THE

OFFICE OF STATE TREASURER

California State Senate
Office of Research

February 1988

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EXECUTIVE SUMMARY

The Office of Treasurer of California is unique: not for its administrative activities, but for its policy making authority over much of state and local finance. The office crosses the line from the ministerial acts of a financial custodian to significant policy decisions that affect public spending and investment.

Over the past decade, the Treasurer's duties have been expanded through legislation and through the shift in the use of tax-exempt financing from "public" to "private" activities. Over 65% of tax-exempt financing is now used for financing commercial and industrial development, housing, for-profit health facilities, and short term notes to meet public agency cash needs. This shift has changed the role of Treasurer from that of custodian of the state's bank vault to public finance broker.

The Treasurer's responsibilities now include:

- getting the best deal on state bonds,
- dividing up the state's "private activity" bond limit through the California Debt Limit Allocation Committee,
- deciding which projects will qualify for funding through various financing authorities,
- managing the state's money,
- overseeing state and local finance,
- helping manage the investment of public employee and teachers' retirement pension funds.

In the near future, the power of the Treasurer is expected to grow. The Gann spending limit--coupled with the growing need for public infrastructure--has increased the demand for bond financing. In addition, federal restrictions on the use of tax-exempt financing will increase the Treasurer's power to allocate the bond financing available to California.

As a consequence of these increasing responsibilities, the job of Treasurer requires a wide range of managerial and policy skills and a breadth of knowledge of California's public finance system at the state and local levels.

The Governor's appointee to the job of Treasurer, Dan Lungren, is a five-term Republican Congressman from Long Beach. Before being elected to Congress, he spent five years as an attorney in a private law firm. Prior to that he worked in a number of staff capacities including as an aide to two United States Senators. Mr. Lungren earned a law degree from Georgetown and an A.B. degree in English from Notre Dame.

While in Congress, Mr. Lungren has focused his legislative efforts on the issues of criminal justice and immigration reform. He is a member of the House Judiciary Committee and various subcommittees and served four years on the Joint Economic Committee. He presided at several hearings on various economic issues for the Joint Economic Committee and served as Vice Chairman of the Subcommittee on Trade, Productivity, and Economic Growth. As a result of one of these hearings, he carried legislation that would have required the U.S. Treasury to index the value of federal securities to the rate of inflation in order to reduce the interest costs of the federal debt.

Congressman Lungren's five terms in the U.S. House of Representatives and his training and experience as an attorney help qualify him for the job of State Treasurer. On the other hand, a close look at the specific duties of the Treasurer pinpoints a number of areas where the nominee lacks in-depth experience or education for the position. In addition, a review of his Congressional voting record indicates that Congressman Lungren has been committed to reducing the role of the public sector in many of the program areas over which the Treasurer can exert substantial influence. For example, he has frequently opposed Congressional efforts to provide federal financial support for public works, low and moderate income housing, education, environmental protections, veterans and health facilities.

CHAPTER I

THE OFFICE OF STATE TREASURER: AN OVERVIEW

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THE OFFICE OF CALIFORNIA STATE TREASURER: AN OVERVIEW

The Office of Treasurer of California is unique: not for the broad array of administrative activities delegated to the office, but for the policy making authority over much of state and local finance. Although this authority would normally rest with the Executive Branch, in California, the Treasurer's Office crosses the line from the ministerial acts of a financial custodian to significant public policy decisions of spending and investment.

During the past decade, the Treasurer's office has become a focal point for state and local finance. Most of the borrowing done by public agencies must either be reviewed or approved by the Treasurer. The Treasurer's oversight and operational responsibilities touch nearly every aspect of public finance.

The landscape of public finance also changed during this period. Prior to the late 1970's state and local finance was much simpler. The use of tax-exempt financing was limited to "public" projects such as capital improvement projects for publicly owned facilities. Only a small percentage of the total amount of borrowing was done for "private" activities and it was limited to housing loans for veterans. Now most tax-exempt financing (over 65%) is used for financing commercial and industrial development, housing, for-profit health facilities, and short term notes to meet public agency cash flow needs.

This shift in the types of activities that public agencies finance has changed the Treasurer from a custodian of the state's bank vault to a public finance broker for both public and private projects. This role varies from actually choosing which projects receive financing to monitoring the use of such financing. In each case, there is some degree of discretion. The range of roles and responsibilities can be broken down as follows:

1. Getting the Best Deal on State Bonds

In 1987, the Treasurer's office handled 37 bond issues totalling \$3.7 billion. The Treasurer's main task is to achieve the lowest interest rate on borrowed funds in order to get the best deal for the taxpayers of the state. For a complete discussion of how this is accomplished, including the amount of discretion the Treasurer has, see Chapter III.

2. Dividing the Fiscal Pie

Hundreds of millions of dollars in public and private projects compete for scarce financing resources. The Federal Tax Reform Act of 1986 put limits on the amount of public issued tax-exempt bonds used for "private activities" such as housing, sewage and waste disposal, mass transit and water

facilities. In 1987, the State's limit of \$1.9 billion was allocated by the California Debt Limit Allocation Committee. Although its work is governed by statute, the Treasurer has a great deal of discretion over the allocation of financing authority. For details, see Chapter IV, Section A.

Over the last 10 years, a variety of authorities have been established in the Treasurer's Office to provide tax-exempt financing or to authorize such financing. Most of this financing is for so called "private" activities where the beneficiary is a private company but where there is some definable public benefit. For example, the Pollution Control Financing Authority provides businesses with financing for pollution control facilities to foster compliance with state and federal environmental standards. Nearly \$3 billion in bond assistance has been made available to food processors, cooperatives, manufacturers, waste disposal and recovery firms, metal platers, public utilities and petroleum producers, refiners and marketers. These authorities and the amount of financing approved in 1987 are listed below. For detail on the Treasurer's role, see Chapter IV.

<u>Authority</u>	<u>Financing Approved 87 (millions)</u>	<u>No. of Projects</u>
California Alternative Energy Financing Authority	\$ 3.6	1
California Health Facilities Financing Authority	469.6	15
California Housing Bond Credit Committee/Housing Finance Agency	606.0	4,000
California Industrial Develop- ment Financing Advisory Commission	52.5	12
California Pollution Control Financing Authority	629.7	8
California School Finance Authority	1.2	4
California Educational Facilities Authority	183.7	14
Mortgage Bond and Tax Credit Allocation Authority	713.0	42
	<hr/> \$2,659.3	

3. Managing the State's Money

As Chairman of the Pooled Money Investment Board, the Treasurer is responsible for the investment of the State's fiscal resources not needed for immediate expenditure. During 1986-87 the Board made over 6,000 security investment transactions processing over \$200 billion. For a further discussion of this activity, see Chapter IV, Section A.

4. Oversight of State and Local Finance

The Treasurer is Chairman of the Commission on State Finance which is responsible for providing independent, non partisan analyses of the State's revenues and expenditures. The Commission is responsible for making long range estimates of the California economy. The Treasurer is also Chairman of the Debt Advisory Commission which is primarily an information center for public debt issuance. The Commission keeps track of all debt issuance by public agencies and also is involved in technical assistance and some policy research. For further details see Chapter IV, Section A.

5. Stewardship of Public Employee Pensions

The Treasurer also has been influential in the investment of public employee and teachers' retirement funds (\$65 billion) as a member of the PERS and STRS investment committees. For details, see Chapter IV, Section C.

THE GROWING RESPONSIBILITIES OF THE TREASURER -- A LOOK AHEAD

Several trends indicate the continued expansion of the power of the Office of Treasurer. First, the State's spending limit restricts the expenditure of tax revenues. To the extent that there are unmet public capital facility needs in the areas of education, transportation, environmental protection and health care, one alternative--at least for the short term--is to finance these facility needs with long term debt. Second, in the process of restricting the use tax-exempt financing, the federal government has continued to rely on the state to allocate financing between competing governmental agencies and private companies. Although governed by statute, this function belongs to the Treasurer.

WHAT DOES IT TAKE TO BE TREASURER?

The Treasurer needs to have the knowledge, experience and ability to:

- Administer an office with 200 employees and an operating budget of \$12 million;
- Evaluate the investment alternatives for the State's \$210 billion cash management and short term banking services;
- Comprehend and evaluate the long term investment alternatives for the State's \$30 billion in securities and property held in trust;
- Be knowledgeable of general investment practices, evaluation of money managers' performance and financial forecasting;

- Understand the procedure for the collection, transfer and release of state funds;
- Identify the State's current and future fiscal needs;
- Negotiate with underwriters for favorable conditions and interest rates in State bond sales;
- Select and instruct bond counsel in the preparation of bond sale agreements;
- Represent the State before financial rating services;
- Assist the Legislature and Governor in setting bond funding priorities;
- Evaluate and allocate scarce financial resources fairly and judiciously among local government officials, special districts, industrial development authorities, hospitals and schools;
- Assist local government officials, special districts, industrial development authorities, hospitals and schools in the sale of bonds and the funding of proposals;
- Work with the Governor and the Legislature on drafting, evaluating, and implementing legislation related to the State's fiscal policy and needs; and
- Represent the State on forty state, local and national committees, authorities and organizations.

The position of Treasurer clearly goes beyond the ministerial duties of money manager and custodian of state funds. Moreover, the need to find financial solutions to finance public costs for a growing economy and a diverse society in the foreseeable future will not be easy. The complex inter- governmental world of public finance will require a breadth of knowledge of California's finance system as well as its governmental structure.

-- by Dick Damm and Fred Silva

CHAPTER II

THE JOB AND THE CANDIDATE: BASIC QUALIFICATIONS

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THE JOB AND THE CANDIDATE: BASIC QUALIFICATIONS

Congressman Lungren, serving a fifth term representing the 34th and 42nd congressional district of Long Beach, has focused his major legislative efforts in the areas of immigration reform, and criminal justice. Mr. Lungren is currently a member of the House Judiciary Committee and that Committee's Subcommittee on Courts, Civil Liberty and the Administration of Justice and the Subcommittee on Monopolies and Commercial Law. He is a member of the Permanent Select Committee on Intelligence and that Committee's Subcommittees on Legislation and on Program and Budget Authorization. He is also Chairman of the Republican Study Committee and a member of the Executive Committee of the Pro-Life Caucus. He also served for four years on the Joint Economic Committee and was Vice Chairman of the Subcommittee on Trade, Productivity, and Economic Growth.

Prior to his service in Congress, Mr. Lungren was a partner in the Long Beach law firm of Ball, Hunt, Hart, Brown and Baerwitz from 1973 to 1978. From 1970 to 1973, he served in several political positions: political consultant to Congressman Robert Finch, Director of Special Programs for the Republican National Committee, staff assistant to Senator Brock of Tennessee, and staff assistant to Senator George Murphy.

During and between college and law school, Mr. Lungren held various jobs including law clerk, lifeguard, political campaign worker, electrician's assistant, concession stand manager, warehouse worker, department store clerk and course corrector.

He is a graduate of Georgetown University Law Center (J.D., 1971), Notre Dame University (A.B. English, 1968) and St. Anthony's High School in Long Beach (1964).

His present and previous affiliations include the California Republican Central Committee, California State Bar, Long Beach Bar, St. Anthony's High School Foundation, Boy's Club of Long Beach, American Red Cross, St. Mary's Medical Center, and St. Mary's Catholic Housing Corporation.

From the material supplied to the Rules Committee by Congressman Lungren, articles from the press and the congressional record, comments from interested parties and organizations and voting and other public records, the following is a comparison of the specific functions of the State Treasurer and the experience and qualifications of Daniel Lungren.

Executive Functions

1. The Treasurer must provide direction and set policy for an office of 200 employees and a budget of \$12 million.

Congressman Lungren has maintained congressional offices in Washington, D.C. and Long Beach with 12 employees, and is responsible for 14 employees expenses and salaries as Chairman of the Republican Study Committee.

2. The Treasurer must understand the State's current and future fiscal needs and establish appropriate policy guidelines as a result.

Congressman Lungren served for four years on the Joint Economic Committee and was Vice Chairman of the Subcommittee on Trade, Productivity and Economic Growth. During his service the Committee held hearings on various subjects including indexing federal bonds, the need for a national industrial policy, national job growth and unemployment and a comparison of high-tech areas in California and Massachusetts. He and his Republican colleagues also issued midyear reports on the status and outlook of the U.S. economy.

Administrative Functions

1. On a day to day basis, the Treasurer must select and hire staff, set and promote affirmative action goals, promote employee training and resolve staff labor disputes.

Congressman Lungren has some experience managing congressional offices although the scale and nature of the operations are completely different from the Treasurer's office. (For review of congressional record on affirmative action and employment issues see appropriate sections in Chapter IV).

2. In managing the office the Treasurer needs to understand internal accounting, budgeting, procurement of business services and data processing.

Congressman Lungren was a partner in a private law firm; some experience in managing congressional offices.

3. The Treasurer must understand the State's centralized banking system including the procedure for the collection, transfer and release of State funds.

Congressman Lungren's experience and knowledge unknown.

Cash Management Duties

The Treasurer must have the ability to manage and forecast a cash flow of \$750 million per day; manage receipts and disbursements for a large cash system; oversee custodial services and provide security, including the purchase of insurance.

Congressman Lungren's qualifications in this area are unknown.

Investment Functions

The Treasurer must:

- o Understand the investment alternatives for the State's \$210 billion cash management and banking services.
- o Comprehend the various long term investment alternatives for the State's \$30 billion in securities and property held in trust. (Note: although a major portion of this responsibility will be given to a master custodian [bank], the Treasurer will still be trustee).
- o Be knowledgeable about collateral evaluation, investment planning and investment negotiation.
- o Have the ability to select and instruct bond counsel in the preparation of bond sale agreements.
- o Have the skill to negotiate with underwriters for favorable conditions and interest rates in the sale of State bonds.
- o Be able to represent the State before financial rating services.

Congressman Lungren's background as a Congressman and attorney are pertinent. Specific knowledge and experience are unknown.

Trust Services

The Treasurer must understand bond registration, debt servicing and escrow procedures.

Congressman Lungren's experience and knowledge in this area are unknown.

District Securities

The Treasurer should know about the physical construction and financing of irrigation districts, water districts and water storage districts.

Congressman Lungren's experience and knowledge in this area are unknown.

Authorities, Boards and Commissions

Education

The Treasurer evaluates and allocates funding through the California Educational Facilities Authority and California School Finance Authority for the construction or renovation of school buildings and acquisition of equipment such as school buses and computers.

In 1987, 14 projects totalling \$183.7 million were approved by the California Educational Facilities Authority and 4 projects totalling \$1.2 million were approved by the California School Finance Authority.

Congressman Lungren's qualifications are unknown. For a review of his positions on education bills in Congress, see the education section in Chapter IV.

Environment

The Treasurer selects and encourages California businesses to acquire, construct or install pollution control systems and develop technologies which minimize environmental pollution and conserve energy resources through financing from the California Pollution Control Financing Authority.

In 1987, 8 projects were approved totaling \$629,730,000.

Congressman Lungren's qualifications are unknown. For a review of his positions on environmental issues see section on environment in Chapter IV.

Health Care

The Treasurer authorizes revenue bonds through the California Health Facilities Financing Authority to assist private, non profit organizations and hospital districts in financing the construction, expansion and equipping of health facilities.

In 1987, 13 projects were approved and \$469,550,000 in bonds were issued.

Congressman Lungren's qualifications are unknown. See health section of Chapter IV.

Housing

The Treasurer administers low interest home loan programs to provide affordable housing and revitalize depressed and deteriorated housing areas throughout the State through the California Housing Bond Credit Committee, Mortgage Bond Allocation Committee, and the California Housing Finance Agency.

In 1987, 4,000 housing projects were approved totalling \$606 million by the Housing Bond Credit Committee and Housing Finance Agency. In addition, 42 projects totalling \$713 million were approved by the Mortgage Bond Allocation Committee.

Congressman Lungren's qualifications are unknown. See the housing section of Chapter IV for a review of Congressman Lungren's voting record on housing issues.

Veterans' Assistance

The Treasurer works through the Veterans Finance Committee in conjunction with the Department of Veterans Affairs to provide bond sales for low interest farm and home loan sales to veterans.

In 1987 3500 loans were approved totaling \$235 million.

Congressman Lungren's qualifications are unknown. See veterans section in Chapter IV.

Industrial Development

The Treasurer reviews local agency bond funding applications through the California Industrial Development Financing Advisory Commission for the acquisition, construction and rehabilitation of industrial development facilities.

In 1987, 12 projects were approved totaling \$52.5 million.

Congressman Lungren's qualifications are unknown. See section on employment and pensions in Chapter IV.

Forecasting Revenues and Expenditures

The Treasurer is the Chair of the Commission on State Finance which provides the Legislature and the Administration with quarterly forecasts of the State's economy, General Fund revenues and expenditures, and selected federal government expenditures in California.

Congressman Lungren's congressional experience includes four years with the Joint Economic Committee which held hearings on a number of important economic issues during his tenure. In addition, he and his Republican colleagues on the committee released midyear economic reviews (for 1985, 1986, and 1987) which looked at the current and expected performance of the U.S. economy. It should be noted that these reviews were generally more partisan in tone than objective analyses of the U.S. economy.

Advising Local Government

The Treasurer assists local governments and special districts through the California Debt Advisory Commission concerning the issuance of debt and acts as the clearinghouse for public agency information on tax-exempt bonds.

Congressman Lungren's qualifications are unknown. See Chapter IV for a discussion of nominee's record on government finance issues.

Allocation of Financial Resources

The Treasurer is required to evaluate proposals and allocate scarce financial resources fairly and judiciously between "private activity" bond issuers such as local governments, special districts, industrial development authorities, hospitals and schools through the California Debt Limit Allocation Committee.

In 1987, the Committee allocated \$1.9 billion in tax exempt financing across the different uses and users.

Congressman Lungren made decisions about allocating scarce resources when voting in Congress. For a review of his Congressional voting record on fiscal issues, see the pertinent sections of Chapter IV.

-- by Dick Damm

CHAPTER III

BOND MECHANICS: A CLOSE LOOK AT THE TREASURER'S ROLE IN ISSUING BONDS

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BOND MECHANICS: A CLOSER LOOK AT THE TREASURER'S ROLE IN ISSUING BONDS

Initial enactment of a bond law is highly visible. The legislature passes a law authorizing the bond. If it is to be a general obligation bond, the proposal goes on an upcoming state general election ballot. Newspaper editors write editorials. The vote is announced and media-analyzed.

Then what? After voter approval, bond measures nearly always sink from public view. A specialized bureaucracy and private industry turn these laws into money in the state's accounts, to be used to build schools, water treatment plants, and prisons, for example.

To work this transformation, the Treasurer must hire platoons of bond attorneys, underwriters, printers, and other specialists. In 1987, this amounted to something like \$56 million worth of private business to issue \$3.7 billion in bonds. 1987 was a slow year. 1986 was a faster year. In 1986, the Treasurer assigned something like \$120 million in business to various firms in order to issue \$7.5 billion in bonds. By state standards, even that is not really big business. What is unusual, however, is that the majority of this \$56 to \$120 million of business is given to firms without any public bid, rationale, explanation, or appeal. The selection rides on the Treasurer's subjective judgment. This is in sharp contrast to the sometimes tediously public procedures governing almost all other state spending. There is no implication that the Treasurer has not followed the law in making these selections. On the contrary, the law clearly allows the Treasurer broad discretion.

A. Preparing for Bond Issuance

General Obligation Bonds

General obligation bonds are usually issued under standard statutory procedures contained in the State General Obligation Bond Law. Each bond act has an administering department that must decide that the time has come to actually issue some or all of the bonds authorized by the voters. For example, the Department of Parks and Recreation does this for park bonds, and the Department of Water Resources for water bonds. The department petitions a finance committee created by the bond act. The finance committee typically consists of the Controller, the

Treasurer, the Director of Finance, and perhaps the director of the department involved, and sometimes the Governor. Among other things, the committee has to determine that the proposed bond issue is "necessary and desirable" and direct the Treasurer to prepare the bond certificates. In practice, these committees have concentrated on the technical aspects of this role, and have often deferred even that role to the Treasurer. On the other hand, the committee's broad charge to pass on whether the proposed bond issue is "necessary or desirable" could, in theory, be used to shut off financing for programs for which the members of the committee lacked enthusiasm.

Revenue Bonds

Revenue bonds differ from General obligation bonds in that they require only majority approval in the legislature, require no popular voter approval, and are not backed by state tax revenues. They are usually for specific projects, such as a hospital or housing project, and are repaid by the hospital districts or corporations or homeowners. A local agency, such as a city or perhaps a hospital district, often begins the process. A state authority, such as the California Health Facilities Financing Authority or the California Pollution Control Financing Authority, fills a role similar to the general obligation bond's finance committee.

B. The Treasurer Packages and Sells the Bonds

After being authorized by the finance committee or authority, the Treasurer then has broad power to sell the bonds. He may sell them after sealed bidding, or he may sell them by negotiating with an underwriter of his choosing. In practice, general obligation bonds have always been sold through sealed bidding. But the law, since 1984, allows either approach. Revenue bonds are almost always sold by negotiation.

Packaging and selling the bonds involves arranging for a series of services by private firms, including bond counsel, an underwriter or group of underwriters, one or two printers, a rating agency, a paying agent, and sometimes others. The following describes the functions of each, how each is selected, and the range of costs involved.

Bond Counsel

Bond counsel are lawyers who specialize in bond issuance. The formal function of bond counsel is to deliver a legal opinion that the final bonds are properly drawn, binding obligations, and

also that they will be exempt from federal income taxation. In practice, bond counsel are often called upon by the issuer to have a much broader role in the preparation of bond documents and the general structuring of the deal.

For state general obligation bonds, the firm of Orrick, Herrington and Sutcliffe has served as the state's bond counsel for the last eight or ten years. The firm's selection back then apparently involved a competitive bid process. There has been no bid since. There is no statutory requirement for any competitive selection process. On the other hand, the firm works on state general obligation issues at very low cost, according to Treasurer's office personnel. The state pays 7¢ per \$1000 of bond issue, or \$7000 for the work on a \$100 million bond issue. A competitive cost would probably be higher for the same work. On the other hand, the visibility and access to information and people have value in other ways, and other firms are denied those advantages.

Selection of bond counsel for revenue bonds is much more variable. The Treasurer has selected a firm to serve as bond counsel on a regular "team" basis for each authority. These selections are made based on the Treasurer's subjective judgment. There is no competitive bid, nor any public explanation for why a particular firm was picked.

The "team" bond counsel is not always used for revenue bonds, however. If the bond is a health facility bond to finance construction of a hospital, for example, the deal may arrive at the Treasurer's office with a bond counsel (and an underwriter) already attached, at least in the eyes of the locality or hospital district. The Treasurer does not usually override these local arrangements, according to Treasurer personnel, but can and sometimes does.

The fee for bond counsel for revenue bonds ranges from less than \$50,000 to more than \$100,000, depending on the size and complexity of the proposed bond issue.

Underwriters

Underwriters take the state's paper bonds, and deliver money in return. They, in turn, sell the bonds to institutions, mutual funds, and individuals, and make their profit as the difference, or spread, between the amount they pay the state for the bonds and the amount they resell them for.

If the bonds are sold competitively, as are G.O. bonds, each of several underwriter groups bids by specifying the interest rate they would ask the state to pay for bonds of various maturity

dates. In general, longer maturities require higher interest rates. A discounting technique is used to produce a kind of weighted average of each set of interest rates. The lowest composite rate gets the bonds.

If the bonds are sold by negotiation, as are most revenue bonds, the Treasurer selects an underwriter or group of underwriters and works out a deal with them. The choice of underwriter is subjective, without any competitive process or any public explanation as to why a particular firm or group of firms was chosen. A remarkable number of things may be up for negotiation, beginning with the interest cost of the bonds, but also including which firms are to be part of the group of underwriters doing the deal, conceivably what share of the deal each firm will have, what proportion of the profits of the deal will go to the "management team" that is responsible for setting up the deal, and how losses will be apportioned if the bonds cannot be sold for the anticipated price and interest rate. Also, the underwriter will employ another bond counsel to do various legal chores for the underwriter. Preparing the official statement that explains the bond issue to prospective buyers is the most important of these chores. The choice of underwriter's counsel may also be up for negotiation. The negotiation of all these terms is done in private.

The fee for underwriting in negotiated sales is commonly broken into the following categories:

Underwriter's Risk

Underwriting involves risk. It may take longer than expected to sell the bonds, or interest rates may move between the time that the underwriter gets the bonds and the time he or she sells them. If prevailing interest rates go up during that interval, the underwriter will take a loss.

Underwriters may reduce this risk in some cases by selling the issue before they actually receive the bonds. The fee for underwriting risk varies from \$0 (for a presold issue) to \$2.00 to \$3.00 per \$1000 bond. The range of \$1.00 to \$2.00 per \$1000 bond is common. For a \$100 million issue, a \$2.00 fee amounts to \$200,000.

Management Fee

The lead underwriter or underwriters may spend considerable time in working out the structure of the deal, especially in revenue bond financing of unique projects, such as a hospital or pollution control facility. This role is also especially important when the bond market is volatile. The management fee ranges from \$0 to \$4.00 per \$1000 bond, with \$2.50 to

\$3.50 per \$1000 bond as average. At \$3.00, the management fee on a \$100 million deal would be \$300,000.

Underwriter's Counsel

Fees for underwriter's counsel are similar to fees for the issuer's bond counsel. For a \$100 million bond, the fee might be \$100,000 for underwriter's counsel.

Selling Fees or "Takedowns"

These fees are for selling the bonds to more or less final buyers, such as financial institutions, municipal bond mutual funds, or individuals. The trend in recent years has been that a larger share of these bonds is sold to mutual funds and individuals. Selling is expensive. Selling to individuals, in particular, requires an extensive network of sales offices and sales people.

The fees for selling vary with the length of time to maturity of the bonds. At present, long term bonds (those maturing in 20 years, for example), are more difficult to market, and fees may range from \$12 to \$15 per \$1000 bond. Bonds with shorter maturities might have a selling commission of \$5.00 per \$1000 bond. An average takedown for a normal series of bonds might be \$7.50 to \$8.50 per \$1000 bond. For a \$100 million bond issue, an \$8.50 fee amounts to \$850,000. This fee is in turn usually divided among the members of the group of underwriters that underwrite the bonds and other firms that might have a role in selling the bonds, in proportion to the amount of bonds sold by each.

The total of these illustrative underwriting fees for a \$100 million bond issue is \$1.45 million.

Fees for a general obligation bond of comparable size are likely to be slightly lower (in the \$1.2 million to \$1.3 million range). The distribution of this cost among the various functions outlined above is publicly invisible with a G.O. bond. The state does not officially see the breakdown.

Printing

There are two main printing jobs associated with a bond issue; the printing of the bonds themselves (in full gilt-edged glory) and the printing of the official statement. Both are regarded as specialized tasks, and only a few firms compete for the business.

For G.O. bonds, printing is arranged through the standard state procurement process. Bidding is conducted annually by the Department of General Services. One firm prints for the year.

With negotiated sales, printing is paid for by the underwriters who are in turn paid from the proceeds of the bond issue. That arrangement allows the printer selection to be made outside the state procurement process. Selection of a printer may be another matter open to negotiation. Printing costs between \$50,000 and \$100,000 per bond issue.

Ratings

The Treasurer usually gets ratings from two nationally known rating agencies for each bond issue. The Treasurer chooses from among three agencies: Standard and Poor's, Moody's and Fitch. Standard and Poor's charges \$10,000 to \$20,000 per issue. Moody's charges \$15,000 to \$30,000 per issue. Fitch charges \$5000 to \$15,000 per issue.

Paying Agent and Registrar

Several administrative chores remain after a bond has been issued. In particular, someone must keep track of the bond owners (the registrar) and someone must actually mail or otherwise deliver the principal and interest payment checks (the paying agent). The Treasurer serves as registrar for G.O. bonds. The State uses Citibank of New York as its paying agent, along with First National Bank of Chicago. The State has used Citibank for over 40 years.

The charge for paying agent is reported to be nominal. The banks make their money mostly on the interest they can earn between the time they receive each principal and interest payment amount from the state and the time the bondholders actually clear the checks used to pay them.

Trustee

Bond transactions occasionally require the services of a trustee to serve an escrow-like function. For example, when old bonds are refinanced by a new bond issue, the proceeds of the new issue may be placed with a trustee bank until they are actually paid out to the holders of the old bonds. The Treasurer often serves as trustee for state bonds, and uses several different banks as trustees on other issues. The choice is made by the Treasurer without any bid or other public process.

Financial Advisor

Bond issuers sometimes hire a financial advisor to give them independent advice about the way the issue is to be structured, about timing a sale, and perhaps to assist in negotiating terms of a sale or evaluating competitive bids. The Treasurer does not

hire a financial advisor for state G.O. issues, feeling that the in-house expertise of the Treasurer's office is sufficient. Local agencies that sponsor a housing bond or industrial development bond may engage a financial consultant, and occasionally state agencies do so in conjunction with their revenue bonds. For example, the Department of Water Resources hired Shearson Lehman Brothers as its financial advisor on a recent issue of water revenue bonds.

A Summary Conclusion

The Treasurer's major function regarding bond sales is to hire the firms that actually write, print, legally opine about, and sell the bonds. The Treasurer has great personal discretion in making these selections, which are worth large amounts of money to the firms involved. The Los Angeles Times and the Wall Street Journal ran extended articles in 1986 which documented, in tones of awe, the ways that Treasurer Unruh used that discretion to exact both campaign and personal contributions. Despite that, the reporters seemed to agree that the Treasurer's operations were conducted in a way that benefited the people of California. That is not a necessary outcome.

-- by Dean Mischynski

CHAPTER IV

THE JOB AND THE CANDIDATE: REVIEW OF ISSUES

A. STATE AND LOCAL FINANCE

A. STATE AND LOCAL FINANCE

Introduction

The State Treasurer, in his capacity as California's primary investment and fiscal officer, makes decisions that affect both state and local finance. Many of these investment decisions are made through the auspices of a variety of authorities, boards, and commissions. The purposes of this section are (1) to examine the various organizations on which the Treasurer serves which affect state and local finance and, (2) to examine Congressman Lungren's positions on public finance issues.

The Treasurer's functions which affect state and local agencies range from informational and data collection to the allocation of fiscal authorization.

ALLOCATION OF THE STATE'S TAX-EXEMPT DEBT LIMIT

California Debt Limit Allocation Committee

STATE AND LOCAL INVESTMENT

Pooled Money Investment Board
Local Agency Investment Advisory Board
District Securities Advisory Commission

ALLOCATION OF STATE ASSISTANCE

Commission On State Mandates

POLICY ADVISORY

Commission On State Finance
California Debt Advisory Commission

ALLOCATION OF THE STATE'S TAX-EXEMPT DEBT LIMIT

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

The California Debt Limit Allocation Committee (CDLAC) was established to oversee the new restrictions on tax exempt bonds stemming from the federal Tax Reform Act of 1986. The primary purpose of the committee is to allocate the state's new debt ceiling.

Membership

The Committee is composed of the Treasurer, Director of Finance and the Controller. The Treasurer serves as Chair of the Committee.

Discretionary Powers

The Tax Reform Act of 1986 put limits on the issuance of public issued tax-exempt bonds used for "private activities." Private activities includes housing, water facilities, mass transit, sewage and waste disposal, certain energy utility programs, some hazardous waste projects and certain redevelopment activities. The ceiling for California in 1987 was \$1.9 billion. The ceiling will drop to \$1.3 billion in 1988. In subsequent years the ceiling will increase only as the state's population grows.

This could become a crucially important committee. The Committee will have the power to hand out allocations for various purposes and to which entities. The Committee exercised their authority in 1987 and refused allocations for some projects. The decisions were made on the basis of how imminent the financing needs were. Those that did not receive an allocation or a carry-forward are free to apply during 1988. A carry-forward is the authority for a project to use the 1987 allocation in subsequent years. In future years as the state and local governments hit their appropriations limit, the number of bond projects will increase, making the committee a powerful gatekeeper.

The Role of the Treasurer

As Chair of the committee, the Treasurer exercises considerable power and influence. The Treasurer provides staff, calls committee meetings, and sets the agenda. The decisions and priorities made by the Chair of the committee could influence the construction of innumerable California tax-exempt bond projects.

STATE AND LOCAL INVESTMENT

POOLED MONEY INVESTMENT BOARD

The Pooled Money Investment Board (PMIB) was created by Chapter 1703 of 1955. The purpose of the PMIB is to maximize the states return on taxpayers' receipts by depositing monies received (that are not to be immediately used) in banks or savings and loans or by investing in securities. The PMIB meets monthly to determine the amount of money available for investment and the types of investments that should be made. In addition, the PMIB meets annually with seven institutions that the state banks with, in

order to negotiate the amount of cash that needs to be kept in the state's checking accounts.

According to the Governor's Budget, in 1986-87 the PMIB program accounted for 6,067 of the states 6,328 security investment transactions. During this same time period, transactions processed through the PMIB totalled \$209.8 billion.

Membership

The Treasurer, the Controller, and the Director of the Department of Finance are statutorily named members of the Pooled Money Investment Board. The codes are silent on the issue of who serves as Chairperson of the board, although traditionally the Treasurer has served in that position.

Discretionary Powers

Statute empowers the PMIB to invest available monies "in such a way as to realize the maximum return consistent with safe and prudent treasury management" [Section 16480.2]. The codes also instruct the board to "give due regard to assisting such specific programs of the state designed to support the economy of economically disadvantaged areas of the California Job Development Corporation Law" [Section 16480.35]. Other than these two statements, the codes are silent as to specific requirements or considerations the board must take when making investment decisions -- thereby allowing the PMIB great powers in determining where and how taxpayers money will be invested.

In reality, the board, meeting on a monthly basis, cannot make the day-to-day decisions necessary for maximizing the state's returns on investments. The staff of the pooled money investment division of the Treasurer's office generally decides where money is to be invested.

The Treasurer's Role

The Treasurer sits as one voting member of the PMIB. However, the Treasurer's role on the Board extends beyond his statutory authority. The PMIB is funded and staffed through the Treasurer's office. The day-to-day operation decisions take place at the staff level where investment decisions are made. Because one of the Treasurer's primary roles is to serve as California's investment counselor, he or she has the advantage of expertise, plus first-hand knowledge of investment market conditions. The combination of a higher level of knowledge and control over PMIB staff makes the Treasurer's influence on the board considerably greater than the statutory power of one vote.

Supervising 6,000 transactions per year which total more than \$200 billion requires investment acumen as well as administrative skill.

LOCAL AGENCY INVESTMENT ADVISORY BOARD

The purpose of the Local Agency Investment Advisory Board is to assist the Treasurer in formulating the investment and reinvestment of monies deposited in the Local Agency Investment Fund. Currently, approximately 14,000 local governments or districts deposit monies in the fund to be invested with the state's Pooled Money Investments. The board advises the Treasurer regarding both the concerns of these local agencies and general fund management.

Membership

The Treasurer serves as Chair of the board. The other four members of the board are comprised of two individuals who are qualified in the field of investment or finance and two members who are local government fiscal officers or business managers.

All of the board members are appointed by the Treasurer. Members are appointed for two years but serve at the pleasure of the Treasurer.

The Treasurer's Role

The Local Agency Investment Advisory Board serves a purely advisory function -- the Treasurer is not required to take their advice or recommendations. Because the Treasurer appoints and dismisses board members, funds the board through the office budget, and provides office staff and assistance, he has considerable influence over board decisions.

DISTRICT SECURITIES ADVISORY COMMISSION

The primary purpose of the District Securities Advisory Commission is to assure that projects undertaken by special districts, irrigation districts, and water districts are feasible in order to assure the issuance of sound securities and to thereby ensure against default of bonds certified by the State Treasurer.

The purpose of the District Securities Advisory Commission is to provide advice and assistance to the State Treasurer in carrying out his duties as head of the District Securities Division.

Membership

The District Securities Advisory Commission (DSAC) is an eight-member advisory organization which is created at the pleasure of the State Treasurer. Generally, the Commissioners have had some background in financial, legal, or district matters, although this is not statutorily required. The Commission assists the Treasurer in carrying out the duties and responsibilities of assuring that district projects are fiscally sound.

Discretionary Powers

The statute gives the Treasurer broad authority to conduct reviews of the engineering, economic, and financial feasibility of projects proposed to be acquired or constructed. In general, staff conducts this review by using established criteria -- such as the engineering plans, the benefits to those who are living in the district, the ability of the district to repay the financing, the relationship between those who will receive the direct benefits of the project and those who are paying for the project. However, these criteria are not statutorily established, but were developed by the Treasurer's Office and are subject to change.

The Commission then reviews the staff report, using internally developed criteria, and recommends to the State Treasurer the issuance of an order authorizing the special district to proceed with the loan contract or with the issuance of bonds or warrants and certifying the bonds as legal investments.

After the bond sale is completed, the Division's staff monitors the expenditure of the bond proceeds and the ongoing financial condition of the affected entities. Again, while these responsibilities are statutorily enumerated, the procedural process of carrying out the responsibilities is left to the Treasurer.

A recent example of the potentially powerful role the Treasurer can have on local citizens is evidenced by the District Securities Commission's approval and certification of a \$240 million expansion plan of the Orange County (John Wayne) Airport. While the District Securities Commission does not normally certify airport bonds, in this case they were statutorily required to review the project.

The Role of the Treasurer

The District Securities Division is located within the Treasurer's Office, meaning that the Treasurer has the power to hire and fire the Director of the Division, provide secretarial support, space, and an annual budget. In addition, the Treasurer, by choosing who will serve on the Advisory Commission, has de facto control over the decisions made by the Commission.

ALLOCATION OF STATE ASSISTANCE

COMMISSION ON STATE MANDATES

The Commission on State Mandates was created to address growing concern about the procedures used to reimburse local governments for state-mandated costs. Current law, commonly referred to as "SB 90," requires the State to reimburse local governments for the costs of state-mandated programs, and for lost sales and property tax revenues. Article XIII B of the Constitution (Proposition 4) also requires the State to reimburse local governments for the costs of state-mandated programs.

A quasi-judicial body, whose primary responsibility is hearing and deciding claims from local governments for reimbursement of state-mandated local costs, the Commission was created to replace the old Board of Control. The Commission also has the statutory authority to hear and decide upon claims from local entities alleging that the State Controller's office has incorrectly reduced a reimbursement claim submitted by the local agency or school district.

Membership

The Treasurer is one of five members of the Commission. Other members include: the State Controller, Director of the Department of Finance, Director of the Office of Planning and Research, and a public member with experience in public finance, who is appointed by the Governor and subject to Senate confirmation. The Commission members vote to elect the Chair and Vice-Chair. Currently, Jesse Huff serves as Chair.

The Treasurer's Role

In the past, the Treasurer has not played a large role on the Commission. Members have generally deferred to the Controller (who pays out claims) and the Director of the Department of Finance (who currently serves as Commission Chair). However, because (1) members elect both the Chair and Vice-Chair; and (2) the Commission has been established as an independent entity (not located within another department), a Treasurer who chose to become actively involved in Commission matters could potentially exert more influence.

POLICY ADVISORY

COMMISSION ON STATE FINANCE

The primary purpose of the Commission is to provide independent, nonpartisan analyses of the state's revenue forecasts. The Commission is required by statute to provide the following reports:

- Quarterly forecasts of state revenues, current year expenditures and surplus or deficits;
- Annual long-range (10-year) forecasts of revenues and expenditures;
- Semiannual reports on the impact of federal expenditures on the state's economy and employment.

In addition, the COSF is responsible for annually determining the California Necessities Index (the index used to compute the annual cost-of-living adjustments for SSI/SSP recipients and AFDC recipients).

Membership

The COSF is a seven-member body, of which all members are statutorily named. The Commission is composed of the President pro Tempore of the Senate or the Chairperson of the Senate Finance Committee; the Speaker of the Assembly or the Chairperson of the Ways and Means Committee; both Senate and Assembly Minority Floor Leaders; the Director of the Department of Finance; the State Controller; and the State Treasurer. Chair and Vice-Chair are elected by Commission members.

The Role of the Treasurer

The Treasurer serves as one of seven voting members of the Commission. Because all the members are well-versed in the public finance area, no one member has the advantage of a higher level of knowledge. By sheer virtue of being located in the Treasurer's Office building, COSF staff may have more access to the Treasurer than the other Commission members, which may give the Treasurer a certain advantage.

CALIFORNIA DEBT ADVISORY COMMISSION

The Commission is primarily an information center for public agency debt issuance. The Commission records all debt issuance

by public agencies and is also involved in technical assistance and policy research.

Membership

The nine-member Commission is comprised of the Treasurer, Director of Finance, State Controller, two members of the Assembly appointed by the Speaker, two members of the Senate appointed by the Senate Rules Committee and two local government finance officers appointed by the Treasurer. The Treasurer is statutorily required to serve as Chair of the Commission.

Role of the Treasurer

The Treasurer has considerable power on the Commission. First, he serves as Chair, and as such, he has the ability to set the agenda and call Commission meetings. Second, the Commission staff are provided by the Treasurer's office and are directly responsible to him.

State and Local Finance: Congressman Lungren's Record

Congressman Lungren's position on public finance issues has been consistent throughout his term in office. Basically, the Congressman has argued that:

- The federal budget should be balanced
- Taxes should be reduced
- Budget reductions should occur through cutting or eliminating domestic programs.

In the main, Congressman Lungren's remarks on the issues of public finance have focused on the general arguments supporting economic expansion through supply side measures. The Congressman's House speeches, newsletters, and press remarks have been relatively devoid of comments on specific issues which would need to be addressed in his role as Treasurer.

In 1979, in a series of constituent newsletters, Congressman Lungren argued that a constitutionally mandated balanced-budget is "a rallying point around which we need to gather in Washington ...a balanced budget amendment would help to discipline a free-spending Congress." In these same newsletters Congressman Lungren put forth the supply side argument that cutting taxes would result in economic growth, a lower inflation rate, and increased employment.

In 1980, also in constituent newsletters, Congressman Lungren again put forth supply side arguments, citing his co-sponsorship of a Republican initiative which would have:

- Cut individual and corporate tax rates by 10% across-the-board.
- Allowed businesses to rapidly depreciate equipment and plants.

Congressman Lungren defended this proposal by arguing that "both these tax cuts are aimed at broadening the tax base, i.e., creating more jobs and income." Ultimately, he argues, this would result in a reduction in the federal deficit.

Also in 1980 newsletters, Congressman Lungren defended supply side tax cuts using the example of the passage of Proposition 13:

...the power of tax cuts to restore the economy was clearly shown after the passage of Proposition 13 in California. We had the greatest boom in California in a decade after Proposition 13. The tax cuts allowed businesses to expand, created new jobs, and meant there were more people paying taxes.

In 1981, the Congressman coauthored a House Joint Resolution which would have required Congress to adopt a Constitutional Amendment requiring that the annual deficit be eliminated, that tax rates be reduced to offset inflation, and that different procedures be adopted for approving bills which affected taxes.

During this same year, Congressman Lungren supported President Reagan's two major fiscal packages: the Gramm-Latta budget substitution proposal and the Economic Recovery Tax Act.

Congressman Lungren made a floor speech supporting Gramm-Latta in which he argued that federal government spending was similar to an individual writing checks with no money in their account. He argued that the House Budget Committee proposal would only "stop writing checks for a year. President Reagan and his allies would throw away the checkbook entirely." He urged his colleagues to vote for the Gramm-Latta proposal because it "makes some fundamental changes."

During the debate on the 1981 Economic Recovery Tax Act, a number of substitute measures and amendments were proposed. Congressman Lungren made a 30-minute floor speech in support of the President's proposal. The primary argument the Congressman gave for supporting the President's bill over the Ways and Means Committee

proposal was that the President's package included indexing of tax brackets.

In 1982 Congressman Lungren made a number of statements, recorded in the Congressional Record, supporting both President Reagan's budget cuts and further reduction of taxes. On February 8, the Congressman argued that the tax cuts implemented in 1981 should be accelerated by six months, to stimulate private sector spending. On March 10 the Congressman admonished the "free spending liberal Democrats" for not supporting past actions to balance the federal budget or cut taxes.

Also in 1982, Congressman Lungren spoke before the House in support of President Reagan's "New Federalism." During his speech of March 25 the Congressman argued that state and local governments could easily handle the new responsibilities imposed by the federal government. Mr. Lungren cited the example of Los Angeles County:

(T)he reduction in the AFDC program in Los Angeles County will amount to 7.8 percent of the caseload. Considering that most of these people have earnings or other income and that the AFDC caseload has increased 124 percent since the inception of the program, this county administrator [L.A. County Supervisor Pete Schabarum] seemed confident that legitimate needs would continue to be met.

Later, during the same day, Congressman Lungren, in defending President Reagan's tax cuts, argued that high inflation during the 1970's reduced the purchasing power of the average family receiving welfare by one-third. Congressman Lungren asks, "Is that progress or a rip-off? Does that not tell us something about a Congress which claims it wants to help the poor but then refuses to do something about the real underlying problems caused by its own policies in large measure? Shouldn't we question policies supposedly for the benefit of the poor which actually take more from them than we give to them?"

In 1983 Congressman Lungren made a number of Congressional Record remarks which:

- Supported indexing of federal tax brackets (April 9).
- Supported the President's budget proposal (May 5).
- Argued that Democratic leadership must make efforts to control federal spending (September 21).

In 1984 in a newsletter to constituents, Congressman Lungren supported a balanced budget constitutional amendment by arguing

that "fiscal irresponsibility has become institutionalized in Congress." Also in 1984 the Congressman joined together with Rep. Dannemeyer to propose an alternative federal budget which would have maintained defense spending, eliminated federal support for legal services, population planning, research in fossil and solar energy, and energy conservation. The proposal contained many elements proposed by the Heritage Foundation and President Reagan's "Grace Commission."

In 1985 Congressman Lungren released a Joint Economic Committee study which argued that eliminating the preferential treatment of capital gains would cause a "sharp decline" in the availability of venture capital. The survey was based on a study of venture-capital firms, many of which said that preferential treatment of capital gains was important in attracting risk capital.

In 1986 Congressman Lungren chastised Democratic leadership for suggesting that tax cuts may be necessary to get the federal budget deficit under control. Also in 1986 the Congressman spoke in favor of a proposal (H.R. 5363) which would pay interest rates equivalent to that of a 52-week Treasury coupon yield to those individuals and businesses whose land, easement, or right-of-way was taken for public use.

In 1987, the Congressman made a 40-minute floor speech arguing against any new tax increase, stating that:

Generally speaking, it is infinitely more preferable to reduce the rate of growth in federal spending and allow the deficit to fall as receipts increase with economic expansion than it is to raise taxes.

During this same speech, the Congressman also argued that the President should have line-item veto authority.

-- by Ann DuBay

B. HOUSING

B. HOUSING

Overview

The State Treasurer's powerful role in housing derives from membership on important statutory committees. These committees control the amount and timing of bond sales, tax exempt bonding authority, the ability of local governments and state agencies to sell mortgage bonds, and the allocation of tax credit to qualified investors in low-income housing. As the Chairperson or member of these committees, the Treasurer has direct influence over important housing policy decisions.

The Treasurer serves as a:

- Chair of the three-member California Debt Limit Allocation Committee (CDLAC) which divided \$1.9 billion in bond authority amongst competing programs, including housing in 1987.
- Chair of the three-member Mortgage Bond and Tax Credit Allocation Committee (MBTCAC) which allocated \$908 million in mortgage bond authority and up to \$65 million in federal and state low-income housing tax credits for rent; housing, in 1987).
- Member of the eleven-member Board of Directors of the California Housing Finance Agency (CHFA) which issues \$606 million in mortgage revenue bonds for single and multifamily housing for low and moderate-income households in 1987-88.
- Chair of the five-member Housing Bond Credit Committee (HBCC) which approves the amount and timing of CHFA bond issuance.

California Debt Limit Allocation Committee

Prior to the Tax Reform Act of 1986, there were few limits on the amount of tax-exempt bonds for rental or single family housing. Tax-exempt bonds are essential to producing low-income housing. The Tax Reform Act placed severe restrictions on tax exempt bonds for "private activities." Housing must now compete with mass transit, water facilities, sewage and waste disposal, certain energy utility programs, hazardous waste and redevelopment activities for tax-exempt bond authority.

The State Bond Limit on this type of bond will be \$1.3 billion in 1988; it was \$1.9 billion in 1987. In 1985, before the Tax Reform Act, the State issued \$3.8 billion.

This committee is a powerful gatekeeper. Housing bond programs can expect stiff competition for this essential and severely limited bond authority. The Treasurer as Chair of the Committee exercises considerable power and influence in housing because the state and local housing programs need a tax-exempt bond allocation to make the program, including those described below, affordable to lower income households.

California Housing Finance Agency (CHFA)

CHFA is the primary state agency through which bond proceeds are utilized to finance housing construction. Specifically, the Agency's goal is to create "financing opportunities" for the construction, rehabilitation or purchase of housing for low and moderate income households. This is done by borrowing in the securities market, making loans to housing sponsors, developers and homeowners and by insuring loans for the same purpose.

The CHFA is the nation's largest issuer of housing revenue bonds. Because of the volume of bond dollars handled by the agency, its overall influence in housing construction exceeds that of the state Department of Housing and Community Development (HCD).

In FY 1987-88 the CHFA expects to issue over \$606 million in bonds and notes. The agency also will make loans of over \$282 million and be directly involved in the production of approximately 4,000 housing units.

The Treasurer serves as a member of the Board of Directors of the CHFA. Although only one of 11 members of this board, the Treasurer acts as trustee and holder of bonds for the agency. The CHFA board has far reaching powers. The decisions of the CHFA Board members can have significant influence on the type and price of housing built with bond funds and on which banking institutions receive the housing related business. At its monthly board meetings, decisions can be made on such issues as:

- determining the priorities among housing programs (e.g., whether or not to recommend that the bonds to finance a particular housing program should be sold at a given time).
- determining which specific housing projects will receive loans from bond proceeds (e.g., should the highest priority be a housing project in an urban area or a project in a rural area).
- determining which mortgage bank lender has the most attractive loan package for sale of bonds.
- influencing the price range of units constructed with bond funds, either directly or through design requirements.

Many of the programs under the authority of the CHFA are directed toward low and moderate income or elderly tenants, and first time home buyers. Thus, the Treasurer should have a commitment to providing assistance to these groups.

Housing Bond Credit Committee (HBCC)

The Treasurer serves as the Chairperson of the five member Housing Bond Credit Committee. Except for the State Controller, all other members represent the Administration, including the Governor himself, the Director of Finance, and the chairperson of the CHFA (who is a Governor's appointee). The Treasurer has authority over the staff of this Committee.

This powerful committee reviews all bond issuances proposed by CHFA and may approve or disapprove a bond issuance, reduce the amount, or change the timing of the sale if the committee determines that the proposal would subject the state's credit to "undue risk". Since 1986, the Committee frequently has exercised its authority to reduce or delay bonds in order to maintain limits on indebtedness.

It is important for the State Treasurer as Chair of this Committee to agree with the state's housing policies. The Committee has the power to delay, reduce or prevent the implementation of bond sales, thereby preventing the implementation of housing programs.

Mortgage Bond and Tax Credit Allocation Committee (MBTCAC)

The MBTCAC holds considerable power over local governments and private investors. The Committee is charged with acting as the "gatekeeper" for all mortgage revenue bonds issued in the state to finance housing construction. This includes mortgage bonds issued by state agencies, local governments, and joint powers agencies.

As noted previously, the federal Tax Reform Act of 1986 established tight limits for each state on the total amount of tax exempt revenue bonds which can be issued. Thus, State agencies, local governments and joint powers agencies must apply to the MBTCAC for an "allocation". The MBTCAC must first obtain an allocation from the Debt Limit Allocation Committee chaired by the Treasurer.

In addition, the MBTCAC members gained considerable new power last year when the MBTCAC gained the authority to allocate tax credits to low income housing investors and developers. The tax credits amount to approximately \$60 million annually for the next two years and approximately \$30 annually for the six years after that. The MBTCAC reviews applications for tax credits from

investors in low income housing and makes determinations as to which projects qualify for a credit against the investor's tax liability.

The State Treasurer serves as Chairperson of the three member MBTCAC. The State Treasurer appoints the executive officer of the MBTCAC; this appointee also serves the Mortgage Bond Credit Committee. The other two members are the Governor (or his representative) and the State Controller. When a new State Treasurer is appointed, the Governor and his appointee will form a majority on this powerful body.

Proposed New Housing Bond Programs

Pending legislation, SB 1692 (Roberti) and SB 1693 (Roberti) would help increase the supply of low income housing. These two bills provide for a \$850 million general obligation bond issue to be submitted to the voters on the June 1988 ballot. The bond proceeds would be allocated to rental housing construction, rental housing rehabilitation, homeownership assistance, residential hotel rehabilitation, emergency housing shelters, family housing demonstration projects and farm labor centers.

The bond authority created by this legislation, the "Housing Committee," consists of the State Treasurer, the State Controller, the Director of Finance, the Director of the Department of Housing and Community Development (HCD), and the Executive Director of the California Housing Finance Agency. With the confirmation of an appointed State Treasurer, four of the Committee's five members will be Governor's appointees.

Consistent with current law, this Committee would have broad authority over the implementation of the housing program. The Committee will have the power to determine "...whether or not it is necessary or desirable to issue bonds authorized ...and, if so, the amount of bonds to be issued and sold." Furthermore, the program would require an allocation of tax exempt bond authority.

Due to the considerable authority of the State Treasurer in this area, it is important to insure that a candidate for Treasurer will carry out the program. However, the record of Congressman Lungren raises serious questions. As shown below in his housing voting record, Mr. Lungren has repeatedly voted against programs similar to almost every part of the Roberti Housing and Homeless Bond Act of 1988.

LUNGREN HOUSING VOTING RECORD

The State Treasurer's important role in the funding of low income housing programs would indicate a need for the nominee to be supportive of such programs. As shown in detail below, Mr. Lungren has frequently voted against federal housing programs serving low and moderate income persons. He has voted against the funding of such programs at least nine times in the past five years (see Appendix 6). In addition, he has voted against two major bills providing funding for shelters to homeless persons (see below H.R. 558 and H.R. 6040). And, he has voted against a measure to help persons who have homes to retain those homes. For example, in 1983, he was one of a very few House members to vote against legislation to provide foreclosure relief to unemployed veterans with Veteran's Administration insured mortgages (1983, H.R. 2948).

Low Income Housing Subsidies (HUD Programs)

In California as in much of the nation, the demand for low income housing greatly exceeds the supply.

In 1985, the Department estimated that there was a shortage of 498,000 affordable rental units in California. The shortage is even greater today.

Over the last thirty years, Congress has enacted several low income housing subsidy programs under the administration of the Federal Department of Housing and Urban Development (HUD). These programs offered subsidies to private for-profit multi-family developers and to nonprofit groups to encourage them to build rental housing for low and moderate income households. Some of the subsidy programs were targeted toward elderly and disabled persons.

Hundreds of thousands of American households have benefitted from these programs. However, the future is bleak. Federal funding for housing programs declined approximately 75% between 1981 and 1987. Worse yet, in the near future many property owners will be eligible to raise rents as the rent agreements entered into years ago begin to expire.

A recent study published by the Senate Office of Research, Housing Alert, reported that owners of approximately 117,000 rental units in California alone will be eligible to terminate participation in the HUD programs in the next 20 years. Owners may raise rents to a degree not affordable to the current tenants who will find few other housing choices. Approximately 40% of these housing units are occupied by elderly tenants who may find a move especially traumatic--some are in their 70's and 80's and have lived in the same unit ten or more years.

In Congress, Mr. Lungren frequently has voted against legislation to reauthorize and fund the HUD housing programs. He also voted against a recent housing package which included funds to help preserve for low income households many of the units threatened by termination of the HUD subsidies, H.R. 4 (see Appendix for more detail). As a sample of his voting record:

- In 1987, he voted NO on the Housing, and Community Development and Homelessness Prevention Act of 1987 (H.R. 4). This bill authorized major HUD and rural housing programs. The bill passed on a vote of 285-120.
- In 1986, he was one of only 36 House members voting NO on the Housing and Community Development Act of 1986 (H.R. 1). This bill passed on a vote of 340 to 36 and provided critical funding for HUD programs.
- In 1985, Mr. Lungren voted NO on H.R. 3038, the Housing and Urban Development-Independent Agencies Appropriations Bill. This bill passed the House on a vote of 340-73.
- In 1984, Mr. Lungren voted NO on the HUD and HUD-Independent Agencies Appropriations Bill (H.R. 5713), which passed the House on a vote of 282-110.
- In 1984, Mr. Lungren voted YES on H.R. 5743, the Farmer's Home Administration Appropriation.
- In 1983, Mr. Lungren voted NO on H.R. 1, the Housing and Urban-Rural Recovery Act. This bill reauthorized the major federal low income housing and programs for the homeless. The bill passed the house on a vote of 263-158 after being attached to export/import legislation.

Homelessness

The crisis of large numbers of homeless persons and families walking the streets of California cities can no longer be ignored. Conservative estimates acknowledge that over 100,000 persons in California are homeless. Approximately 30% of these are families with young children. Another 20% to 30% are veterans, often Vietnam era veterans.

After an initial position that homelessness was largely a problem for local government to solve, the tide of public opinion and a successful law suit have resulted in a general recognition that the state has an important role to play in the solution of this problem.

Mr. Lungren's voting record on emergency relief to homeless persons indicates opposition. He has voted against four major pieces of legislation designed to provide emergency shelter to homeless persons:

- In 1987, he voted NO on H.R. 558, the Emergency Housing Assistance Act. One of the largest homeless aid package passed by the House (\$500 million), this bill passed on a vote of 264-121.
- In 1984, Mr. Lungren voted NO on the Second Supplemental Appropriations Act (H.R. 6040) which included \$70 million in emergency assistance for the homeless, as well as funding for other housing programs. This bill passed on a vote of 304-116.
- In 1983, Mr. Lungren opposed H.R. 1718, the "Jobs Bill," which provided over \$4 billion for emergency assistance for the unemployed and for homeless persons and for major housing programs. This bill passed the House on a vote of 324-95, with Mr. Lungren voting NO.
- In 1983, Mr. Lungren voted NO on the Emergency Housing Assistance Act of 1983 (H.R. 1983) which provided among other things funding for sheltering homeless persons and families. This bill was approved by the House on a vote of 216 to 196.

Homeownership Preservation/Weatherization

During the recession in the early 1980's, thousands of homeowners faced the loss of their homes through foreclosure. Mr. Lungren's voting record demonstrates opposition to foreclosure relief, i.e. funding to help low income households avoid foreclosure on those homes. Mr. Lungren was one of only 23 House members voting against aid to unemployed veterans threatened with foreclosure of Veteran's Home Administration home loans. He has also opposed funding for the weatherization of the homes of low income households in order to reduce heating bills. For example:

- In 1983, Mr. Lungren voted against the Emergency Housing Act of 1983 (H.R. 1983), which provided funds for deferred interest loans to homeowners threatened with foreclosure. As mentioned above, this measure was approved by the House on a vote of 216-196.
- In 1984, Mr. Lungren voted against a bill providing weatherization assistance for approximately 13 million low income households (H.R. 2615). However, he also voted against a successful amendment to reduce the 1985 funding level from \$500 to \$200 million. Mr. Lungren supported two unsuccessful amendments which would have allowed these funds

to be reduced or eliminated in order to reduce the budget deficit.

Mortgage Bonds for Housing

In recognition of a nationwide crisis in the availability of low income housing, the Congress included in the Tax Reform Act of 1983 (H.R. 4170) several important provisions relating to low and moderate income housing including mortgage revenue bonds, mortgage credit certificates, industrial development bonds, depreciation, cooperative housing and syndication. These provisions included tax incentives for housing development. Mr. Lungren voted NO on this bill, which passed the House on a vote of 318-97.

CONCLUSION

Overall, Mr. Lungren's record indicates opposition to a role for government in increasing the supply of low income housing. It would appear he is also opposed to a role for government in providing relief to homeless citizens. Yet, in the role of State Treasurer, he would have an important position from which to either promote or thwart programs the Legislature and/or the voters have enacted to increase the supply of housing affordable to low income households.

-- by Sara McCarthy and Christine Minnehan

C. EMPLOYMENT AND PENSIONS

C. EMPLOYMENT AND PENSION SYSTEMS

The Treasurer's Responsibilities

The State Treasurer is an ex-officio member of both the **Public Employees Retirement System (PERS)** (Government Code Section 20100) and the **State Teachers Retirement System (STRS)** (Education Code Section 22200). The Treasurer has also traditionally been appointed as one of the nine members of the 13 member Board of Administration to sit on the PERS investment committee. The investment committee of STRS is a committee of the whole board membership.

PERS provides monthly benefits for 250,000 retired state employees totaling \$2 billion yearly. In addition, the system makes roughly 60,000 to 100,000 quarterly supplemental COLA payments totaling \$149 million annually. PERS also administers health benefits to public employees through 70 hospital insurance plans serving 285,000 employees. **The PERS reserve is currently around \$43 billion.** STRS provides monthly benefits for 115,000 retired teachers totaling \$1.2 billion. In addition, the fund pays out other COLA benefits totaling \$60 million each year. **The STRS retirement fund is currently around \$22 billion.**

The State Treasurer also chairs or is a member of a large number of agencies involved in the allocation of funds used for construction and renovation projects in the public and private sectors. There is much competition for the funds distributed through these agencies, and there are opportunities to maximize the public benefits by choosing recipients carefully. In effect, the State Treasurer participates in steps leading to the letting of contracts and the hiring of personnel, and thus has influence on the conditions under which these persons work.

As chair or as a member of certain agencies, the authority of the State Treasurer is very limited. The **New Prison Construction Committee**, for instance, which the Treasurer chairs, simply determines when additional funds under the voter-approved bond authorization are needed for the next stage of construction or expansion of state prisons (Penal Code Section 7100). Thus, the issues which come before this body are ones of timing and cash flow only.

However, in some cases the Treasurer has great discretion. Such is the case, for instance, with the **Mortgage Bond and Tax Credit Allocation Committee** (Health and Safety Code Section 50199), which determines which low-income housing developers will receive tax credits against their tax liability. Another example is the **California Industrial Development Financing Advisory Commission** (Government Code Section 91550). The Treasurer is chairman of CIDFAC and sits on the commission with the State Controller, the Director of Finance, the Director of the State Department of

Commerce, and the California Commissioner of Corporations. The Treasurer appoints the executive secretary of the Commission, who then serves at the pleasure of the Commission members

CIDFAC reviews and approves bonds used to finance business loans for acquisition, construction, and rehabilitation of manufacturing facilities. They are a form of "conduit" financing (allowing a business to borrow funds utilizing the local agency's tax-exempt status).

CIDFAC is required to consider the extent to which "public benefits" would result from approval of specific bond proposals, such as number and type of jobs, efficiency of resource utilization, and various benefits to consumers. These requirements allow the members of CIDFAC, and the Treasurer as chairman in particular, to be very selective about which proposals to approve. This is especially important with this agency and other agencies where there is much competition for a limited allocation.

Also, the local projects to be funded under CIDFAC and under the **California Housing Finance Agency** are required to include a provision for the payment of the "prevailing wages" of the area. As there are frequent attempts by contractors to avoid this latter provision, the position the Treasurer takes on these controversies is of vital importance to many Californians.

Finally, it must be noted that there is some controversy concerning whether all private contracts (for construction projects) flowing from public funds require payment of prevailing wages. There are other bond authorities under which the state is acting as financier only, loaning money directly to private sector interests who then contract with other private parties to have construction or improvement work done.

This may occur under the the **California Alternative Energy Source Financing Authority**, the **California Pollution Control Financing Authority**, the **California Urban Waterfront Area Restoration Financing Authority**, the **California Educational Facilities Authority**, and the **California Health Facilities Financing Authority**. Representatives of organized labor and others contend that improvement and construction work done under these authorities also require the payment of prevailing wages, since the funds are public funds under the authority of government bodies. This issue may become more heated in the near future. Again the position of the Treasurer will be of concern to the public.

Congressman Lungren's Voting Record

Congressman Lungren voted against the prevailing wage concept, used to uphold community standards of pay:

- voted "yes" on a 1986 amendment to the Defense Department authorization bill offered by Rep. William Dickinson that would have exempted 80% of construction contracts from the prevailing wage standard by raising the \$2000 contract threshold to \$250,000 (8-15-86)
- voted "yes" on a 1982 amendment which would have weakened the prevailing wage laws on local development grants for economically distressed areas of the country (8-12-82)
- voted "yes" on a 1979 amendment which would have eliminated prevailing wage laws for Indian housing and residential rental rehabilitation housing projects carried out by neighborhood nonprofit organizations (6-6-79).

Voted against provisions designed to ensure health and safety on the job-site:

- voted "yes" on a 1986 amendment which prohibited states from setting stricter pesticide residue standards than those of the federal EPA (9-19-86)
- voted "no" on a 1985 amendment that would have required farms employing 10 or more workers to provide sanitation facilities in order to be eligible for federal farm subsidies (10-8-85)
- voted "yes" on a 1982 amendment which prohibited the Mine Safety and Health Administration from spending funds to enforce safety and health standards for workers employed in sand, stone and gravel operations (10-6-81)
- voted "yes" on a 1979 amendment to cut \$10.3 million in job-site inspection and enforcement activity from the federal Occupational Safety and Health Administration (6-27-79).

On other issues of major importance to labor related to wages and the conditions under which individuals work:

- voted against the passage of the Equal Rights Amendment (HJR1, 11-15-83)
- voted for an amendment to the Federal Pay Equity Act which would have gutted legislation introduced to study the number of federally employed women in low-paying jobs (HR3008, 10-9-85)
- voted "no" on a 1984 procedural question which allowed the House to debate the question of prohibiting employers from using bankruptcy laws to terminate union contracts (3-21-84)

- voted against a bill which prohibited use of polygraph tests as a condition of employment (HR1524, 3-12-86).

Mr. Lungren has been a notable opponent of job creation, job protection and job retention programs:

- voted against a bill requiring three months notice to workers when a major layoff is anticipated (HR1616, 11-21-85)
- voted against fund to establish the American Conservation Corps to provide jobs and job training for unemployed youth on public and Indian lands (7-11-85)
- voted against a 1983 \$3.5 billion jobs package bill which included increased health care and immunization services, nutrition programs for the elderly and handicapped, emergency food and shelter, and child care for children of working parents (9-21-83)
- voted to delete \$5.4 billion for job creation from the FY83 continuing appropriations bill (HJR631, 12-14-82).

Ratings

American Federation of Labor - Congress of Industrial Organizations	5%
American Federation of State, County and Municipal Employees	8%
National Education Association	2%
United Food and Commercial Workers	1%

-- by Rodger Dillon

D. SENIOR CITIZENS

D. SENIOR CITIZENS

Overview

The Treasurer sits on a number of boards and authorities which impact seniors. Both the **Public Employees Retirement Board (PERS)** and the **State Teachers Retirement Board (STRS)** make decisions affecting the pensions and health benefits of retired government employees. The Treasurer serves as the Chair of another organization which significantly impacts the lives of seniors: the **California Health Facilities Financing Authority (CHFFA)**. The Authority issues bond to make loans to private, nonprofit corporations, such as acute care hospitals and skilled-nursing facilities.

For a discussion of the Treasurer's authority on the retirement boards, please see the "Labor and Pensions" section. The CHFFA is discussed in the "Health" section.

According to voting scorecards compiled by the National Council of Senior Citizens (NCSC), Congressman Lungren, has generally voted against proposals to expand or maintain services which affect seniors. However, the Congressman has also voted in support of bills which would reduce taxes -- another issue of importance to seniors. The following discussion looks at the Congressman's position on senior issues since his election to the House.

Position On Issues Affecting Seniors

In 1979, Congressman Lungren voted against an amendment to H.R. 3875. The amendment prevented Social Security COLAs from counting as income when calculating rent for assisted housing. Congressman Lungren voted in support of H.R. 3236 which established a cap on the amount of benefits received under the Social Security Disability Insurance program. During this same year he voted against a bill (H.R. 2626) which would have established mandatory controls on hospital cost increases, if costs rose more than 11.6 percent.

In 1980 the Congressman voted against a resolution to set fiscal targets for the 1981 budget year. Senior citizen organizations opposed this measure because of the arbitrary nature of setting fiscal targets.

In his 1981-82 Winter newsletter to constituents, Congressman Lungren put forth his proposals for safeguarding the Social Security system:

- Immediately take steps to ensure that the system does not run out of money by borrowing from two other Social Security Trust Funds;
- Provide for long term reforms;
- Find solutions without looking toward higher payroll taxes.

Congressman Lungren did not provide any information as to how the last two goals should be met; but he did provide a summary of President Reagan's Social Security reform plan.

In 1982 Congressman Lungren voted for a bill (H.R. 6444) increasing the length of drug patents. The passage of this bill could have reduced the competition among drug manufacturers, resulting in higher drug prices.

Also in 1982, Congressman Lungren voted for an amendment to H.R. 7019 which would have reduced various transportation programs, including Amtrak and urban mass transit. Older people are among those who rely most heavily on mass transit services in urban areas.

In 1983 Congressman Lungren voted for an amendment to a bill (H.R. 1900) which increased the Social Security eligibility from age 65 to age 67. He voted against an amendment to the same bill which would have raised the payroll tax to fund the long-term Social Security deficit.

Also in 1983 the Congressman voted against a motion (H.R. 2807) to increase federal funds for meals provided under the Older American's Act. During this same year he voted against H.R. 1 which reduced the rent contributions of tenants in subsidized housing from 30 percent to 25 percent of income.

In 1984 Congressman Lungren voted for a motion to send a bill (H.R. 5394) back to the Ways and Means Committee to include a freeze on payments made to Medicare for physicians fees. This motion, had it passed, would have resulted in higher doctors bills for senior citizens.

In 1985 Congressman Lungren voted against an amendment to H.C.R. 152. This proposal would have eliminated 1986 COLAs in Social Security and other retirement programs and raised \$12 billion in new taxes.

In 1986 Congressman Lungren voted for an amendment to H.R. 4154. The amendment exempted state and local firefighters and law enforcement officials from the provision of the bill which pro-

hibited mandatory retirement on the basis of age, rather than job performance. The Congressman also voted against a motion to suspend the rules and pass H.R. 2418 which would have reauthorized community health care centers, often the only source of primary health care for rural seniors.

In 1987 the Congressman voted against H.R. 2470, the Catastrophic Health Insurance Bill, which would protect Medicare beneficiaries from catastrophic health care costs.

-- by Ann DuBay

E. ENVIRONMENT

E. ENVIRONMENT

Overview

The State Treasurer participates in key financing decisions affecting the environment in three areas: water resources development, pollution control and parks, recreation and resource protection.

I. Water Resource Development

Water Resources Development Finance Committee

This Committee was established by the California Water Resources Development Bond Act of 1959. The Committee consists of the Treasurer, Director of Finance, Controller and the Director of the Department of Water Resources. This committee handled one of California's largest bond issues, totalling \$1.75 billion. Monies were used for the State Water Project. Virtually all of the bonds have been issued.

Congressman Lungren's Voting Record on Water Development Projects

- Congressman Lungren has voted against funding many water development projects. The projects he has voted against have been criticized extensively by environmentalists for the destruction of important wildlife and fisheries habitat. An example is his vote for the Conte/Dingell amendment to the 1982 FY Energy and Water Development appropriations bill to remove funding for the Garrison Diversion Water Project. This project would cause more damage to a national wildlife refuge than any other public works project. He also voted no on the Beville motion that would have allowed construction to resume despite a federal court order.
- Congressman Lungren was supportive of the local cost share requirements of the 1986 Water Resources Development Act. The Act mandated a local share of 25 to 50 percent for all Federal water projects. Previously, the Federal government paid 100 percent of the project's costs.

II. Pollution Control

The Treasurer sits on two financing authorities and four finance committees that oversee funds for pollution control, toxic cleanup and clean water.

California Pollution Control Financing Authority

Historically the California Pollution Control Financing Authority has been one of the largest and most active Authorities, issuing revenue bonds to finance loans to businesses for a variety of pollution control projects. Recently, the Authority's activities have been curtailed because of the 1986 Tax Reform Act, which limits issuance of tax exempt bonds used for air and water pollution control. The Authority can still issue bonds for hazardous waste reduction and resource recovery.

The membership of the Authority consists of the Treasurer, the Controller and the Director of Finance. By law, the Treasurer is the Chairman of the Authority. As Chairman, the Treasurer chooses the Executive Secretary of the Authority, who then serves at the Treasurer's pleasure. The remainder of the very small staff is civil service. The technical work that is necessary in evaluating the engineering and economic feasibility of the projects is done by outside consultants.

The Authority is still quite active. To date, for the 1987/88 fiscal year the Authority has issued over \$600 million in revenue bonds. The majority of their projects are waste to energy: typically agricultural or wood waste is burned to provide steam and/or electricity. They also fund some municipal waste to energy projects. Most of the financing is given to large businesses.

The Authority does not have a cap on the amount of bonds that they can issue, hence they do not operate with explicit priorities. There is, however, an overall state cap on the issuance of tax-exempt bonds for private activities. The decisions on allocation are not made by this Authority, rather the Debt Allocation Committee makes those decisions.

Recognizing the federal tax reform limitation on tax exempt financing, the Treasurer has the authority to issue taxable bonds. As yet this has not been done by this authority. It is not clear that these bonds would have any interest rate advantage over bonds issued by private parties, but some suggest issuing taxable bonds is worthy of consideration. Some advantage could be gained by issuing bonds that were exempt from state income taxes.

Hazardous Substance Cleanup Financing Authority

This Authority was established by legislation passed in 1984. The original intent of the legislation was to expand upon the hazardous waste work done by the California Pollution Control

Financing Authority (CPCFA). Because of changes in the tax laws, many of the types of projects that this Authority was intended to have funded are no longer eligible for tax-exempt financing. Those that retain eligibility can be funded through the CPCFA. As a result the Authority has been inactive.

The role of the Treasurer in this Authority is identical to the CPCFA.

Hazardous Substance Cleanup Committee

This Committee was established pursuant to the Hazardous Substance Cleanup Bond Act of 1984. The act authorizes the sale of general obligation bonds for the cleanup of hazardous wastes sites. The Department of Health Services is responsible for administering the program.

The Hazardous Substance Cleanup Committee is established by the bond act and consists of the Governor, Treasurer, Controller, Director of Finance and the Secretary of the Health and Welfare Agency. Prior to the Committee authorizing the sale of any bonds, the projects are approved by the legislature. According to Departmental staff the Committee has never interjected itself into the administration of the program.

After the Legislature has approved the projects, the Department takes out a loan from the Pooled Money Investment Fund. Changes in the federal tax law have made it necessary to wait until the Department has spent funds prior to issuing the bonds. The bonds are then used to pay back the loan from the Pooled Money Investment Fund. The Treasurer is on the Pooled Money Investment Board, hence his approval is needed at two stages, as a member of the finance committee and as a member of the Pooled Money Investment Board. This general procedure is used for all of the general obligation bond programs.

Clean Water Finance Committee

Clean Water and Water Conservation Finance Committee

The Clean Water Finance Committee was established pursuant to three bonds acts that the voters have passed from 1970 to 1984. In addition, the Clean Water and Conservation Committee administers the 1978 Act. These acts authorize the issuance of general obligation bonds. Their primary purpose is to fund the construction of sewage treatment plants. The membership of both of the Committees is composed of the Treasurer, Controller, Director of Finance, a Governor's representative, and the Chairman of the State Water Resources Control Board. At this time, the majority of the Water Resources Control Board has been appointed by Governor Deukmejian.

The funds raised by issuance of the bonds are used to supply the state share of federal grants for water pollution control projects. A local share is also required.

Some of the funds are appropriated for specific projects by the Legislature. The allocation of the majority of the funds are left to the discretion of the Water Resources Control Board. Staff representatives have reported that the Committee has not interjected itself into the administration of the program. Bond issues have been delayed when the Committee felt that inadequate staff work had been done. These delays have not interfered with the program administration.

Safe Drinking Water Finance Committee

Three bonds acts have been passed to provide funds for grants and loans to improve domestic waters systems. The intent is to bring water quality up to the standards of the Federal Safe Drinking Water Act. The Department of Health Services administers the grant and loan program. The Department of Water Resources is responsible for the financial aspects of the program.

The bond acts establish the Safe Drinking Water Finance Committee composed of the Treasurer, the Governor, the Controller, the Director of Finance, the Director of Water Resources, and the State Director of Health Services. The Committee is charged with authorizing the sale of the bonds when requested by the Department of Water Resources.

Representatives of the Department of Water Resources report that the Committee has never involved itself in the administration of the program or hindered by the program by failing to provide needed funding. The Committee does not receive or has asked for project-specific information. By the time the Committee is requested to authorize the bonds, the legislature has passed a bill approving of the specific projects. This is a requirement of all of the Safe Drinking Water Bond Acts.

Congressman Lungren's Voting Record does not Evidence Significant Support for Pollution Control

Hazardous Wastes

- In 1982, Congressman Lungren voted no when Congress voted 250-105 to hold Environmental Protection Administrator Anne Gorsuch in contempt for refusing to turn over documents concerning EPA's administration of hazardous waste programs.

- Congressman Lungren voted against increasing the Environmental Protection Agency's funding. The Wirth Amendment to the Appropriations Bill for EPA would have increased EPA's funding to the agency's pre-Reagan budget level. As a result of cuts, EPA's staff had been reduced by one-third when the agency's responsibilities were increasing because of the hazardous waste workload.
- In 1982, Congressman Lungren voted for the Gramm amendment to exempt business which store or generate small quantities of hazardous waste from the Resource Conservation and Recovery Act (RCRA) Reauthorization bill (HR 6307). The amendment was passed 200-184.
- In 1982, Congressman Lungren voted to reduce the remedies available to individuals suffering damage from hazardous wastes. He voted for the Dannemeyer amendment to the Resource Conservation and Recovery Act Reauthorization bill (HR 6307) which would have eliminated individuals' use of common law as a basis for suing over hazardous waste problems.
- Congressman Lungren voted for the Levitas Amendment to the Resource Conservation and Recovery Act (RCRA). This 1983 amendment would have required House approval of EPA's regulations enforcing RCRA, with a resulting delay of enforcement against toxic polluters. The amendment was defeated 189-204.
- In 1984 Congressman Lungren voted against the "environmental position" on a number of amendments to the Superfund Extension Bill (HR 5640). Superfund is the federal government's hazardous waste management program.
 - Congressman Lungren voted to reduce funds for Superfund. The House maintained funding by rejecting the Conable Amendment.
 - Congressman Lungren joined the majority in preventing Superfund from paying victim's compensation. This was a Levitas amendment.
 - Congressman Lungren voted to limit private citizen's suits against the EPA. This Sawyer amendment which would have given broader standing was rejected by the House.
 - Another Sawyer amendment prohibited individuals from pursuing remedies in federal court in addition to state courts. Congressman Lungren joined a majority in adopting the amendment and limiting the suits.

- In 1985, more amendments to the Superfund Reauthorization bill (HR 2817) were considered and Congressman Lungren voted against the environmental position.
- Congressman Lungren voted against requiring polluters to publicly report the use of certain hazardous materials. Congress voted for disclosure and passed the Edgar/Sikorski amendment by a 212-211 vote.
- Congressman Lungren again voted to limit suits by hazardous waste victims. The Frank amendment amendment would have allowed victims to sue in federal courts. Congressman Lungren joined the majority in rejecting the amendment.

Air and Water Pollution Control

- Congressman Lungren voted yes on the Pursell Amendment to cut \$6 billion from spending on water pollution control. The House defeated the amendment to HR 8, the Clean Water reauthorization taken up by Congress in 1985.
- Congressman Lungren voted for the Strangeland amendment which would have exempted some municipalities from the national requirements of the Clean Water Act. The House rejected this amendment to the Clean Water reauthorization bill by a vote of 167-257.
- Congressman Lungren was one of only 26 Congressmen who voted to support President Reagan's veto of the Clean Water Act. The House voted 401-26 to override the President's veto.
- Congressman Lungren voted twice to forbid EPA from enforcing the Clean Air Act requirements that the states have vehicle inspection programs. One vote was on an amendment that Congressman Dannemeyer sponsored to a fiscal year 1982 appropriations bill. The amendment was rejected by the House by a narrow margin. The other vote was on the Walgren amendment to the HUD and Independent Agencies Appropriations bill (HR 6956). The Walgren amendment passed 200-184.
- In 1984, Congressman Waxman introduced amendments, HR 5959, to strengthen the Safe Drinking Water Act. The amendments were passed 366-27. Congressman Lungren voted against HR 5959.

III. Parks, Recreation and Resource Protection

The Treasurer sits on four finance committees that impact natural resources, most of which have very little discretionary authority under current law.

Community Parklands Finance Committee

State Park and Recreation Finance Committee

These Committees were established pursuant to numerous bonds acts that the voters have passed for park acquisition. The primary responsibility for administering the bond acts lies with the Department of Parks and Recreation. The Committees authorize the sale of bonds as the Department has need for the funds.

The State Park and Recreation Finance Committee consists of the Treasurer, Controller, Governor's representative, Director of Finance and the Secretary of the Resources Agency. The Community Parklands Finance Committee has a slightly different membership under the 1986 bond act: it is composed of the Director of Finance, Treasurer and the Controller. On both Committees, the statutes designate the Treasurer as chair.

The bond acts allocate funds to both state and local governments. Both are subject to Legislative appropriation.

Wildlife Habitat Enhancement Program Finance Committee

This Committee was established by the Fish and Wildlife Enhancement Act of 1984. This was an issue of general obligation bonds approved by the voters. The money is used for a variety of fish and wildlife habitat programs administered by the Wildlife Conservation Board and the State Coastal Conservancy. The Committee consists of the Director of Finance, Treasurer and Controller. Projects financed under this bond act are approved by the Legislature.

As with other general obligation bond programs, the discretion of the Committee is extremely limited.

Lake Tahoe Acquisitions Finance Committee

This Committee was established by the Lake Tahoe Acquisitions Bond Act of 1982. This general obligation bond act authorized the issuance of \$85 million for acquisition of properties in the Lake Tahoe Basin.

The individual projects are approved by the Board of the California Tahoe Conservancy prior to any requests for bond authorization from the Lake Tahoe Acquisitions Finance Committee. The voting members of the Board are the Secretary for Resources, three local government representatives, and two public members. The Senate and Assembly each appoint one of the public members.

The Finance Committee consists of the Governor, Controller, Treasurer and the Director of Finance. The Treasurer is chair of the Committee. Staff reports that the Committee has not involved itself in any program decisions.

Congressman Lungren's Votes have not been Favorable Towards Parks, Recreation and Resource Protection.

- In 1982, Congressman Lungren voted to remove all funds for parkland acquisition through his vote for the Gramm-Latta substitute to the Budget Committee's fiscal year 1982 First Budget Target Resolution.
- Congressman Lungren voted to eliminate protection of National Parks from threats occurring outside the park boundaries but near the borders. In 1983, he voted for the Hansen Amendment which would have deleted such protection from the Udall Substitute Bill (HR 2379). An example of the protection envisioned in the Udall bill was a requirement that the Secretary of Interior review activities such as strip mining on federal lands outside of a National Park.
- In 1983, Congressman Lungren voted to cut the Interior Department's budget by 4 percent and make cuts in funding for park acquisition and operation. The cut was contained in the McDade amendment to the Interior Department Appropriations Bill (HR 3363).
- In 1986, Congressman Lungren voted against creation of two new National Parks. One vote was on the Vucanovich amendment to prevent creation of the Great Basin National Park and Reserve in Nevada. The amendment was rejected and the Nevada Wilderness Protection Bill was passed (HR 3302). The other vote was on a rule to allow consideration of the Columbia River Gorge Protection Act (HR 5705). This bill was a product of local, state and federal negotiation over a method to protect the Columbia River Gorge in Oregon and Washington. This rule was approved 252-138.
- Congressman Lungren voted for the Loeffler motion to commit to further cuts in the Department of Interior's 1982 FY appropriation. This would have reduced funds to buy parkland and wildlife refuges and money used for historic preservation programs.

- In 1982, Congressman Lungren voted to allow the use of explosives for seismic exploration for minerals in wilderness areas. Congressman Lungren voted yes on the Young Amendment to the Wilderness Protection Act (HR 6542). The amendment was defeated 115-281.
- Congressman Lungren voted to suspend the Congressional rules and pass the Coastal Barrier Resources Act (HR 3252). The bill prevents the use of federal funds for development of coastal islands. This is a pro-environmental vote.
- In 1982, Congressman Lungren voted against the Ocean and Coastal Resources Management and Development Fund (HR 5543). This bill would have set aside a very small portion of the revenues from federal offshore oil development for the purpose of funding state coastal resource management programs, including the Sea Grant program for marine research and technical assistance.
- Congressman Lungren voted against an amendment to weaken protection for the Atlantic Striped Bass. This was the Bateman amendment to the Atlantic Striped Bass Conservation Bill, HR 5492, in 1984.

-- by Roger Dunstan

F. ENERGY

F. ENERGY

California Alternative Energy Source Financing Authority

Historically, the Alternative Energy Source Financing Authority has issued revenue bonds to finance loans to businesses for alternative energy technologies, such as cogeneration, small hydroelectric projects and waste to energy facilities. The Authority has funded a relatively small number of projects, about 20. Frequently, they participate in projects in conjunction with the California Pollution Control Financing Authority.

The membership of the Authority consists of the Treasurer, Controller, Director of Finance, the Chairman of the California Energy Commission and the President of the Public Utilities Commission. The latter two are currently both appointees of Governor Deukmejian. By statute, the Treasurer is the Chairman of the Authority.

As Chairman, the Treasurer chooses the Executive Secretary of the Authority, who then serves at the Treasurer's pleasure. The remainder of the Authority's small staff is civil service. The technical work that is necessary in evaluating the engineering and economic feasibility of the projects is done by outside consultants.

The Authority does not have a cap on the amount of bonds it can issue; hence there are not explicit priorities for choosing between projects. The State, however, does have a cap on the amount of private activity bonds that can be issued in any given year. The Debt Allocation Committee, not this Authority, makes the decisions on which projects will receive an allocation.

The activities of the Authority have been limited by passage of the Tax Reform Act of 1986. The Act limited the types of projects the California Alternative Energy Source Financing Authority can fund and still claim tax-exempt status for the issued bonds. For example, bonds for the construction of a cogeneration plant are no longer tax exempt. There are still some projects that would qualify for tax-exempt financing, such as a waste to energy projects.

Despite the limits on tax-exempt bonds, there are several broad areas in which the Treasurer has considerable discretion in administering the program. One area is the hiring of consultants. As noted earlier, the report of the consultants is necessary for a project to gain approval from the Authority. Failure to hire consultants will effectively hold up the work of the Authority.

Recognizing the federal tax reform limitation on tax exempt financing, the Treasurer has the authority to issue taxable bonds. As yet this has not been done by this authority. It is not clear that these bonds would have any interest rate advantage over bonds issued by private parties, but some suggest issuing taxable bonds is worthy of consideration. Some advantage could be gained by issuing bonds that were exempt from state income taxes.

Congressman Lungren's Voting Record does not Exhibit a Significant Amount of Support for Alternative Energy.

- In 1981, Congressman Lungren voted for the Gramm-Latta Budget Target Resolution for FY 1982. The resolution increased funding in the nuclear energy budget from \$1.1 to \$1.6 billion. At the same time, the resolution cut money for solar and renewable energy from \$500 million to \$200 million and cut energy conservation budgets from \$600 to \$200 million.
- Congressman Lungren voted to support the President's proposal to cut \$4.5 million in fiscal year 1983 for energy conservation and alternative energy technologies. He voted no on House Resolution 177 which would have disapproved the President's proposal.
- In 1984, Congressman Lungren voted twice against a bill that would assist low income homeowners obtain insulation. One vote was on the Carper amendment reducing the funds available the program. Congressman Lungren voted with the majority to reduce funding. He also voted against final passage of the bill, the Weatherization and Employment Act, HR 2615. The act was adopted 222-157.
- Congressman Lungren has voted against major government spending on conventional sources of energy. Congressman Lungren has consistently voted against the Clinch River Breeder Reactor. In 1984 and 1985, Congressman Lungren voted to cut subsidies for synthetic fossil fuel subsidies. Both of these votes are considered pro-environmental because of the expected pollution from production of synthetic fossil fuels and the dangers associated with a breeder reactor.

-- by Roger Dunstan

G. EDUCATION

G. EDUCATION

The State Treasurer's responsibilities intersect with educational institutions at every level (elementary through university) and with students in higher education. These responsibilities vary from ministerial to discretionary. The ministerial duties fall under the general rubric of general obligation bond issuance: for the Regents of the University of California, for the Trustees of the California State University, for the California Community Colleges, and for the public schools.

The projects for these institutions are approved through the State Allocation Board or the Public Works Board, and often involve one of several State Finance Committees. In these cases, it is legal and therefore theoretically possible for the Treasurer to refuse to issue bonds requested by these boards and departments.

The discretionary powers are spread among three financial Authorities: the California Educational Facilities Authority, the California School Finance Authority, and the California Student Loan Authority.

The California Educational Facilities Authority

Created by the Legislature in 1972, the Authority issues revenue bonds to assist private nonprofit institutions of higher education in the construction and expansion of non-sectarian educational facilities.

The Authority is chaired by the Treasurer; its other members include the State Controller, the Director of Finance, and two Governor's appointees. The five-member Authority appoints its executive officer.

In addition to the discretion not to sell bonds authorized by the Authority, the Treasurer has two important discretionary responsibilities: to provide expert financial planning assistance to many of the institutions requesting funds and to assure that these funds support only non-sectarian purposes.

Often, the institutions of higher education do not have their own bond team, so the Treasurer appoints one. These appointments are crucial in that the institutions are at risk of extensive financial loss if their planning is inadequate. The fiscal team must understand nonprofits' accounting and provide solid advice before the funds are committed to the project.

Because many of California's higher education institutions have their roots in sectarian education, the Authority has the responsibility to assure that any facility constructed with the funds of these revenue bonds shall not be used for sectarian instruction or as a place for religious worship. This responsibility remains even after the funds are released and the construction completed. The Authority, under the Treasurer's leadership, should continue to monitor the uses of the facilities for which it has provided funds. A commitment not only to the separation of church and state but to the continued monitoring of these projects is an important part of the Treasurer's responsibilities a propos CEFA.

California School Finance Authority

Established in 1985, the Authority has three responsibilities: to provide loans or leases to school and community college districts to finance equipment acquisition, to provide loans or leases for the construction of facilities, and to provide working capital loans.

The Authority has three members: the State Treasurer, who chairs the Authority, the Director of Finance, and the Superintendent of Public Instruction. A new Treasurer becomes the swing vote in any division between the constitutional offices of the Governor and the Superintendent of Public Instruction. The Treasurer appoints CSFA's executive officer who, in turn, serves at the pleasure of the Authority.

Because this Authority is but two years old, it has yet to provide funds for two of its three purposes: it has provided funds for equipment acquisition, but it has not provided funds for construction (including remodeling) or loans of short-term working capital. Given the number of districts with either school construction needs or short-term cash-flow problems, CSFA is statutorily equipped to play an important problem-solving role.

The California Student Loan Authority

Established in 1980, the Student Loan Authority can issue bonds to fund the purchase of postsecondary student loans from lending institutions. It consists of three members: the State Controller, the Director of Finance, and its chair, the State Treasurer. The Treasurer's vote becomes the deciding one in case of a split between the other members. The Authority appoints an executive director, who serves at the Authority's pleasure.

Although the need for new sources of student loans has increased during the past seven years, the Authority is currently inactive. (Its first bond issue backed student loans which were set at a fixed interest rate too high to attract borrowers.) The CSLA has the authority to issue almost \$200,000,000 in new bonds for student loans, but it will require the leadership of its chair or members to exercise that authority.

SUMMARY OF THE NOMINEE'S EDUCATION VOTING RECORD

Recent Key Issues in Higher Education:

- In 1985-86, Mr. Lungren voted no on HR 3700, which authorized \$10.5 billion for student financial aid; the vote was 350-67 in favor of passage.
- In 1985-86, Mr. Lungren voted no on S. 1965, which reauthorized federal student aid for five years; the bill passed by a vote of 385 to 25.

Recent Key Issues in K-12 Education:

- In 1986, Mr. Lungren opposed HR 5233, the major appropriations bill for education; it passed 328-86. Before it passed, Mr. Lungren voted for a Frenzel amendment to reduce program funding by 9.14%; the amendment failed by a vote of 99-321.
- In 1987, Mr. Lungren opposed HR 3058, the major appropriations bill for education; it passed 336-89. Mr. Lungren supported an amendment to cut discretionary programs by 8.16%; the amendment failed 83-341.

In general, Mr. Lungren votes against appropriation and authorization legislation for education, and he votes for amendments to reduce those appropriations.

The exceptions to this general voting pattern occurred when Mr. Lungren twice supported the Emergency Math and Science Education Act (in 1983-84) and when he joined a 401-1 vote to reauthorize the Elementary and Secondary Education Act during 1985-86.

Ratings:

Several organizations analyze the voting records of members of Congress on education issues. During the past five years, at least four organizations have provided ratings of Mr. Lungren.

Three organizations follow legislation dealing with public schools:

- 25%: National Association of Secondary School Principals, 1983-84
- 11%: National School Boards Association, 1987
- 0%: Committee for Education Funding, 1986 and 1987

One organization tracks legislation dealing with higher education:

- 10%: American Council for Education, 1985-86

In all, these several ratings represent 35 distinct votes on bills and on proposed amendments; Mr. Lungren voted four times for the positions advocated by these education professionals and local school board members, an overall rating of 11%.

-- by Jack Hailey

H. HEALTH

H. HEALTH

The principal intersection of the Treasurer's office and the provision of health care in California is the California Health Facilities Financing Authority.

The California Health Facilities Financing Authority

The Legislature created the CHFFA in 1979 with the passage of AB 1558 (Knox): Government Code, Sections 15430 et seq. The Authority provides a method of tax-exempt financing to assist the construction of needed health facilities at the lowest possible cost. It has nine members: the Treasurer chairs the Authority; other members include the State Controller, the Director of Finance, and six appointees. The Senate Rules Committee, the Governor, and the Speaker each make two appointments. The Treasurer hires the CHFFA's executive director who serves at the Authority's pleasure.

Two particular approaches to health facility financing mark California's HFFA: the wide range of health facilities it can assist, and its willingness to work with projects that are very small by health facility standards. This breadth of facility types includes acute care hospitals, skilled nursing facilities, sub-acute care facilities, and community clinics. Adult day health facilities and child care centers operated in conjunction with a health facility are also eligible to receive the Authority's assistance. In addition, the Authority has to date been willing to provide funds for projects as small as \$200,000 as well as projects as large as \$100,000,000.

In the confirmation process it may be useful to determine the Treasurer-designee's response to the broad role CHFFA plays and the extent of commitment to continue this work. For example, an argument could be made that very small projects are not a "cost effective" use of the Authority's time or that of its staff. Or, sometimes health care issues become identified with political groups as may happen with the construction of clinics that serve farmworkers, sub-acute care facilities for AIDS victims, or health facilities where physicians perform abortions. In none of these cases does the law dictate that the Authority make funding available; nor does the law dictate that the Authority make funds available to small projects that otherwise qualify.

NOMINEE'S VOTING RECORD: HEALTH AND SOCIAL WELFARE

Key Issues in Health and Social Welfare:

- Superfund Reauthorization: Mr. Lungren voted with the majority (386-27) to support HR 2005 to reauthorize hazardous waste cleanup for fiscal years 1987-91.

- Nutrition Monitoring: Mr. Lungren voted against HR 2436 to establish a ten-year comprehensive plan to assess and report on the nutritional status of the population. The bill passed 305-85 in 1986.
- In 1986, Mr. Lungren voted to override a presidential veto to reauthorize the National Institute of Health.
- Child Nutrition and School Lunches: Mr. Lungren supported an amendment in 1985 to eliminate cost-of-living adjustments to child food programs. Rejected 143-284.
- Safe Drinking Water: In 1984, Mr. Lungren opposed HR 5959, a bill to set federal standards on drinking water, to revise enforcement, and to authorize funds for safe drinking water programs. The measure passed, 366-27.

Many of the votes in this broad arena deal with appropriations and reauthorizations of established and generally non-controversial federal programs. Usually, Mr. Lungren votes against these appropriations and for proposed amendments to cut their funding.

Other issues tracked by public health and social service organizations touch more directly on philosophical issues than on fiscal issues: pay equity, sanctions against South Africa, family planning programs (domestic and international), and gun control: except for gun control, Mr. Lungren and these organizations are usually at odds.

Organizational Perspectives:

Two principal organizations have provided ratings recently on votes in the House on health issues and social welfare issues. Other organizations advocate positions on specific measures, but they do not issue a rating or voting-record analysis.

- 7% Overall (1981-1986) and 13% in 1986, from the American Public Health Association.
- 0% in 1985 and 10% in 1986; the National Association of Social Workers.
- The American Cancer Society, which issues no ratings, does advocate positions of bills. In 1986, Mr. Lungren voted both for and against Society recommendations.

The American Public Health Association focused on 84 votes during the 1981-86 period; six times Mr. Lungren voted as they hoped. The National Association of Social Workers identified ten votes both in 1985 and 1986; Mr. Lungren supported their position once.

Appendix A contains a more detailed report of these organizations' ratings of Mr. Lungren. The Appendix also contains reports from organizations representing the points of view of women and children.

-- by Jack Hailey

I. VETERANS

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Overview

The State Treasurer is the Chairman of the **Veterans Finance Committee**, sitting as a member with the Governor, the State Controller, the Director of Finance, and the Director of the Office of Veterans Affairs. This body authorizes the sale of self-liquidating general obligation bonds to finance long-term housing and farm loans for California veterans at low interest rates (Military and Veterans Code Section 998).

The Treasurer is also the Chair of the **Veterans Debenture Finance Committee** (Military and Veterans Code Section 1000.1), which has the same membership as the Veterans Finance Committee. The VDFC issues revenue bonds to finance low-interest residential loans for California veterans. This bonding authorization supplements that of the bonds under the jurisdiction of the Veterans Finance Committee.

Under both of these programs, the finance committees simply determine, following recommendations from the Department of Veterans Affairs, when additional funds under the voter-approved bond authorization are needed for allocation to qualifying applicants for home and farm loans by the Department of Veterans Affairs.

Congressman Lungren's Voting Record

Mr. Lungren obtained an 80% rating from the Veterans of Foreign Wars Foreign Wars Political Action Committee for his votes in the 99th Congress and a 71% rating for his votes in the 98th Congress. On defense issues alone, he usually receives a 100% rating. Among those measures supported by VFW-PAC which Mr. Lungren also supported:

- In February 1986, Representative Lungren voted for the Montgomery amendment to raise the dollar limit on home loan guarantees for veterans from \$11.5 billion to \$18.2 billion (HR4130).
- On March 26, 1985, he voted for the MX missile authorization of \$1.5 billion (SJR71).
- Voted for HR2577 to approve \$27 million for humanitarian assistance to the Contras in Nicaragua (1985).
- Voted for HR1538, the COLA for veterans receiving disability payments and their dependents and survivors (1985).
- Voted for HR505, the Veterans Administration bill which extended and expanded health care benefits for veterans (1985).

The Vietnam Veterans of America give Mr. Lungren their lowest rating. No other Congressman scores lower. In the 98th Congress, he received a 0 rating for being on the opposite side of the four issues of importance to VVA.

- Opposed HR4772, granting a government charter to the Vietnam Veterans of America, which originally came into being in 1978 as a volunteer organization of Vietnam veterans who believed that they had special needs and that their needs were receiving insufficient attention.
- Refused to sign on as a co-sponsor of HR1961, the Agent Orange Relief Act, which would have provided for compensation for certain types of illnesses associated with Agent Orange.
- Voted against HR9772, the Education and Training Provisions of Public Law 9772, of interest to veterans.
- Refused to sign on as a co-sponsor of HR1959, the "Judicial Review Bill" which would have granted veterans the right to sue the government under certain circumstances.

Congressman Lungren received a 40% rating from VVA for the 99th Congress, which was the lowest rating any Representative received for that session. He supported two roll call votes VVA favored:

- Roll Call 2170, which extended the Veterans Readjustment Appointments Act (preferences in hiring).
- Roll Call 2287, which included funding for the Veterans Center Program (health care).

However, Mr. Lungren did not support the position of VVA on the other three issues:

- Voted to oppose a Congressional Gold Medal for Jan Scruggs, the individual who formed the Vietnam Veterans Memorial Fund to collect money for and build a memorial for Vietnam veterans (Roll Call 2154).
- Again refused to act as a co-sponsor of a Judicial Review Bill (HR585).
- Voted to support Gramm-Rudman (Roll Call 1454), which VVA opposed.

Several of Mr. Lungren's votes on issues of concern to veterans raise questions about his understanding of the variety of veterans' needs.

- In May 1983, Mr. Lungren opposed foreclosure relief for unemployed veterans with Veteran Administration insured

mortgages (HR2948). The bill was approved nonetheless by a vote of 394-23.

Numerous studies indicate that 30% of the homeless population are veterans, yet

- On March 5, 1987 Mr. Lungren voted "No" on HR558, the Emergency Homeless Assistance Act, which included \$500 million in emergency homeless aid.
- In June of 1983, Mr. Lungren voted "No" on HR3133, a HUD-Independent Agencies appropriation, including funding for major federal low-income housing and homeless programs.

Congressman Lungren is on record as opposing many of the jobs and social services bills designed to meet the needs of low-income and unemployed persons, many of whom are veterans. Some recent examples:

- On July 31, 1986, Mr. Lungren supported an amendment offered by Rep. Bob Michel (which was defeated) that would have cut \$1.6 billion from the Departments of Education, Labor, and Health and Human Services. A substantial portion of these cuts would have come from job-training funds.
- Voted no on the "HUD Appropriation Bill" of \$57 billion, \$27 billion of which was for the Veterans Administration. Also, much of the HUD money was for programs to assist veterans (HR33038, 11-13-86).
- On May 30, 1984, Mr. Lungren voted against HR5713, an appropriations bill for the Veterans Administration and for medical coverage for veterans.

-- by Rodger Dillon

J. LAW AND JUSTICE

J. LAW AND JUSTICE

The Treasurer's role in the area of law and justice is limited to prison construction financing for state and local facilities.

New Prison Construction Finance Committee

This Committee was established by the Bond Acts of 1981, 1984 and 1986 and is composed of the Controller, Treasurer and the Director of Finance. The Committee authorizes the sale of general obligation bonds to fund the construction of new prisons.

The discretion of the Committee is extremely limited. Staff reports that the Committee has not involved itself in any programmatic issues. Before projects are brought to the Committee, the Legislature has already approved the project and considerable state planning has occurred.

County Jail Capital Expenditure Finance Committee County Correctional Facility Capital Expenditure Finance Committee

The County Jail Capital Expenditure Finance Committee was established pursuant to the County Jail Capital Expenditure Bond Acts of 1981 and 1984. The County Correctional Facility Capital Expenditure Finance Committee was established by the County Correctional Facility Capital Expenditure Bond Act of 1986. The membership of both Committees consists of the Governor, Treasurer, Controller, and the Director of Finance. For both Committees, the statutes designate the Treasurer as chair. Both of these Committees function in much the same way as the New Prison Finance Committee, but the programs differ as these two Committees authorize the sale of bonds for grants to local governments for jail construction.

Congressman Lungren has been Active in Crime Issues

Congressman Lungren was instrumental in securing passage of the Comprehensive Crime Control Act, PL 98-473. Lungren used a parliamentary maneuver in attaching the crime package to an appropriations bill. This required a full House vote one month before the 1984 elections. The bill passed by a large majority. The Comprehensive Crime Control Act included:

- Provisions to allow seizure of drug profits;
- New sentencing procedures to reduce the disparity in punishment for defendants who commit similar crimes;
- Bail regulations to allow pretrial detention of defendants considered dangerous to the community;

- Provisions making it harder to use insanity as a defense.

The Comprehensive Crime Control Act of 1984 (PL 98-473) created the U.S. Sentencing Commission to bring consistency to the federal sentencing procedures. Congressman Lungren has been supportive of their efforts.

Congressman Lungren has been quoted as favoring more spending on prisons. He sees this a logical focus of government programs in light of the fact that new laws are locking up criminals for longer periods. Congressman Lungren has been quoted as saying "Let's put up or shut up." He has also been supportive of the Federal Bureau of Prisons and its chief, Norman Carlson.

-- by Roger Dunstan

K. PERSPECTIVE ON HUMAN RIGHTS/EQUAL OPPORTUNITY

K. PERSPECTIVE ON HUMAN RIGHTS/EQUAL OPPORTUNITY

Overview

During his nine-year tenure in Congress, Congressman Dan Lungren has sought to establish himself as a legislator who approaches problems in a comprehensive manner, yet seeks pragmatic solutions. For example, Mr. Lungren worked hard to reach bipartisan agreement on most provisions of immigration reform legislation, including those which have caused many Republicans problems, such as those granting legalization to immigrants who got here illegally several years ago.

Civil rights advocates, however, have perceived his actions on key issues relating to voting rights, human services, and immigration as representative of partisan and conservative Republican philosophies. Since Mr. Lungren's actions have been deemed to impact adversely on the interests of ethnic minorities, women, gays, and the poor, Mr. Lungren is not generally perceived by civil rights groups to have achieved a balance in representing the disenfranchised segments of our society.

California's ethnic minority population will exceed 40% and women will comprise 51% of the state's population by the year 1990. It is, therefore, important to assess the Treasurer's role in advancing equal opportunities and to review Congressman Lungren's past voting record in the area of human rights in order to assess whether his expressed philosophies will help or hinder California's ability to promote equity and opportunity for these growing populations.

Role of State Treasurer in Advancing Opportunities

As Treasurer, Mr. Lungren would oversee personnel matters for a staff of nearly 200 employees and influence the hiring policies of a variety of other boards and commissions, including the State Teachers Retirement System, the Public Employees Retirement System, and the California Housing Finance Agency. The Treasurer can particularly control exempt appointments and the selection of committee consultants, and thereby has an opportunity to promote affirmative action goals and objectives.

As Chairman of various bonding committees, the Treasurer can also determine which entities will receive funding and the conditions of each transaction. Many of these transactions relate to private activity bonds for construction and acquisition of various health and educational facilities. Consequently, Mr. Lungren could have an opportunity to set hiring and contracting policies for these entities. Contract awards to ethnic minorities and women could further their economic development.

These powers are particularly important, since the significance of minority set-asides in bonding measures has increased. In the 1987-88 legislative session, twenty-nine bond measures were introduced. As of February 1, 1988, nine of the bond bills, totalling \$3.77 billion, included statewide participation goals of not less than 20% for minorities and 20% for women business enterprises (AB 639, AB 930, AB 1715, SB 1265, SB 1664, AB 2654, AB 671, AB 200, and AB 1720).

Through the investment of public employees' and teachers' retirement funds and the financing of private business activities, the Treasurer can also work with private businesses to further the State of California's personnel goals and objectives through the imposition of affirmative action requirements or recommendations to the Legislature that such restrictions be imposed.

As State Treasurer, Mr. Lungren could continue or reverse the State's current commitment toward the maximum participation of minority- and women-owned businesses in projects financed by the State. For example, for fiscal year 1985-86, minority business participation in the California Housing Finance Agency programs totalled \$55.9 million, consisting of \$16.6 million in initial loan commitments, \$8.3 million in final loan commitments, and \$31.0 million in contractor participation.

Finally, in the administration of the various authorities, the State Treasurer has an opportunity to influence the equitable distribution of services, such as affordable housing, to women and ethnic minorities.

Civil Rights Record

Congressman Lungren's minority and civil rights record is controversial, and has raised questions about his potential commitment as State Treasurer to the advancement of equal opportunities in employment and in the financing, investing, and administration of state funds. For example, on minority set-asides, the American Conservative Union's 1986 Ratings of Congress indicate that Mr. Lungren voted against an amendment to increase from 5% to 10% the proportion of Pentagon contracts that must go to minority-controlled businesses. The amendment passed by a vote of 259 to 135 (August 14, 1986).

The controversy regarding Mr. Lungren's civil rights record stems from his 1980 votes on fair housing measures and his past opposition to increased federal financial aid to enable California to cope with the large numbers of Southeast Asian refugees settling here. According to the Consumer Federation of America, in 1980 Mr. Lungren voted against an amendment to H.R. 5200, an important housing bill, to retain strong procedures to ensure enforcement

of laws prohibiting housing discrimination on the basis of race, nationality, religion, sex, or physical handicap. He also voted against an amendment to H.R. 5200 to prohibit real estate appraisers from considering race, religion, national origin, sex, or physical handicap in determining the values of property. These amendments were adopted (June 11, 1980).

Voting Rights Extension

From 1981 to 1986, on key votes in the areas of immigration, discrimination, civil rights, and voting, interest groups have considered most but not all of Congressman Lungren's votes to be against minority and civil rights interests. For example, in 1981, while Mr. Lungren backed the Voting Rights Extension Act (H.R. 3112), he voted to eliminate Section 202 of the 1975 Act which required certain areas of the country to provide bilingual election materials (McClory Amendment). In October of 1981, Mr. Lungren introduced an amendment to the Voting Rights Extension Act to provide bilingual election materials, but not bilingual ballots. The House voted 285-124 to reject his amendment.

South Africa Divestment

Also of significance are Mr. Lungren's votes against legislation, H.R. 1460 (June 5, 1985) which would have required the federal government to divest itself of any investments in companies doing business in South Africa. He also supported the Burton Amendment (June 8, 1986) which would have weakened sanctions; and he opposed the veto override of anti-apartheid legislation. Most recently, Mr. Lungren has been criticized on measures relating to Japanese-Americans and gays.

King Holiday

Congressman Lungren has at times surprised his liberal critics. Most notably this occurred during the 98th Congress when Mr. Lungren voted for the establishment of a holiday in honor of Dr. Martin Luther King, Jr. (H.R. 6255). Mr. Lungren had previously voted for the Beard Amendment in 1979 which would have required the holiday to be celebrated on a Sunday each year thus denying states a true holiday. Also, in 1985, he supported H.R. 1452, the Refugee Assistance Extension Act of 1981, to extend the Refugee Resettlement Program for two years and to provide federal reimbursement to states. H.R. 1452 passed on a voice vote (Congressional Quarterly, Inc., June 15, 1985, p. 1151).

Civil Rights Act

Other votes on major civil rights legislation have also raised controversy. In 1984, Congressman Lungren opposed the Civil Rights Act of 1984 (H.R. 5490) which clarified that the bar to discrimination in Title IX of the Education Amendments of 1982, Title VI of Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, applies to any program or activity within the institution that received federal financial assistance. It passed the House by a vote of 375 to 32, but died in the Senate. That bill was introduced to reverse the Supreme Court decision, Grove City College v. Bell, a ruling which seriously curtailed enforcement of the above-mentioned major civil rights laws. A similar measure was introduced in 1985 (H.R. 700), but it became entangled in disputes over abortion rights and exemptions for religious institutions. Another bill has been introduced in the 100th Congress ("Civil Rights Legislation," Congressional Research Service, April 14, 1987). That bill has passed the Senate and is now before the House.

Immigration

Congressman Lungren has been active on legislation revising immigration laws in the 97th, 98th and 99th Congresses. He helped get the Simpson-Mazolli immigration bill through the House in 1984 (H.R. 1510), but it died in conference committee. According to a 1984 Legislative Report published by the National Council of La Raza, on eleven key amendments to the Simpson-Mazolli bill Congressman Lungren voted contrary to the positions taken by Hispanic, civil liberties, churches, and labor organizations on ten occasions. The only right vote was a vote to reject the deletion of a legalization program for undocumented aliens already residing in the United States.

According to Mr. Lungren, quoting the Select Commission on Immigration, the focus of the Simpson-Mazolli bill was to close the back door on illegal immigration so that the front door on legal immigration may remain open (Lungren, Daniel and Holsclaw, Kevin, "Analysis of H2 Program," Yale Law and Policy Review, Vol. 1:240, 1983, p. 253).

In 1986, during the last days of the 99th Congress, immigration reform passed and became law by a vote of 238-173 (October 15, 1986, Conference Report vote on S. 1200 and its companion measure H.R. 3810) with Mr. Lungren voting AYE. The final immigration law, the Immigration Reform and Control Act of 1986 (IRCA), PL 99-603, represents an improvement over previous versions of the legislation which attempted to delete important anti-discrimination protections as well as legalization and employer sanctions provisions.

On six key votes on the 1986 immigration bill, three of Congressman Lungren's votes were supported by civil rights groups: 1) AYE on an amendment to require the issuance of a search warrant

before the Immigration and Naturalization Service (INS) can search an open field for aliens, 2) NO on an amendment to strike the legalization provisions of the bill, and 3) NO on the deletion of criminal penalties from employer sanctions provisions. However, Congressman Lungren voted to strike the anti-discrimination provisions of the law (H.R. 3810). These provisions provide for a special counsel to bring lawsuits on behalf of citizens or legal residents who believe they have been denied a job due to discriminatory activity. The measure failed by a vote of 140-260 so the anti-discrimination provisions remained in the bill. The Congressman also voted for amendments to prevent the suspension of deportation of Central Americans and to prevent the use of public housing by aliens under certain circumstances.

On other key issues relating to immigration reform Mr. Lungren's actions have spawned considerable debate. Mr. Lungren also offered an amendment to H.R. 3810 to exempt employers from suit for discrimination for preferring a citizen over a permanent resident, if both are equally qualified. The amendment was debated due to its potential for discrimination on the basis of alienage (Lungren, Daniel, San Diego Law Review, Vol. 24:277, 1987, p. 287). He also sponsored an amendment to exempt from sanctions those who employ three or fewer workers. Finally, on the issue of social services costs to the states if millions of aliens came forward and applied for legalization, H.R. 3810 provided for 100 percent reimbursement. Mr. Lungren sponsored and amendment to set a \$1 billion-per-year cap which was rejected in committee, 13-18 (Congressional Quarterly, Inc., June 21, 1986, p. 1412).

Japanese Reparation

Congressman Lungren was an original sponsor of legislation to establish a commission to investigate the subject of reparations for Japanese who were interned during World War II (News Conference of Governor George Deukmejian, November 25, 1987). He supported the establishment of a historical record and an apology for any stigma remaining concerning the claims of disloyalty by Japanese Americans during World War II. However, he opposes individual reparation. In the 100th Congress, he has opposed the Civil Rights Liberties Act of 1987 (H.R. 442) which would provide economic redress to Japanese individuals who were interned during World War II. Mr. Lungren offered amendments to delete the authorization of a over a billion dollars for a trust fund for internment survivors. Similar legislation (S. 1009) is pending in the Senate.

Mr. Lungren has stated, "I don't think we should be at a place in this society where an apology is considered worthless unless it is accompanied by money. There is no price you can set on taking

away someone's liberty. And if we set this precedent, why not go further back in American history and compensate the heirs of black slave and mistreated Chinese labor." (Long Beach Press, December 6, 1987)

Legal Services

The Congressman has voted for measures to cut funding of the Legal Services Corporation (LSC) on several occasions. The LSC enforces the rights of ethnic minorities and low income people in the areas of social security, welfare, food stamps, and housing. In 1981, Mr. Lungren voted against reauthorization of the LSC (H.R. 3480). In 1982, Congressman Lungren voted to cut the LSC's funding by nearly 60%. The measure, H.R. 6957, was defeated by a vote of 121 to 269. In 1986, Congressman Lungren voted to cut the LSC's appropriation in half by voice vote, notwithstanding the administration's request of \$305,500 (Congressional Quarterly, Inc., July 19, 1986, p. 1656).

Social Services

Another major human rights issue has been the availability of social services to low income persons. Congressman Lungren has voted for measures to limit the availability of food stamps and energy assistance to the poor, even when the proposal had few other House supporters. For example, in 1982 the House passed H.J. Res. 392 by a vote of 342-62. This resolution brought energy assistance programs up to their full authorization. Congressman Lungren voted against the resolution (Consumer Federation of America Voting Record, 1982, p. 9).

Women

In addition to the civil rights legislation which would reverse the Grove City decision, the issue of pay equity is of major importance to women. Congressman Lungren voted in the 99th Congress against H.R. 3008 which authorized a study of the federal work force to determine if differences in pay are caused, in any part, by discrimination on the basis of sex, race or national origin. The measure passed 259-162 on October 9, 1985.

Gay Rights

In the 100th Congress, the National Gay and Lesbian Task Force has raised concern over Mr. Lungren's vote to overturn legislation enacted by the District of Columbia to prohibit discrimination in insurance against individuals who test HIV positive (1986 AIDS Insurance Bill). Congressman Lungren also voted to support a motion to instruct Congress to agree to the Helms Amendment in 1987 which would prohibit the use of federal funds to provide AIDS education information or prevention material.

-- by Luisa Menchaca