

SUBCOMMITTEE #3: Health & Human Services

Chair, Senator Mark Leno

**Senator Elaine K. Alquist
Senator Roy Ashburn**



May 6, 2010

**9:30 a.m. or
Upon Adjournment of Session**

Room 4203

Committee Staff: Jennifer Troia

<u>Item</u>	<u>Department</u>
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4140	Office of Statewide Health Planning & Development
4200	Department of Alcohol & Drug Programs
4170	Department of Aging
5160	Department of Rehabilitation
5175	Department of Child Support Services
5180	Department of Social Services

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Please note: The Committee will discuss only the items contained in this agenda at this hearing. Please see the Senate File for dates and times of subsequent hearings. The Committee will discuss the issues in the order noted in the agenda, unless otherwise directed by the Chair.

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Vote-Only Agenda

0530 Office of Systems Integration, Health & Human Services Agency (OSI)

5180 Department of Social Services (DSS)

OSI & DSS Issue 1: Electronic Benefit Transfer (EBT) Project

Budget Issue: The overall budget for the EBT system in 2009-10, including project management, is \$47.3 million (\$27.0 million GF/TANF). The Administration requests, in a Spring Finance Letter dated April 1, 2010, a decrease of \$10.3 million (\$2.4 million GF) in that same year to both the Department of Social Services Local Assistance budget and corresponding OSI spending authority. The proposed 2009-10 decrease is a result of cost reductions under a new contract. The Administration also requests a decrease of \$20.9 million (\$5.4 million GF) in DSS Local Assistance and a corresponding reduction of \$19.7 million in OSI Spending Authority for 2010-11. The proposed 2010-11 decrease includes contract cost changes, as well as the expiration of limited-terms for staff and the completion of other transition-related tasks.

The Governor's budget for 2010-11 also proposes \$177,000 (\$66,000 GF) to extend, for another two years, two existing limited-term positions that support the EBT system at DSS. One position would continue to provide program support to the counties and the other to OSI. DSS has sought, and been granted authority for, extensions of these two limited-term positions six times since the EBT system was mandated in 1997.

Background on EBT: The EBT system eliminates the need for coupons or checks to deliver Supplemental Nutrition Assistance Program (food stamps) and cash aid benefits. Instead, the EBT system provides benefits through automated teller machines (ATMs) and point-of-sale terminals (e.g., in grocery stores). The EBT system works by automating benefit authorization, delivery, redemption, and settlement processes through computers, plastic debit cards, and telecommunications technology. OSI provides state-level project management and oversight for the system.

Changes in EBT Contract Costs: The proposed cost reductions in 2009-10 and 2010-11 are due to the transition of EBT services to a new contract (from J. P. Morgan Electronic Financial Services, Inc. [JPMorgan EFS] to ACS State and Local Solutions, Inc. [ACS]). The lowered costs are reflective of decreased costs for EBT services nationwide since 2000, when California executed its first EBT contract with Citicorp (later taken over by JPMorgan EFS). They also reflect a change from an "unbundled" cost structure (with differing rates for food benefits only, cash benefits only, and combined food and cash benefits, along with various other costs for related services and equipment) to a "bundled" rate (e.g. eliminated some costs for related services and equipment and are bundled in the benefit costs).

Subcommittee Staff Comment & Recommendation: Staff recommends approving the requested budget decreases contained in the OSI request, as well as the proposed extension of the two limited-term positions at DSS.

4140 Office of Statewide Health Planning & Development

OSHPD Issue 1: Staffing for Health Care Data Requests

Budget Issue: OSHPD requests, in a Spring Finance Letter dated April 1, 2010, an increase of \$144,000 in California Health Data and Planning Fund (CHDPF) expenditure authority and the authority to redirect two positions for a two-year limited term. This request is in response to an anticipated increase in workload resulting from the enactment of SBx5 2 (Chapter 1, Fifth Extraordinary Session, Statutes of 2010). SBx5 2 expanded the categories of entities that can request health data from OSHPD.

Background: OSHPD collects confidential patient-level data from California licensed hospitals, emergency departments, and ambulatory surgery centers. State statute allows for the release of limited portions of this data to California hospitals, local public health officers and local public health departments, and specified federal public health agencies. All research requests for OSHPD's confidential patient-level data must include a project protocol approved by the Committee for the Protection of Human Subjects (CPHS), thereby necessitating CPHS review of the requests. CPHS is housed within OSHPD and has federal and state mandates to protect the rights of human subjects involved in research.

Prior to passage of SBx5 2, confidential patient-level data for research purposes could be shared, upon request, only with the University of California and similar non-profit education institutions. SBx5 2 unintentionally expanded access to health-related data to include non-profit entities in general. SBx5 2 was a bill intended to address education-related issues, and specifically the federal Race to the Top (RTTP) program. The bill seeks to facilitate educational data sharing in order to make California eligible for additional RTTP funding. One of the goals of the bill was to make educational data available to various non-profit entities that are likely to engage in research. In order to meet RTTP requirements, SBx5 2 requires CPHS to enter into an agreement with an Institutional Review Board (created by SBx5 2 to review requests for educational data).

Subcommittee Staff Comment & Recommendation: The Legislature did not intend for the SBx5 2 changes related to education data to also impact patient-level health information. Staff therefore recommends rejecting the proposed resources and position authority for OSHPD to implement those unintended changes. Instead, staff recommends adopting place-holder trailer bill language to narrow the provision in SBx5 2 to its intended purpose. As a result, the statute would affect the accessibility of educational, and not health, data. This action would be consistent with action recently taken by the Assembly's Subcommittee #1 on Health and Human Services.

OSHPD Issue 2: Mental Health Loan Assumption Program Changes

Budget Issue: OSHPD requests, in a Spring Finance Letter dated April 1, 2010, an increase of \$2.5 million (Mental Health Services Fund) in 2010-11 and subsequent years to increase the amount available for Mental Health Loan Assumption Program (MHLAP) awards. The MHLAP awards grants to mental health practitioners working in hard to fill or retain positions within the public mental health system (as determined by County Mental Health Directors). The Mental Health Services Fund was created by Proposition 63 of 2004, the Mental Health Services Act (MHSA). The Department of Mental Health (DMH) estimates that MHSA expenditures will total \$1.3 billion in 2009-2010 and \$1.6 billion in 2010-11.

Background on MHSA and MHLAP: The MHSA imposes a one-percent income tax on personal income in excess of \$1 million. The purpose of the Act is to expand mental health services to children, youth, adults and older adults who have severe mental illnesses or severe mental health disorders and whose service needs are not being met through other funding sources (i.e., funds are to *supplement* and not supplant existing resources). The MHSA also required development of a five-year plan to remedy the shortage of qualified mental health service providers by making loan forgiveness programs available to current and prospective employees in California's public mental health system. As a result, DMH partnered with the County Mental Health Directors Association (CMHDA) and the Mental Health Services Oversight & Accountability Commission (MHSOAC) to develop a ten year expenditure plan that includes the MHLAP. The chart below shows the significant, still unmet, demand for the program:

MHLAP (March 2009)	
Applications received	1,222
Applications awarded	288
Debt burden of applicants	\$56,544,823
Amount requested	\$15,460,101
Amount awarded	\$2,285,277

The requested funding would allow expansion from 288 to 600 MHLAP awards. The proposed resources would also allow for expansion of professionals eligible for MHLAP awards to include Licensed Professional Clinical Counselors (LPCC) and LPCC interns. Of the total request, \$43,000 would support state operations.

Subcommittee Staff Comment & Recommendation: Staff recommends approving the requested resources.

4170 Department of Aging**CDA Issue 1: Senior Community Service Employment Program**

Budget Issue: CDA requests, in a Spring Finance Letter dated April 1, 2010, one-time augmentations of federal fund authority totaling \$848,000 in 2009-10 and \$3,392,000 in 2010-11. The request is based on the receipt of federal funds from the United States Department of Labor (DOL). The current year authority has been requested through a Section 28 letter to the Joint Legislative Budget Committee. The requested funds would provide additional support for the existing Senior Community Service Employment Program (SCSEP) administered by the California Department of Aging (CDA) through the Area Agencies on Aging (AAAs) and must be expended by June 30, 2011.

Background: SCSEP provides part-time, work-based training opportunities at local community service agencies for low-income older workers who have poor employment prospects. DOL has provided funding for an additional 434 participant slots statewide. Additional participant slots will be equitably distributed to the local SCSEP projects according to the CDA funding formula. With the requested authority, CDA would be able to carry over any unspent funds allocated to local entities in 2009-10 into 2010-11. The federal grant allows for this timing of fund usage.

Subcommittee Staff Comment & Recommendation: Staff recommends approving the requested federal budget authority.

4700 Department of Rehabilitation (DOR)**DOR Issue 1: Traumatic Brain Injury Program (TBI)**

Budget Issue: DOR requests, in a budget change proposal, an increase of \$1.3 million (\$1.2 million special funds from criminal and vehicular offense fines and \$170,000 federal funds) and 2.0 positions to administer the TBI program. This request results from the passage of AB 398 (Monning, Chapter 439, Statutes of 2009), which transitions the TBI program from the Department of Mental Health (DMH) to DOR.

Background: See the April 8, 2010 Agenda for more information.

Subcommittee Staff Comment & Recommendation: Staff recommends approving one permanent position and one two-year limited-term position. This second limited-term position is in place of the permanent position requested by the department and previously approved by the Subcommittee on April 22, 2010. This updated action is consistent with action taken by the Assembly's Budget Subcommittee #1.

5180 Department of Social Services (DSS)**DSS Issue 1: Positions Related to Recent Legislation**

Budget Issue: The Governor's proposed budget for 2010-11 includes, in a budget change proposal, \$200,000 (\$169,000 GF) in temporary help resources to implement recent legislation, including AB 762 (Bonnie Lowenthal, Chapter 471, Statutes of 2009); SB 781 (Leno, Chapter 617, Statutes of 2009); and AB 1325 (Cook, Chapter 287, Statutes of 2009).

Background: See the April 22, 2010 Agenda for more information.

Subcommittee Staff Comment & Recommendation: Consistent with actions recently taken in Assembly Budget Subcommittee #1, staff recommends:

1. Rejecting the resources requested for AB 762 on the basis that the fiscal analysis on the bill from the administration indicated that the costs were negligible and absorbable by DSS.
2. Rejecting the resources requested for SB 781 on the basis that the workload is speculative and has not been substantiated to warrant new resources.
3. Approving the resources requested for AB 1325 for one year, in 2010-11, only.

DSS Issue 2: Promoting Safe & Stable Families (PSSF) - Proposed Trailer Bill Language (TBL)

Budget Issue: The Administration proposes TBL to conform state law to federal requirements, as created by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) and most recently updated in the Child and Family Services Improvement Act of 2006 (P.L. 109-269). According to the Administration, these conforming policy changes have no 2010-11 fiscal impacts. The Department indicates, however, that the changes would alleviate a potential risk to federal Promoting Safe and Stable Families (PSSF) funding due to non-compliance by the state.

Background: The Administration states that current state statute does not reflect the most recent federal requirements (last changed in 2006). Specifically, the proposed TBL would: 1) change the percentage of allowable state administrative costs from the original 15 percent to the current 10 percent; 2) change the programs' service categories from an original two to the current four, and provide current definitions for each category; and 3) change the minimum percentage of spending in each category to the current requirement of 20 percent. The TBL would also make other non-substantive conforming changes, such as updating the program's name throughout state law.

Subcommittee Staff Comment & Recommendation: Staff recommends rejecting the proposed TBL, without prejudice as to its merits. An analysis of existing law and any related clarifications are more appropriate for consideration by the relevant Legislative Policy Committees. This recommendation is consistent with recent action by Assembly Budget Subcommittee #1.

DSS Issue 3: Proposed Trailer Bill Language (TBL) to Suspend Intensive Treatment Foster Care (ITFC)-Related Provisions of SB 1380

Budget Issue: The Governor's proposed budget for 2010-11 includes TBL to suspend implementation of statutes enacted by SB 1380 (Chapter 486, Statutes of 2008). Similar to the TBL proposed for two other child welfare issues heard by the Subcommittee on April 22, 2010, existing law would be implemented when "the Department of Finance determines that sufficient state operations resources have been appropriated." Again, the effect would be to transfer Legislative authority to the Administration.

Background on SB 1380 and ITFC: SB 1380 expanded eligibility and revised operational, reporting, and training requirements for the Intensive Treatment Foster Care (ITFC) program. ITFC was originally established in 1990 to ensure that foster children with emotional challenges could thrive in a family home with therapeutic services, rather than high-level and more expensive group homes. The Assembly Appropriations Committee analysis of SB 1380 indicated that the bill would result in net savings because foster children would be placed in less costly, less restrictive home settings, as opposed to more costly group home environments.

Subcommittee Staff Comment and Recommendation: The Administration has indicated that it may be reconsidering whether to continue pursuing this TBL and/or to amend its proposal. To be clear about the Legislature's intent, staff recommends taking action to reject the proposal.

DSS Issue 4: Implementation of Federal Fostering Connections to Success & Increasing Adoptions Act (FCSA)

Budget Issue: DSS proposes, via TBL, to add specified costs of transporting a child to his or her school to those that are included in the definition of foster care maintenance payments, to amend statutes related to the placement of siblings in foster care, and to amend statutes governing adoption or foster care programs operated by Indian tribes. According to the Department, these changes are required for the state to conform to requirements of the federal FCSA (P.L. 110-351).

The 2009-10 budget includes \$8.7 million (\$2.2 million GF, for six months beginning in January 2010), and the Governor's 2010-11 budget includes \$17.4 million (\$4.5 million GF), for costs associated with education-related transportation.

Background: See April 22, 2010 agenda.

Subcommittee Staff Comment & Recommendation: Staff recommends adopting placeholder trailer bill language to conform state law to the FCSEA and related budget requests with respect to educational transportation costs, as well as sibling placements, and agreements with tribes or tribal entities. As appropriate and necessary, the recommended placeholder language may also include changes for federal conformity regarding the educational placements of children in foster care.

DSS Issue 5: Group Home Financial Audits – Proposed Trailer Bill Language (TBL)

Budget Issue: DSS proposes TBL that would alter the statutorily required trigger for group home and foster family agency (FFA) financial audits. The audits are paid for by these service providers. However, the Governor's budget assumes up to \$300,000 GF savings in 2010-11 as a result of reduced staff workload for reviewing the audits as a result of this proposal.

Background: The monthly rates paid to group homes and FFAs for each child under their care are established in state statute and must be consistent with federal requirements that they cover the costs of care and supervision. After a 10 percent reduction that took effect pursuant to ABx4 4 (Chapter 4, Fourth Extraordinary Session, 2009) in 2009, FFA rates range from \$1,430 to \$1,679 per child, per month. As the result of a recent federal district court order that increased rates paid to group homes, currently effective group home rates range from \$2,085 to \$8,835 per child, per month.

As a condition of receiving these funds, organizations that operate group home and FFA programs must have financial audits conducted as required by federal and state laws. The proposed TBL would change the statutory trigger for an audit from when a threshold amount (\$500,000) of federal funds is "received" to when those funds are "expended." According to DSS, these changes would be consistent with federal audit statutes and requirements. The Department indicates that the proposed TBL would reduce the frequency of financial audits for "a few facilities."

Subcommittee Staff Comment & Recommendation: Staff recommends rejecting the proposed TBL, without prejudice as to its merits. An analysis of existing law and any related clarifications are more appropriate for consideration by the relevant Legislative Policy Committees.

DSS Issue 6: Child Welfare Services/Web (CWS/Web) Project

Budget Issue: To support the development of CWS/Web, the Governor's 2010-11 budget for DSS requests, in a budget change proposal, \$436,000 (\$199,000 GF) to: 1) establish one two-year limited-term position, 2) extend an existing managerial position for another two-year limited term, and 3) augment by \$240,000 DSS contracts with county consultants. As the Committee discussed on March 18, 2010, the Governor's budget for CWS/Web project management by Office of Systems Integration (OSI) additionally requests \$1.8 million (\$827,000 GF) for 10 new positions.

The 2009-10 budget for CWS/Web is \$7.1 million (\$3.2 million GF). OSI estimates a total cost of \$202.8 million (\$91.9 million GF) between 2012 and 2014 to complete implementation of CWS/Web and enter its maintenance and operations (M&O) phase.

Background on CWS/CMS and CWS/Web: Please see the March 18, 2010 Agenda for more information.

Stated Rationale for Additional Resources: The federal Department of Health and Human Services, Administration for Children and Families (ACF) has expressed concerns that the CWS/Web project is significantly understaffed in terms of programmatic and technical resources. DSS currently has seven staff members to assist with its programmatic support for CWS/Web planning. The Department anticipates that their workload will increase dramatically as the project advances into its design and implementation phases.

The Department intends for one of the requested positions to be filled by an individual with knowledge of the adoptions process who can participate in the design, development, testing, training, and implementation activities of the adoptions component of the new CWS/Web system. The request to extend authorization of the second position is for a manager to provide supervision to this individual, as well as three other staff members.

Subcommittee Staff Comment & Recommendation: Consistent with the Subcommittee's vote on March 18, 2010 regarding the requested resources for additional OSI staff to support CWS/Web development, staff recommends holding this issue open pending May Revision.

**DSS Issue 7: Community Care Licensing (CCL) - Proposed TBL
Related to Fingerprinting Fees**

Budget Issue: Since 2003-04, TBL has been enacted on an annual basis to suspend existing statute that prohibits DSS from charging a fee for fingerprint and criminal record checks conducted on behalf of applicants seeking a license to provide residential or day care for fewer than six children. According to DSS, failure to continue the suspension of this fee exemption would result in an annual cost to the state of \$391,000 GF.

Background: Individuals who seek to operate child and adult facilities, provide care to facility clients, or reside at a community care facility, undergo comprehensive background checks. The checks are intended to ensure that individuals with criminal histories are thoroughly evaluated and/or investigated before they are allowed to have contact with clients. In particular, DSS requires a fingerprint-based background check from both the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). DOJ bills DSS \$35 per applicant for obtaining this information. The background check for individuals associated with children's facilities who serve six or fewer children also includes a check of the Child Abuse Central Index (CACI). The fee for the CACI check is an additional \$15.

DSS is statutorily prohibited from charging these fees to individuals who seek to provide residential or day care for six or fewer children. However, for the past several years, this statutory prohibition has been suspended; and these individuals have been required to pay for the checks. In 2010-11, DSS estimates that a total of 11,180 applications will fit into these categories. Given the ongoing fiscal challenges faced by the State, CDSS proposes to permanently eliminate the prohibition, rather than continue to pursue annual statutory changes.

Subcommittee Staff Comment & Recommendation: Staff recommends adopting placeholder TBL to suspend the provisions prohibiting the charging of these fees for an additional one or two years, rather than permanently repealing the fee prohibition as proposed by the Administration. This action would be consistent with action recently taken by the Assembly's Subcommittee #1 on Health and Human Services.

DSS Issue 8: CalWORKs – State and County Peer Reviews

Budget Issue: DSS proposes to reduce 2009-10 funding for the state and county CalWORKs peer review process to \$37,000 (TANF funds) and to de-fund the program entirely in 2010-11. The 2009-10 budget for the program was \$221,000 (TANF) in local assistance funding for the counties. DSS also proposes trailer bill language to suspend the statutory requirement for the Department to implement the process statewide by July 2007 and to instead require its implementation only in the year for which a sufficient appropriation is made in the Budget Act.

Background: See Agenda from March 18, 2010 for more information.

Subcommittee Staff Comment & Recommendation: Staff recommends approving the proposed suspension of funding for the peer review process, but rejecting the Administration's proposal to transfer Legislative authority to determine the sufficiency of program funding to the Department of Finance. Staff correspondingly recommends that the Subcommittee approve placeholder TBL that deletes the last sentence of the proposed TBL.

DSS Issue 9: Conlan v. Shewry – Positions and Proposed Budget Bill Language (BBL)

Budget Issue: DSS requests, in a Budget Change Proposal, \$113,000 (\$56,000 GF) to establish one new position to review claims filed by IHSS recipients under the *Conlan II* court decisions. DSS also requests to permanently extend one limited-term manager position that would otherwise expire in June 2011 (at an annual cost of \$128,000 [\$64,000 General Fund]). If these requests are granted, the *Conlan II* unit at DSS would consist overall of one Staff Services Manager and three other permanent positions. DSS states that all of these positions are necessary to meet the provisions of the *Conlan II* court order.

In 2009-10, the Legislature approved DSS's request for the creation of one new position and extension of two additional positions, but rejected the request for a fourth position, to review recipients' claims for reimbursement under *Conlan II*.

Background on *Conlan II* and DSS Workload: See March 18, 2010 Agenda.

Budget Bill Language (BBL) Related to *Conlan* Workload: The Administration also proposes to continue its authority, in BBL, to transfer local assistance funding that would otherwise be directed to counties to instead be used for state operations costs and administratively established positions associated with *Conlan II* workload. As in prior years, the Department of Finance would be required to notify the Legislature of any transfers pursuant to this section. To date, the Administration has used this authority once- to transfer \$57,000 (\$29,000 GF) for the administrative establishment of one position in 2007-08.

Subcommittee Staff Comment & Recommendation: Staff recommends approving the requested positions and BBL. In future years, however, the Subcommittee may wish to revisit whether the authority granted to the Administration in the BBL continues to be necessary and consistent with the Legislature's oversight of staffing for the workload associated with implementing these court decisions.

Discussion Agenda

0530 Office of Systems Integration, Health & Human Services Agency (OSI)

5180 Department of Social Services (DSS)

OSI & DSS Issue 1: Case Management, Information and Payrolling System Replacement Project (CMIPS II)

Budget Issue: The total 2009-10 budget for CMIPS II is \$117.8 million (\$48 million GF), with \$92.2 million in OSI spending authority. The Administration requests, in a Spring Finance Letter dated April 1, to reduce this funding by \$17.8 million (\$7.2 million GF) for DSS local assistance, with a corresponding reduction of \$8.6 million in OSI spending authority. The Administration also requests to reduce the 2010-11 DSS local assistance budget by \$49.5 million (\$20.1 million GF), with a corresponding reduction of \$49.5 million to OSI spending authority. According to OSI, these reductions reflect a schedule shift due to changes in the CMIPS II development strategy and the transition into the implementation phase of the project. The shift does not affect the total project budget, but rather redistributes costs over the remainder of the project.

OSI also requests authority in 2010-11 for one two-year limited term CMIPS II position to support contract management and project administration activities. OSI proposes to fund this position from its existing budget, based on savings in Data Center costs. In particular, Storage Area Network costs have decreased, resulting in savings. There are currently 31 state staff (21 OSI staff and 10 CDSS staff) and 36 State Support contractor staff dedicated to the CMIPS II project.

Background on CMIPS and CMIPS II: OSI provides project management services for automation projects of the Department of Social Services (DSS), including CMIPS. The existing CMIPS is a more than 20-year-old system that offers mainly payroll functions for providers in the In-Home Supportive Services (IHSS) program. CMIPS II is intended to be a web-based solution that integrates off-the-shelf products to perform IHSS case management, payroll, and timesheet processing, as well as reporting and data exchange functions. OSI has indicated that this new system will offer a number of benefits as compared with the existing system, including more timely updates of information; more easily accessible reports; increased work automation; and a greater ability to interface with other data systems.

CMIPS II Project Delays: OSI currently anticipates that the design, development and implementation of CMIPS II will be completed in March 2012. This represents a 5-month delay from the anticipated completion date of September 2011 identified during the Subcommittee's April 30, 2009 hearing. This delay, which is at least in part attributed to recent changes in the IHSS program, is in addition to a 3-month delay that occurred when the project started in July 2008.

Procurement planning activities for CMIPS II originally began in fiscal year 1999-00. Procurement was then delayed due to funding reductions in 2003, program changes in 2004, and the efforts of OSI and DSS to ensure a competitive process. Final proposals from bidders were received in August 2006. The incumbent contractor, Electronic Data Systems (EDS), was the sole bidder. The contract award was supposed to be made on July 1, 2007, but negotiations took longer than anticipated. As a result, the contract was awarded to EDS in March 2008. Federal approval of the Implementation Advanced Planning document was also received in March 2008. Project initiation and planning began July 1, 2008.

Subcommittee Staff Comment & Recommendation: Staff recommends approving the proposed reductions to the CMIPS II budget for 2009-10 and 2010-11. Staff also recommends holding open the requested position authority.

Questions for OSI and DSS:

- 1) What accounts for the unusually long (i.e., 12-year-long) procurement and development processes for CMIPS II? Are there increased costs to the state that have resulted from this elongated process?
- 2) What are the foregone efficiencies in the administration of the IHSS program that have occurred as a result of these delays? What, if any, are the effects of the delays on IHSS staff, consumers, and providers?
- 3) Do the current design, development, and implementation of CMIPS II reflect up-to-date technologies (i.e. including advancements which have occurred since procurement planning began)?

OSI Issue 2: Statewide Fingerprint Imaging System (SFIS) – Proposed Use for In-Home Supportive Services (IHSS) Program

Budget Issue: The Governor’s budget for 2009-10 includes, in a Budget Change Proposal, an increase in OSI spending authority of \$8.2 million (\$4.4 million GF) for the use of SFIS to collect fingerprint images from In-Home Supportive Services (IHSS) recipients. These funds were already included in the DSS budget, but there was no conforming authority for SFIS or for OSI’s project management role. The Administration is awaiting a formal response from the federal government with respect to its willingness to financially participate in these proposed expenditures, and future, ongoing anticipated costs. The total SFIS budget for 2009-10 includes \$20.1 million (\$9.5 million GF).

The administration also requests position authority for four new SFIS-related positions at OSI. Two of the positions would replace 1.5 contract staff who provide training coordination and application support for the use of SFIS in the CalWORKs, Supplemental Nutrition Assistance, and General Assistance/General Relief programs. The state has contracted these duties out for the last decade. Funded as part of the \$8.2 million mentioned above, the other two positions would support new sites and equipment to begin the use of SFIS for IHSS recipients. OSI currently has five permanent staff members assigned to SFIS and oversees six additional contract staff who work the equivalent of three full-time positions.

Background on SFIS: SFIS is a statewide automated system that was created in response to the requirements of SB 1780 (Chapter 206, Statutes of 1996) for applicants and recipients of California Work Opportunity and Responsibility to Kids (CalWORKs) and Food Stamp program benefits to be fingerprint imaged as a condition of eligibility for those programs. OSI provides state-level project management and oversight for SFIS. The state recently entered into a new contract for its maintenance and operations for eight years from September 2009 until September 2017. The fingerprint images contained in SFIS are used to verify eligibility and to check for duplicate aid applications by one individual. The Administration states that the existence of these fingerprint requirements and of the SFIS system deter a significant amount of fraud.

A 2003 audit by the Bureau of State Audits found that DSS “implemented SFIS without determining the extent of duplicate-aid fraud throughout the State,” and that “Social Services did not implement SFIS in a manner that would allow it to collect key statewide data during its implementation of SFIS.” The auditor was therefore “unable to determine whether SFIS generates enough savings from deterring individuals from obtaining duplicate aid to cover the estimated \$31 million the State has paid for SFIS or the estimated \$11.4 million the State will likely pay each year to operate it...”

Background on Fingerprinting of IHSS Consumers: See the Agenda from the October 28, 2009 Oversight Hearing of Recent Changes in the IHSS Program by the Assembly Budget Committee & Senate Budget Subcommittee #3 for a comprehensive list of the significant changes to the IHSS program made in the 2009-10 budget. Based

on the 2009-10 appropriation, the Administration estimated that taken together, these program integrity changes would result in an estimated \$130 million GF savings at the enhanced Federal Medical Assistance Percentage (FMAP) provided under ARRA, or \$162 million GF savings at the non-ARRA FMAP rate of 50 percent.

Among these program changes made in 2009 was the requirement, beginning April 1, 2010, for finger imaging of IHSS consumers. Under the requirements of ABx4 19 (Chapter 17, 4th Extraordinary Session, 2009), this fingerprinting must take place in the new consumers' homes at the time of their initial assessment for eligibility. Current consumers (460,000) were to be finger imaged at their next reassessment, conducted annually and also in the home. These statutes included exemptions for minors and those physically unable to provide fingerprints due to amputation. They do not require a picture image to be taken of the consumer. Finally, the statutes require DSS to consult with county welfare departments to develop protocols to carry out these requirements.

The Administration is currently conducting pilots to test mobile fingerprint imaging devices that would allow for implementation of these requirements by gathering fingerprints and photo images in recipients' homes, to later be uploaded into SFIS. DSS also intends to utilize social worker and consumer feedback gathered during the pilots to inform its policies and protocols for larger-scale implementation of the new fingerprinting requirements.

Subcommittee Staff Comment & Recommendation: Staff recommends holding this issue open.

Questions for OSI and DSS:

- 1) What efforts did the Administration undertake to measure the occurrence of duplicate aid fraud in the IHSS program prior to proposing the requirements for recipient fingerprinting?
- 2) On what did the Administration base its estimates for the costs and savings from implementing these fingerprint requirements?
- 3) Please provide a brief update on the recipient fingerprinting pilots, including:
 - a. How the Administration engaged with the counties and with stakeholders in the development of protocols under which to conduct those pilots;
 - b. What equipment is being utilized in those pilots; and
 - c. The anticipated timeline for statewide implementation.
- 4) How and when does the Administration plan to source the equipment for obtaining recipients' finger images?

4140 Office of Statewide Health Planning & Development (OSHPD)**OSHPD Issue 1: Hospital Seismic Safety Compliance Oversight**

Budget Issue: The Governor's proposed 2010-11 budget for OSHPD's Facilities Development Division (FDD) includes \$55.9 million in Hospital Building Fund spending authority. The main source of Hospital Building Fund revenue is fees paid by hospitals when applying for construction plan approval. Of the total FDD budget, \$2.6 million is for the Seismic Retrofit Program. The Seismic Retrofit Program Unit reviews and approves the seismic evaluation reports and compliance plans, performs HAZUS reassessments and monitors hospital seismic compliance reporting. The remaining \$53.4 million is primarily for plan review, construction observations, or other essential duties related to hospital seismic safety compliance projects (including structural and non-structural retrofits and replacement hospital buildings).

Background on Hospital Seismic Safety Requirements: Following the 1971 San Fernando Valley earthquake, California enacted the Alfred E. Alquist Hospital Facility Seismic Safety Act of 1973 (Alquist Act), which mandated that all new hospital construction meet stringent seismic safety standards. In 1994, after the Northridge earthquake, the Legislature passed and the Governor signed SB 1953 (Alquist), which required OSHPD to establish earthquake performance categories for hospitals, and established a January 1, 2008 deadline by which general acute care hospitals must be retrofitted or replaced so they do not pose a risk of collapse in the event of an earthquake, and a January 1, 2030 deadline by which they must be capable of remaining operational following an earthquake. SB 1953 also allowed most hospitals to qualify for an extension of the January 1, 2008 deadline to January 1, 2013.

According to the background paper from the Senate Health Committee's informational hearing on March 3, 2010, many of the state's 2,627 hospital buildings meet the January 1, 2013 deadline, are on track to meet it, or qualify for an extension; however, several hundred appear to not be on track to meet the deadline and are not eligible for extensions. These buildings, including many that are owned and operated by major health care systems and provide significant levels of hospital services, face the prospect of being taken out of service if they are not retrofitted or replaced by that time. Hospitals cite a variety of reasons for their inability to meet the deadlines for these buildings, the most prominent being declining patient revenues and difficulty accessing capital.

Subcommittee Staff Comment & Recommendation: This is an informational and oversight-related item, and no action is required.

Questions for OSHPD:

- 1) Please briefly update the Subcommittee on the implementation of SB 1953 and subsequent, related legislation. Specifically, how is OSHPD working to ensure that hospitals comply with safety and reporting requirements?

- 2) Why have some hospitals put these projects on hold, and how many may be at risk of not meeting the 2013 deadline at this point?
- 3) Based on hospitals' reports to OSPHD, what types of services are currently provided in buildings that are not on track to meet the 2013 deadline?

4200 Department of Alcohol & Drug Programs (ADP)

ADP Issue 1: Women and Children's Residential Treatment Services

Budget Issue: The Governor's proposed budget for ADP in 2010-11 includes \$11.2 million for perinatal (before and after childbirth) drug treatment services. Of these funds, \$6.1 million (\$2.5 million GF and \$3.6 million federal funds) are for Drug Medi-Cal services provided to eligible Medi-Cal beneficiaries. The remaining \$5.1 million (all GF) are set aside for designated Women and Children's Residential Treatment Services programs (WCRTS). The proposed \$5.1 million for WCRTS in 2010-11 includes a decrease of \$663,000 when compared to the enacted 2009-10 budget. The decrease was precipitated by the closure of one of the original provider organizations.

Background on WCRTS: WCRTS funds support designated programs that were created with federal grants which have since expired. According to ADP, 669 individuals currently receive treatment through these resources. Budget Bill Language (BBL) related to WCRTS from 2009-10 stated, "Of the funds appropriated in this item, \$5,767,000 shall be used to fund existing residential perinatal programs that were begun through the federal Center for Substance Abuse Treatment grants, but whose grants have since expired...All of the funds allocated for programs shall be passed through those counties directly to the designated nine residential treatment programs in each county, respectively." (emphasis added)

One of the original nine programs, in San Luis Obispo County, recently closed. When that provider ceased operating, the Department of Finance maintained funding for the other providers at historic levels and reduced the overall WCRTS funding. This action resulted in a reduction of perinatal treatment capacity statewide and in the sweeping of \$663,000 as GF savings. Given the ambiguity of the budget language with respect to this circumstance, the Administration could alternatively have interpreted Legislative intent to maintain the overall funding base and instead increase the funding allocated to the remaining eight providers.

Proposed 2010-11 BBL: The Governor's budget proposes to amend the Budget Bill to reflect the reduced funding and to state that the WCRTS allocation shall now be passed through to "the designated eight residential treatment programs."

Subcommittee Staff Comment & Recommendation: Staff recommends adopting an amendment to Provision 2 of Item 4200-104-0001 of the 2010-11 Budget Bill to clarify the Legislature's intent regarding overall WCRTS program funding by deleting the word "eight". Staff also recommends that the 2010-11 appropriation be restored to the original 2009-10 allocation of \$5.8 million for the remaining providers. This action would be consistent with action recently taken by the Assembly's Budget Subcommittee #1.

Questions for ADP and DOF:

- 1) How did the Administration determine its course of action with regard to overall WCRTS funding when one of the original nine providers closed?
- 2) What is the scope and capacity of treatment provided with WCRTS funding? How would that capacity change as a result of the proposed \$663,000 reduction?

5175 Department of Child Support Services (DCSS)

DCSS Issue 1: Proposal for Administrative Process to Establish and Modify Orders

Budget Issue: DCSS proposes, in a Spring Finance Letter dated April 1, 2010, to overhaul the system for establishing and modifying child support orders in California. The proposed system would continue to include a combination of administrative and judicial procedures. However, as compared with the state's current child support system, the proposed system would include more administrative procedures and less judicial involvement.

The Administration estimates that this proposal would result in \$3 million (\$1 million GF) savings for January through July 2011, when DCSS would begin implementation with modifications of court orders. The Administration estimates that savings would grow to \$17.1 million (\$5.8 million GF) in 2011-12, when the changes would also apply to establishment of child support orders. The bulk of the anticipated long-term savings are based on anticipated reductions in costs for court contracts and the employment of attorneys by Local Child Support Agencies (LCSAs). DCSS states that the costs of automation changes required to implement this proposal would be absorbable within its existing automation budget.

Overview of Child Support System: The primary purpose of California's child support program is to secure child support payments from absent or non-custodial parents and for custodial parents and their children. Local Child Support Agencies (LCSAs) provide services such as locating absent parents; establishing paternity; obtaining, enforcing, and modifying child support orders; and collecting and distributing payments. When a family receiving child support also receives public assistance (in approximately 20 percent of cases), the LCSAs distribute the first \$50 per month collected from the non-custodial parent to the custodial parent and child. Any additional support collected is deposited into the General Fund to partially offset state costs for public assistance.

Child Support Procedures Nationwide: In accordance with federal law, states have considerable flexibility in designing the processes by which they establish and modify child support orders. Across the nation, there is a continuum from highly judicial (court forum, judge presides, attorneys involved) to highly administrative (executive-branch agency sets order with or without hearing, limited attorney involvement) systems. Along the continuum, most states have some form of a hybrid system.

DCSS states that its proposal is most closely modeled after the system in Pennsylvania. One significant difference, however, is that Pennsylvania's administrative process is administered by its judicial branch. The system in Texas also has a number of similarities to DCSS's proposed system. Two major distinctions, however, are that Texas excludes a number of cases from its administrative process (i.e., cases involving domestic violence, foster care, minor parents, and interstate issues) and that Texas's guidelines for establishing child support are less complex than California's.

California's Existing Process for Establishing Support Orders: California currently has a judicially-based system for establishing child support orders, with administrative aspects. Court commissioners or family law judges have final authority to establish parentage and to decide on the amount of support to be paid. There are three common paths by which courts arrive at child support orders. The first includes cases in which the parties agree and "stipulate" to a child support order. In these cases, parents do not usually appear in court. According to data from a 2005 review by the Judicial Council, approximately 29 percent of cases were resolved this way at the time.

If a parent does not respond after being served with notice, the court may enter (usually without a hearing) a default judgment based on statutory guidelines regarding the amount of child support to be paid. Default judgments are generally an undesirable result, as they are less likely to be based on a complete factual picture and less frequently adhered to by the child support obligor. In 2005, approximately 39 percent of orders in California were entered by default.

The third path to a child support order involves a court hearing attended by the parties. Sometimes hearings occur in cases that are solely about child support. Other times, hearings also involve other family law issues (e.g., custody). According to DCSS, it takes approximately three months from the time a parent "answers" a notice that the other parent is seeking child support until a court hearing. At the hearing, an LCSA attorney represents the child support agency. The parents and LCSAs may appear by telephone, audiovisual, or other electronic means. Court commissioners, however, must be physically present in the county courthouse. In 2005, contested hearings occurred in approximately 32 percent of child support cases.

California's Existing Process for Modifying Court Orders: Current law allows an individual to request a review of his or her child support order if there has been a change in circumstances. Current law also requires LCSAs to mail notice to the parties, at least once every three years, informing them of the right to request that the LCSA review and, if appropriate, seek to modify the child support order. If modification is appropriate, the LCSA files paperwork with the court. Again, when both parties agree, the paperwork can include a stipulation and the parties may not have to appear in court.

Proposed Process for Establishing and Modifying Orders: DCSS proposes to create a three-tier process to establish and modify child support orders.

Tier 1: Office Conference held at the LCSA and administered by a caseworker. To start the process, the LCSA would file paperwork with the court and then schedule an office conference in approximately 30 calendar days. The LCSA would serve notice of the conference on the parties, along with a proposed order, no later than five calendar days beforehand. The conference itself would be administered by an LCSA caseworker with specialized mediation training. If parentage is at issue, the office conference would be a forum for making that determination (which could include the subpoena of evidence and witnesses and/or consideration of genetic testing results). The parties could participate in person or by phone, and would be given an opportunity

to provide information about their income, expenses, and the amount of time they spend parenting. The rules of evidence that govern admissibility in court hearings (e.g., to establish authenticity of a document) would not apply.

If the parties attend the conference and agree to the terms of support, the Conference Officer would generate a stipulation for the parties to sign immediately. The stipulation would be sent to the court for review and approval, along with a conference summary. If the order is approved, the LCSA would serve the parties by mail with a copy. If the parties do not appear, or appear but do not agree, the Conference Officer would generate a proposed order based on the information available at the time (or the assumption of minimum wage at 40 hours per week if no information is available). The proposed order and conference summary would be sent to the court for review, and would become an interim, enforceable order once the court approves and files it. The LCSA would mail the interim order to the parties. If neither requests a hearing within 20 calendar days, the interim order would become final.

DCSS has stated that court review of interim orders in Tier 1 and Tier 2 should take around five minutes. As a result of its review, a court could approve an order or set the case for hearing.

Tier 2: Administrative hearing held at the LCSA and administered by a State Attorney (upon request only). If either party requests a hearing within 20 days of mail service of the interim order, the LCSA would schedule an administrative hearing approximately 30 calendar days out. This hearing would be held at the LCSA or by telephone and presided over by a Hearing Officer (an attorney employed by the state with at least three years experience). The parties could also file a request for a hearing in court instead.

The Hearing Officer would review evidence regarding income, expenses, and parenting timeshares and make findings regarding those issues. Again, court rules regarding evidence admissibility would not apply. The Hearing Officer would then prepare a stipulation or an interim order based on the information presented. The LCSA would send the agreement or the interim order to the court, along with a summary written by the Hearing Officer. Again, the order would be enforceable once reviewed and filed by the court. The LCSA would mail it to the parties, who would have 20 days to request a court hearing.

Tier 3: Court hearing administered by a Commissioner or Family Law Judge (upon request of the parties or motion of the court). According to the Department, Tiers 1 and 2 of the proposal would offer an optional path outside the current judicial process to resolve disputes administratively, while reserving the right of the parties to utilize existing judicial processes if they wish to do so. Either party can request a hearing before a Court Commissioner or Family Law Judge at any stage. Following the issuance of an interim order, however, the parties have 20 days within which to make such a hearing request. As under the current system, an LCSA attorney would represent the agency at the hearing. The court would consider the issues anew (“de

novo”) and then issue an order. In another change from the current system, the court commissioners would be allowed to hold hearings from any physical court location in any county. They could also hear cases in person or by telephone, audiovisual or other electronic means.

Prior Effort to Streamline Order Modifications: SB 1483 (Chapter 876, Statutes of 2006) established pilot projects to test an expedited child support order modification process. The bill required DCSS and the Judicial Council to conduct an evaluation of the effectiveness of the pilot project and report the results to the Governor and the Legislature by July 1, 2009. To date, the Legislature has not received this report.

DCSS Arguments in Favor of this Proposal: The Administration argues that these changes would improve the timeliness of child support services and the efficiency and cost effectiveness of child support operations. According to DCSS, child support customers who participate in the current judicial system experience a lengthy (six to nine months on average), time-consuming process for establishing orders and obtaining support. DCSS intends for the proposed process to reduce the time involved in establishing or modifying orders to an average of sixty days. The Administration also states that the proposed process would encourage non-adversarial interactions and good working relationships between child support agencies and the parties early on in a case. For example, DCSS envisions that the office conference process would be more user friendly and accessible, as it would engage child support customers at the beginning of the process and encourage them to fully participate in all aspects of establishing or modifying child support orders.

Arguments Raised in Opposition to this Proposal: A number of stakeholders have expressed concerns with the proposed changes. One repeated objection is that DCSS did not consult with or notify key stakeholders regarding this proposal, which includes sweeping and major changes to the child support system. Other concerns include:

- 1) That there are conflicts of interest in having the same administrative agency (that has related performance-based outcome measures upon which to improve) conduct the administrative process, represent the LCSA in court, and then enforce child support orders;
- 2) That the proposal inaccurately assumes that the courts are the source of current delays in the child support system;
- 3) That the projected cost-savings do not account for needed system and process costs associated with these large-scale changes, or adequately account for the resources it would take for a court to meaningfully review proposed orders; and
- 4) That the process creates a system where access to the courts is unequal, leading to unequal justice, particularly for the most low-income and otherwise vulnerable of clients and families.

Subcommittee Staff Comment and Recommendation: Staff recommends rejecting the Spring Finance Letter proposal, as it raises a number of critical, unanswered policy questions. Staff further recommends that the Department be directed to work collaboratively with stakeholders on any future proposals for changes to administrative and judicial processes that may result in better service to families and a more cost-effective child support system.

Questions for DCSS and DOF:

- 1) What consultation took place with stakeholders in the development of this proposal? To what extent did the Department attempt to find areas of consensus on the changes needed to improve the child support system?
- 2) Please summarize the Department's methodology for determining the anticipated savings included in the proposal. In particular, how large are the automation costs that the Department considers "absorbable"? How did the Department project how many families or judicial officers would request court hearings?
- 3) How does DCSS envision that caseworkers will be trained to assess credibility and appropriately apply the law in cases where the parties disagree about the facts or contest parentage? What record will the parties have of the basis for caseworkers' determinations in these disputes?
- 4) How do you anticipate that the proposed administrative process would apply in the kinds of circumstances that Texas exempts from its administrative process (i.e., cases involving domestic violence, foster care, minor parents, and interstate issues)?
- 5) What were the results of the SB 1483 pilots related to streamlined modification processes? Why hasn't the Legislature received the required report on those outcomes?

DCSS Issue 2: California Child Support Automation System (CCSAS)

Budget Issue: The Governor's budget for 2010-11, in a Budget Change Proposal, requests \$49.3 million (\$16.8 million GF) as a technical adjustment to restore base funding for CCSAS. In 2009-10, these resources were provided through re-appropriations from prior years' funding. The Governor's budget also proposes a base increase of \$8.2 million (\$2.7 million GF) for project costs, including increases in maintenance and operations services, help desk support, and the costs of personal computer replacements in 2010-11.

The Administration also proposes, in a Spring Finance Letter dated April 1, 2010, \$14.1 million (\$4.8 million GF) in 2010-11 for one-time costs associated with transitioning the Child Support Enforcement (CSE) system from vendor-provided services to in-house state services. The Finance Letter further requests authority to pursue a non-competitive bid with IBM for transition services. According to DCSS, the bid is non-competitive because the current system which will be transitioned is built entirely on IBM's hardware and software platforms. Additionally, DCSS requests resources for one-time start-up costs for the new State Disbursement Unit (SDU) Service Provider beginning April 1, 2011. The Administration proposes to fund these Spring Finance Letter proposals with re-appropriated funds from 2006-07, 2007-08, and 2008-09.

Background on CCSAS: The total budget for CCSAS (including project management, as well as maintenance and operations) in 2009-10 includes \$118.9 million (\$40.4 million GF) for the Child Support Enforcement (CSE) case and financial-management system and \$22.7 million (\$7.7 million GF) for SDU services (central processing for collecting and distributing child support payments). According to DCSS, anticipated total costs between 2003-04 and 2012-13 total \$2.2 billion (\$775.4 million GF) for the CSE and \$239.2 million (\$81.3 million GF) for the SDU. With federal certification completed in December 2008, the system is now funded with a 66 percent federal share.

According to DCSS, the volume and scope of work, web-based architecture, and supporting technologies used by the CSE make it the largest and most complex U.S. public sector system of its kind. The Department is now focused on transitioning this system from a contractor's data center to a state data center. This transition will be phased in over a 9 to 12-month period. DCSS also plans to transition its customer call center infrastructure from a contractor to the state by September 2010. By December 2011, DCSS plans to re-procure the SDU.

Subcommittee Staff Comment & Recommendation: Staff recommends approving the technical adjustment proposed in the Budget Change Proposal to restore the base funding for CCSAS. Staff also recommends holding open the requested \$8.2 million (\$2.7 million GF) increase to the base funding. Finally, staff recommends approving the use of new funding of \$4.8 million GF associated with the Spring Finance Letter, and sweeping all unspent DCSS re-appropriation funds. A net amount of approximately

\$1.8 million GF savings should result. Staff should be directed to work with DOF and LAO to operationalize this change and make appropriate changes to Budget Bill Language to conform to the action.

Questions for DCSS:

- 1) Please briefly summarize the current status of CCSAS and the changes proposed in 2010-11. Please also summarize the need for the requested \$8.2 million (\$2.7 million) increase to the base funding.
- 2) What are the long-term savings to the state anticipated from the Spring Letter proposal to transition from a contractor-supported and hosted CSE system to a state-supported and hosted CSE system?