LAO
POLICY BRIEF

The 2010–11 Budget:
How the Special Session Actions Would Affect Social Services

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The Governor declared a fiscal emergency on January 8, 2010, calling the Legislature into a special session to begin taking action on the $19.9 billion in solutions he proposes to address the budget problem and create a $1 billion reserve. Around 40 percent of the Governor's budget solution relies on funding or flexibility to be provided by actions of the federal government. Another 40 percent consists of reductions to state spending. The remainder of the Governor's proposals consists of various fund shifts. These include a proposal that the Legislature put measures before voters in June 2010 to allow use of a combined $1 billion of Proposition 10 early childhood development funds and Proposition 63 mental health services funds to help balance the budget.

For the special session, the Governor proposes solutions for social services programs totaling $121 million in 2009-10 and $2.6 billion in 2010-11. Figure 1 (see next page) shows the solutions by program area. The state Department of Social Services (DSS) oversees most of these programs. The figure also displays the two main types of proposed solutions: expenditure reductions and fund shifts (federal, county, and special funds). In addition to the General Fund savings, adoption of this package would result in the loss of about $3 billion in federal funds, assuming that the American Recovery and Reinvestment Act (ARRA) is extended through June 30, 2010. Below, we provide our analysis of the Governor's proposals, in some cases offer alternative approaches, and recommend the actions that we believe the Legislature should take on them at this time.

CROSSCUTTING ISSUES

Early Action Required. We recommend that the Legislature act relatively quickly to address some of the key proposals to reduce spending in social services programs because of the lead time necessary to implement them. For example, because most social services programs are administered by county welfare departments using four separate automation systems, it generally takes at least two months to implement policy changes. The federal government typically takes three months to modify grant levels in the Supplemental Security Income/State Supplementary Program (SSI/SSP). Taking early action, in most cases by the end of March, would result in achieving at least some savings in the current year and full savings in the budget year to address the state's sizeable budget problem.

Legislature Not Limited by the Choices Put Forward by the Governor. Although balancing the budget involves difficult decisions, the Legislature has a greater menu of options it can consider to address the problem than just the ones presented by the Governor. Throughout this report, we present more targeted approaches to reducing social services programs. These alternatives achieve less savings than the Governor but attempt to ensure that the most vulnerable recipients continue to receive some services. Accepting these alternatives could mean, however, that greater reductions would have to be made in other areas of the budget, or that it would have to approve additional revenue measures. The Legislature should carefully consider these kinds of trade-offs in addressing the budget shortfall.

Impact on Federal Funds. In addition to the $2.7 billion in General Fund savings the administration proposes, adoption of the Governor's package would also result in the loss of about $2.9 billion in federal funds, assuming that ARRA is extended through

Figure 1

Governor's Proposed Special Session Solutions

(In Millions)

Program/Description	General Fund Savings 2009-10	General Fund Savings 2010-11	Federal Funds Loss
Program Expenditure Reductions			
In-Home Supportive Services[a]			
Limit services to most severely impaired	$56.6	$650.8	$2,400.0
Reduce state wage and benefit support to $8.60/hour	21.3	271.8	—
SSI/SSP			
Reduce grants (1.8 percent) to the federal minimum	$13.7	$177.8	—
CalWORKs			
Reduce grants by 15.7 percent[b]	$9.4	$120.6	$468.9
Reduce maximum child care reimbursement rates	—	54.8	—
Eliminate Programs for Legal Noncitizens			
Cash Assistance Program for Immigrants	$8.1	$107.3	—
California Food Assistance Program	3.8	56.2	—
CalWORKs grants and services	0.7	21.8	$33.6
Subtotals	($113.6)	($1,461.1)	($2,902.5)
Funding Shifts			
Proposition 10			
Redirect reserves and revenues to offset General Fund	—	$550.0	—
County Funding			
Redirect county savings to children's programs	—	505.5	—
Foster Care			
Increased federal eligibility for Foster Care	$7.5	86.9	—
Subtotals	($7.5)	($1,142.4)	—
Totals	**$121.1**	**$2,603.5**	**$2,902.5**

[a] General Fund savings are overstated because figures include about $200 million in savings that would be achieved under current state law, but have been enjoined in federal court. The federal fund loss is also overstated for the same reason.

[b] These amounts reflect the total CalWORKs program savings. Some of these General Fund savings are through fund shifts to other departments.

June 30, 2011. (The ARRA temporarily increases federal financial participation from 50 percent to 56 percent for foster care, and from 50 percent to 62 percent for In-Home Supportive Services [IHSS], while also providing a new 80 percent funding stream for certain California Work Opportunity and Responsibility to Kids [CalWORKs] costs.) The loss of federal funding would generally be lower if ARRA is not continued.

The General Fund savings amounts identified throughout this report assume continuation of ARRA funding through the end of 2010-11, but do not reflect another proposal for a permanent increase in the federal share of Medicaid costs to 57 percent proposed in the Governor's budget. That is because, as we discuss in our recent report, *How the Special Session Actions Would Affect Health Programs,* while we believe it is reasonable to assume that the state will receive an extension of the enhanced sharing ratio provided under ARRA, we believe it is unlikely that the state will be given an increase in the base federal share of support.

IN-HOME SUPPORTIVE SERVICES

The IHSS program provides in-home care for persons who may be at risk for institutional placement without such assistance. Assistance is provided with tasks such as cleaning, meal preparation, bathing, grooming, and errands. The federal, state, and local governments share in the cost of IHSS. The administration's budget plan proposes to achieve General Fund savings in the IHSS program by (1) reducing state support for the wages and benefits paid to providers and (2) imposing restrictions on eligibility.

IHSS Caseload Is Overbudgeted

Governor's Budget Proposal

The revised budget proposal for IHSS for 2009-10 assumes that the caseload will grow by 7 percent over the previous year. As a result, the budget estimates that, absent any proposed eligibility restrictions, the average number of IHSS cases will be over 460,000 in the current year, as shown in Figure 2. The Governor's budget estimates that the caseload will reach nearly 490,000 cases in 2010-11, an increase of 6.5 percent over the current year.

Figure 2

IHSS Caseload
Governor's Budget and LAO Estimate

Year	Governor's Budget	LAO Estimate	Difference: Amount	Difference: Percent
2008-09	429,786	429,786	—	—
2009-10	460,041	448,613	-11,428	-2.5%
2010-11	489,972	476,212	-13,760	-2.8

LAO Comments

Actual Caseload Lower Than Budget Estimate. Our examination of caseload data indicates that the caseload is significantly below the Governor's current estimate for the first six months of 2009-10. Our own lower estimate shown in Figure 2, which takes into account for the most recent actual monthly caseload data from December 2009, shows that the total caseload is overstated by 2.5 percent in the current year and by 2.8 percent in the budget year. Because the caseload is overstated, we estimate that the IHSS caseload is overbudgeted by about $35 million from the General Fund ($141 million for all funds) in the current year.

Analyst's Recommendation

For the reasons discussed above, we recommend that the Legislature recognize a General Fund savings of $35 million in 2009-10 in regard to IHSS caseload. It is also likely that there will be caseload savings in the budget year. We will continue to monitor the IHSS caseload and report at May Revision if additional caseload adjustments are warranted.

Reducing State Participation in IHSS Provider Wages

Governor's Budget Proposal

Effective June 1, 2010, the Governor's budget proposes to reduce state participation in IHSS provider wages and benefits to a combined $8.60 per hour (the $8.00 minimum wage established under state law, plus $0.60 for health benefits). This proposal is estimated to save $21 million in 2009-10 and $272 million in 2010-11, and would eliminate potential costs beyond 2010-11 associated with future county wage increases.

LAO Comments

Impact of Current Law. We note that a portion of the savings shown by the administration in its budget plan would have resulted from the implementation of current law, which reduced state participation in wages and benefits from $12.10 to $10.10 per hour. (We estimate this to be about $7 million out of $21 million in 2009-10, and $80 million out of $272 million in 2010-11.) A federal judge has issued an injunction preventing the state from implementing the reduction, which had been adopted as part of the 2009-10 budget plan. Due to the injunction, the state is still participating in wages and benefits up to $12.10 per hour. Compared to current state law, the incremental savings from the Governor's proposal to further reduce state participation from $10.10 to $8.60 is about $192 million in 2010-11.

County Discretion. The proposed reduction would not limit the amount counties could pay their IHSS providers, but rather would reduce the state's level of support for the wages. Depending on county decisions, this proposal would either result in county General Fund costs (because a county elects to backfill the decreased state funds) or reduced provider wages (because a county does not backfill). This proposal would not immediately impact the 13 counties which are currently paying providers $8.60 or less per hour.

Impact on Federal Funds. The administration assumes that this proposal will not result in federal funds loss because it further assumes that the counties will maintain wages at current levels by backfilling the lost General Fund with county funds. However, to the extent counties decrease wages as a result of this reduction, there will be federal funds loss for the state.

Legal Risks and a New Federal-State Relationship. Although the *2009-10 Budget Act* reduced state participation in provider wages and benefits, a federal injunction has prevented implementation of the reduction. The Governor's proposal to reduce wages to $8.60 per hour would likely face the same legal challenges and implementation would likely be delayed. To address this issue, the Governor is requesting additional operating flexibility from the federal government in order for proposed program reductions to be made. This additional flexibility is part of what it terms a new "federal-state relationship," involving federal intervention which could potentially alleviate the legal risks associated with this proposal.

Impact on Supply of Providers. In the past, we have noted that long-term wage decreases could eventually impact the supply of qualified IHSS providers. However, given the current recession, and the high unemployment rates throughout the state, we do not believe that a wage reduction proposal would have a significant impact on the availability of IHSS providers at this time. This wage reduction would reduce provider income, but is unlikely to significantly impact services for IHSS recipients.

Analyst's Recommendation

Temporarily Reduce Wages to Minimum. Given the current recession, and the growing expense of the IHSS program, we recommend that the Legislature temporarily reduce state participation in IHSS provider wages and benefits to $8.60 per hour. We believe that a wage reduction would achieve IHSS savings in a way that moderates the impact to IHSS recipients. We note that implementation of this wage reduction would depend on federal government intervention or a decision by a federal judge in now-pending litigation that such budget reductions are permissible.

If the Legislature reduces state participation and it is deemed federally permissible, the Legislature should monitor whether wages are sufficient to attract an adequate supply of providers. To this end, the LAO will analyze monthly reports that document the number of IHSS hours that are being authorized and claimed each month. We will report to the Legislature if the utilization of authorized hours appears to be affected by the reduction in state participation in wages.

IHSS Eligibility Restrictions

Governor's Budget Proposal

The services received by an IHSS recipient depend on their impairment as assessed by a county social worker. This is accomplished using a uniform assessment tool to rank the recipient's impairment on various IHSS tasks. The various ranks are averaged together to create a functional index (FI) score. The score ranges from 1 (least impaired) to 5 (most impaired). Effective June 1, 2010, the Governor's budget proposes to eliminate IHSS for recipients with FI scores of less than 4. This proposal is estimated to reduce the IHSS caseload by 87 percent and save about $57 million in 2009-10 and about $651 million in 2010-11. (The administration proposes a further reduction—involving the total elimination of IHSS—under his budget trigger proposal. This further action is assumed by the administration to result in $495 million in savings.)

LAO Comments

Impact of Current Law. A portion of the savings reflected in the administration's budget plan would come from the restrictions in current law on program eligibility (we estimate this to be about $8 million out of $57 million in 2009-10, and $99 million out of $651 million in 2010-11). Current law generally eliminated IHSS for recipients with FI scores of less than 2 (with exceptions for recipients with certain services). However, a federal judge has issued an injunction preventing the state from implementing the reduction, which was adopted as part of the 2009-10 budget plan on the basis that the FI scoring system is not an accurate measure of a recipient's level of impairment. The incremental additional savings estimated by the administration in its 2010-11 budget proposal is about $552 million.

Legal Risks and a New Federal-State Relationship. The Governor's proposal to eliminate IHSS for recipients with FI scores of less than 4 would likely face the same legal challenges as current law and implementation would likely be delayed. Similar to the reduction in state participation in wages described above, this is another reduction where the administration is relying on federal intervention to implement the reduction or a favorable court decision.

Governor's IHSS Reduction Goes Too Far. As we have explained in our January report, *Considering the State Costs and Benefits: In-Home Supportive Services*, the complete elimination of IHSS (or the dramatic reduction in eligibility proposed in the Governor's budget plan) would likely lead to offsetting costs that more than outweigh the savings from its elimination. Given the magnitude of this proposed reduction, we find that it would likely result in costs in developmental services and skilled nursing facilities that would more than offset the savings in IHSS. (While the Governor's budget includes $50 million for increased costs for developmental services relating to IHSS reductions, our analysis indicates that these impacts are understated.) Reductions to the IHSS program are possible, as long as they are smaller and are targeted to reduce the cost of services for those recipients who are least likely to enter institutional care.

Substantial Federal Funds Loss. Because the federal, state, and county governments all have a share in the costs of the IHSS program, a reduction of the magnitude proposed by the administration would result in a substantial additional loss of federal funds. As shown in Figure 3, the state General Fund share of the IHSS program is currently about 25 percent, due to the enhanced federal funding received under ARRA. The federal share is about 62 percent, with the remaining portion, 13 percent, borne by counties. Thus, the Governor's proposal to eliminate services to recipients with a FI score below 4 saves about $650 million General Fund, but results in a loss of about $2.4 billion in federal funds in 2010-11. This loss of federal funds would not be as significant if ARRA is not continued, as shown in the figure below.

LAO Recommendations

Potential Short-Term Solutions Are Risky. As we have explained above, it is possible to adopt smaller, more targeted reductions without creating additional costs in other programs that more than offset the savings that would be achieved in IHSS. For example, the Legislature could eliminate services for recipients with a FI score of less than 2.5. The magnitude of any reduction is a fiscal and policy decision for the Legislature that should balance such factors as the state's fiscal difficulties against the value of the program in improving the quality of life of recipients. However, it would be risky to assume savings from such actions in the current and budget years. This is because the state would need to receive a favorable federal court decision or obtain new flexibility from Congress or the federal administration to implement such program changes. Given these risks, we recommend that the Legislature focus its work in the special session on developing a better measure of impairment for IHSS recipients. Such a new measure would facilitate future legislative action on reforms which

Figure 3

Comparing Costs of IHSS With and Without ARRA

	Share of IHSS Program Costs	
	Under ARRA	Without ARRA
Federal	61.6%	50.0%
State	25.0	32.5
County	13.4	17.5

would base service delivery on the severity of impairment.

Developing a Better Measure of Impairment. As we have noted in this report and in our January report on IHSS, the most fiscally sound way to make reductions to this program is to reduce services for recipients who are least likely to enter an institution in the absence of those services. The current system of FI scores was not designed to measure the likelihood of a client entering a nursing home. In fact, one key argument in the federal case which enjoined the state from implementing a targeted reduction was that FI scores were an inadequate measure of impairment and risk of institutionalization. We believe a better measure should be developed for two reasons. First, it will better enable the Legislature to target services to those most at risk of institutionalization. Second, it will strengthen the state's position with respect to legal challenges in federal court. Accordingly, we recommend enactment of legislation requiring DSS to present the Legislature with a new system of measuring impairment and the risk of institutional placement no later than January 10, 2011. In developing the new measures, DSS should be directed to convene at least two stakeholder meetings including, but not be limited to, provider organizations, consumer organizations, social workers who conduct assessments, county representatives, and legislative staff. The new system for measuring impairment should require that a social worker make a specific finding whether the client needs IHSS services in order to avoid institutional placement.

Basing Service Delivery on the Level of Impairment. In our January report on IHSS, we outlined a tiered approach to delivering IHSS. Service levels would be correlated to the new measure of impairment and risk. Such an approach could provide a continuum of care which would help all Californians delay or avoid the need to enter an institution while better targeting services to those with the greatest impairment. Although subject to federal approval, we believe this approach would have a better chance of surviving potential legal challenges.

SUPPLEMENTAL SECURITY INCOME/ STATE SUPPLEMENTARY PROGRAM

The SSI/SSP provides monthly cash grants for low-income aged, blind, or disabled individuals and couples. The SSI portion of the grant is supported by federal funds and the SSP portion is a state-only supplement to the federal grant. Federal law requires that the SSP portion of the grant be "maintained" at or above its 1983 level. Failure to comply with this requirement would result in the loss of all federal Medicaid health care program funding (the program is known as Medi-Cal in California). Under current law, a federal cost-of-living adjustment (COLA) is applied to the federal portion of the grant every January.

Reduce Grants to the Federal Minimum

Governor's Budget Proposal

The Governor's plan reduces SSP grants for individuals to the minimum levels allowed under federal law. (Grants for couples were reduced to the federal minimum as part of the *2009-10 Budget Act*.) As seen in Figure 4, the SSP portion of the grant would be reduced to a maximum of \$156 per month for individuals, effective June 2010. This would result in a \$15 (1.8 percent) monthly grant reduction. Although grants would be reduced under this proposal, as shown in Figure 4, grants for individuals and couples are expected to increase in January 2011 due to the federal COLA. Reducing grants to the federal minimum would make about 8,900 recipients ineligible for SSI/SSP. Generally these recipients are receiving grants of less than $15 per month. They become ineligible because their income would exceed the revised income eligibility standards for SSI/SSP associated with the grant reduction. This proposal is estimated to save about $14 million for the General Fund in 2009-10 and $178 million in 2010-11.

LAO Alternative

No Pass-Through of Federal COLA. As noted above, the federal government applies a COLA to the federal SSI portion of the grant each January. One possible alternative to the Governor's proposal would be to reduce the state SSP portion of the grant by the dollar amount that the SSI portion of the grant increases due to the January 2011 federal COLA. This option is known as "not passing through the federal COLA." As seen in Figure 5, this option would reduce SSP monthly grants for individuals by about $13 to $158 effective January 2011. This would keep total grants for individuals at current levels ($845) until January 2012, when the next federal COLA is scheduled. Assuming a January 1 implementation date, this would result in General Fund savings of about $51 million in 2010-11.

Option to Make SSI/SSP Recipients Eligible for Food Stamps. The Food Stamp program provides monthly benefits to low-income households and individuals to assist them with food purchases. The cost of the federal food benefits is borne entirely by the federal government, while the associated administrative costs are shared among the federal government, the state, and the counties. Beneficiaries receive a debit card which reloads each month with their food stamps allotment.

In California, recipients of SSI/SSP are not eligible for federal food stamp benefits. This is because California has opted to increase the SSP portion of the grant (by $10 monthly) rather than administer food stamps to SSI/SSP recipients. This is known as the food stamp "cash-out" policy.

The Legislature has the option of reversing the cash-out policy to allow SSI/SSP recipients to apply for food stamps. Reversing the cash-out would benefit some SSI/SSP recipients by making them eligible for food stamps, while reducing food stamp benefits for others. Generally, those who would benefit from the reversal of the cash-out would be those with lower income who live in households comprised only of SSI/SSP recipients. The households most likely to experience a reduction in food stamp benefits would be in cases where SSI/SSP recipients reside with

Figure 4

SSI/SSP Maximum Monthly Grants: Governor's Proposal

	Current Levels	Governor's Budget June 2010	Governor's Budget January 2011
Individuals			
SSI	$674	$674	$687
SSP	171	156	156
Totals	**$845**	**$830**	**$843**
Percent of Poverty	*94%*	*92%*	*93%*
Couples			
SSI	$1,011	$1,011	$1,031
SSP	396	396	396
Totals	**$1,407**	**$1,407**	**$1,427**
Percent of Poverty	*116%*	*116%*	*118%*

other existing food stamp recipients whose total income tends to be higher.

Preliminary analysis from the DSS indicates that in 2009 there were roughly 956,000 SSI/SSP households in California (representing about 1.25 million recipients). If all eligible food stamp recipients applied for and receive benefits, DSS estimated the reversal of the cash-out would have the following effects:

- Over 300,000 households would be newly eligible for between $16 and $69 per month in food stamp benefits.
- About 120,000 households would retain food stamps benefits and would experience an average increase of about $15 per month.
- About 425,000 households would remain ineligible for food stamps (because their total grant, Social Security, and other income is above the food stamp income eligibility thresholds).

Figure 5

SSI/SSP Maximum Monthly Grants: No Pass-Through Option

	Current Levels	No Pass-Through January 2011
Individuals		
SSI	$674	$687
SSP	171	158
Totals	**$845**	**$845**
Percent of Poverty	*94%*	*94%*
Couples		
SSI	$1,011	$1,031
SSP	396	396
Totals	**$1,407**	**$1,427**
Percent of Poverty	*116%*	*118%*

- About 35,000 households would lose an average of $209 per month in food stamps and become ineligible.

After accounting for the increases and decreases in food stamp benefits for households, it is estimated that reversing the cash-out would result in a net increase of about $125 million in additional food stamp benefits for California households. The General Fund administrative cost of reversing the cash out is estimated to be $17.4 million in the first year and $6.8 million annually thereafter.

Analyst's Recommendation

Reduce Grants to Minimum and Consider Reversing Food Stamp Cash-Out. Given the current fiscal situation facing the state, we recommend reducing the SSP grant for individuals to the federal minimum. Because this reduction only impacts the state portion of the SSP grant, it does not result in the loss of federal funds. We note that grants for individuals and couples will increase (by an estimated $13 for individuals and $20 for couples) in January 2011 due to an estimated COLA.

Additionally, we recommend that the Legislature examine the potential net benefits of reversing the food stamp cash-out policy. This would result in additional federal food stamps for lower-income California households and, in some cases, offset the SSP grant reduction. Although some households would lose food stamps eligibility as a result of the reversal, these are households with higher combined income levels than the households that would gain food stamps as a result of reversing the cash-out. The key implementation issue is the development of a streamlined eligibility process for former SSI/SSP recipients. Such a process would most likely include making SSI/SSP recipients automatically eligible for food stamps (subject to benefit determination based on income), waiving the in-person interview sometimes required for food stamp recipients, and providing an exception from an existing fingerprinting requirement. This streamlined approach would increase the likelihood that all newly eligible recipients actually receive the food stamp benefits.

CALWORKS: REDUCE GRANTS BY 15.7 PERCENT

Governor's Budget Proposal

Grant Reduction. Effective June 2010, the Governor proposes to reduce maximum monthly CalWORKs grants by 15.7 percent, which would amount to a reduction for a family of three of $109 in the high-cost counties and $104 in the low-cost counties. The proposed reduction would result in General Fund savings of $9 million in 2009-10 and $121 million in 2010-11 for a total of $130 million in combined General Fund and federal Temporary Assistance for Needy Families (TANF) block grant savings. According to DSS, the 15.7 percent grant reduction would make the maximum grant in California equal to the average grant in the ten states with highest rental housing costs.

Interaction With Maintenance-of-Effort (MOE). The Governor's proposed grant reduction results in total savings (General Fund and TANF block grant funds) of $130 million. In 2010-11, proposed CalWORKs spending absent this grant reduction exceeds the federal CalWORKs MOE requirement by $69 million. Thus, only $69 million of General Fund savings can be achieved in CalWORKs. This leaves $61 million in TANF block grant funds associated with this grant reduction. To convert the TANF funds into additional General Fund savings, the Governor transfers these funds to the Department of Developmental Services (DDS) ($43 million) and the Student Aid Commission ($18 million). This results in identical General Fund offsets in these departments.

LAO Comments

Comparison to Poverty. Food stamp allotments depend on income, including grant income. When grants are decreased, food stamp benefits increase for most families. Figure 6 shows the maximum monthly grants and estimated food stamps benefits under current law and Governor's proposal. As the figure shows, relative to the 2009 federal poverty guideline, combined maximum monthly benefits would decline to 73 percent of poverty in high-cost counties and 71 percent in low-cost counties.

Figure 6

CalWORKs Maximum Monthly Grant and Food Stamps Family of Three, June 2010

	Current Law	Governor's Proposal	Change	
			Amount	Percent
High-Cost Counties				
Grant	$694	$585	-$109	-15.7%
Food Stamps	498	526	28	5.6
Totals	**$1,192**	**$1,111**	**-$81**	**-6.8%**
Percent of Poverty	*78%*	*73%*		
Low-Cost Counties				
Grant	$661	$557	-$104	-15.7%
Food Stamps	508	526	18	3.5
Totals	**$1,169**	**$1,083**	**-$86**	**-7.4%**
Percent of Poverty	*77%*	*71%*		

Savings Tied to Federal Fund Assumptions. Pursuant to ARRA, TANF Emergency Contingency Fund (ECF) provides 80 percent federal participation in increased grant costs above each state's base costs in 2007. This funding stream is scheduled to sunset on September 30, 2010. The Governor's budget assumes it will continue until June 30, 2011. Under the Governor 's assumptions, the proposed reduction results in General Fund savings of $120 million in 2010-11 and a corresponding federal funds loss of about $470 million. We note that, if ARRA is not extended, the Legislature could delay this reduction until October 1, 2010 and achieve General Fund savings of approximately $440 million with no loss in federal funds.

Criteria for Setting Grant Levels. In setting the maximum grant level, the Legislature will have to prioritize among the competing goals of achieving budgetary savings, providing income maintenance to low-income families with children, giving adults an incentive to work, and meeting federal TANF work participation requirements. The Governor's proposal would make about 8,400 families with significant earnings ineligible for the program because their income would now fall below the revised eligibility thresholds associated with the grant reduction.

Analysts' Recommendation

We recommend that any CalWORKs reduction be adopted on a contingent basis, whereby the cut is made only when the federal TANF ECF expires. Once this funding expires, a CalWORKs grant reduction could be achieved with no loss in federal funds. Given there is no loss in federal funding and the reduction is partially offset by an increase in food stamps, the Legislature should target significant savings in this area on a contingent basis.

If ARRA is not extended, CalWORKs General Fund spending would be well above the MOE requirement. All the savings from any grant reduction adopted by the Legislature could be achieved within the CalWORKs General Fund budget. There would be no need for any TANF transfers to DDS or the Student Aid Commission. Finally, if the Legislature rejects the Governor's proposal, General Fund backfills must be provided to the respective budgets of DDS and the Student Aid Commission.

CALWORKS: CHILD CARE REIMBURSEMENT RATES

CalWORKs child care is administered in three stages. Stage 1 child care is provided by the county welfare departments to CalWORKs recipients as soon as a family needs child care so that the parent can meet participation requirements. After the family's child care situation is "stable," the family may move into Stage 2 where their child care is guaranteed for two years after leaving CalWORKs cash aid. Stage 3 provides child care to former CalWORKs families who have exited Stage 2. Most child care funding is budgeted with the state Department of Education (including funding for CalWORKs Stages 2 and 3). However, funding for CalWORKs Stage 1 child care is budgeted within DSS.

Governor's Budget Proposal

Rate Reductions. Currently, California will pay up to the 85th percentile of the regional market rate (RMR) (as determined by surveys of providers) for child care in each county. The Governor proposes to reduce the maximum reimbursement rate to the 75th percentile of the RMR. He also proposes to reduce the reimbursement rate for certain child care facilities that are exempt from licensing from 90 percent to 70 percent of the reimbursement rate for family child care homes. These changes would result in General Fund savings of $55 million in Stage 1 child care, and $77 million in the Department of Education child care. The Governor also proposes to reduce funding for Stage 3 child care by $123 million.

Analyst's Recommendation

Given the state's fiscal situation, we support the concept of reducing reimbursement rate ceilings. A more complex issue is whether to use more recent survey data to update the RMR. The Governor proposes to use the 2005 survey data and indicates that using the more recent survey would substantially reduce savings. We recommend that any legislative actions taken on child care reimbursement rates in CalWORKs be consistent with the decisions made in the Department of Education.

ELIMINATION OF PROGRAMS FOR LEGAL NONCITIZENS

California provides cash assistance and food stamps to legal noncitizens through several programs, as described below.

Cash Assistance Program for Immigrants (CAPI). The CAPI provides state-only funded benefits to legal noncitizens who would otherwise be eligible for SSI/SSP but for their citizenship status. The CAPI recipients include two groups. Those in the "base" CAPI group arrived before 1996, or have a sponsor who is dead, disabled, or abusive. Generally, the "extended" CAPI group is comprised of sponsored immigrants who have been in the U.S. in excess of the ten-year deeming period whereby the income of their sponsor was deemed to the immigrant for purposes of financial eligibility.

California Food Assistance Program (CFAP). The CFAP provides state-only funded food stamp benefits to legal noncitizens who are not eligible for federal food stamps. The federally ineligible group is comprised of adults age 18 to 64 who have been in the United States for less than five years (all other legal immigrants are federally eligible).

CalWORKs Assistance. Finally, through the CalWORKs program, California provides grants, child care, and welfare-to-work services to legal immigrants who have been in the United States for less than five years. Although such immigrants are typically not eligible for regular TANF block grant funding, they may be funded by state MOE funding. Moreover, their grant costs are eligible for 80 percent TANF ECF funding.

Governor's Budget Proposal

Effective June 2010, the Governor proposes to eliminate CAPI, CFAP, and CalWORKs for recent legal noncitizens. For 2010-11, these proposals would result in savings of $107 million, $56 million, and $22 million, respectively.

LAO Alternatives

Rather than eliminate these programs, the Legislature has a number of options which would achieve less savings but limit the potential adverse impacts on recipients. Because these are state-only funded programs, the Legislature has significant flexibility in setting benefit levels and eligibility requirements. We discuss these alternatives below.

Prospective Elimination. The availability of these state-only programs may have influenced immigrants' decisions about when, whether, and where to immigrate into the United States. To avoid any impacts on current recipients who have already immigrated to California based on current programs, the Legislature could prospectively eliminate these programs for immigrants arriving after a specified date. Existing recipients would continue to receive benefits. This approach would achieve savings of approximately $18 million in CAPI, $11 million in CFAP, and about $3 million in CalWORKs in 2010-11. Program costs would continue to decline slowly in years beyond 2010-11.

Gradual Partial Phase-Out for Existing Cases. In addition to the alternative approach described above, the Legislature could gradually phase out benefits for the existing caseload. This would give existing recipients more time to find other resources through earnings, friends, family, or charitable organizations to offset the loss of state assistance. It would also give current recipients an incentive to attain citizenship and become eligible for federal benefits. This approach probably makes the most sense for CAPI, because it is a stand-alone program administered by the counties. (Although possible in CalWORKs and CFAP, this approach would be creating two sets of rules within one program and would be more difficult to administer.) For illustrative purposes, a 50 percent grant reduction in CAPI effective January 1, 2011 would result in savings of about $18 million in 2010-11, with full-year savings in 2011-12 of about twice that amount.

Conditioning Benefits on Progress Toward Citizenship. Most recipients of these state-only programs could become U.S. citizens after residing in the United States for five years. Most new citizens qualify for federal benefits, resulting in significant state savings. The Legislature could make continued receipt of state-only benefits contingent on commencing and making progress toward citizenship requirements. Savings from this approach are hard to estimate and would in part depend on the administrative costs associated with enforcing such a requirement.

Restricting Eligibility to the Most Vulnerable. Many CAPI and CFAP recipients reside in larger households which include members receiving federally funded benefits. The Legislature could limit CAPI and CFAP eligibility to noncitizens residing alone without any other means of support. Such approaches would result in savings of about 40 percent of current program costs.

Analyst's Recommendation

Because the state can reduce costs in CFAP and CAPI without a corresponding loss in federal funds (unlike some other budget choices), we recommend that the Legislature set a goal of achieving at least half of the Governor's proposed savings of $164 million through the various options we have outlined. With respect to CalWORKs noncitizens, we recommend that any reduction be made contingent on the expiration of the 80 percent TANF ECF in order to avoid a proportionally high loss of federal funds.

PROPOSITION 10 EARLY CHILDHOOD DEVELOPMENT PROGRAMS

Proposition 10 was enacted by the voters of California in the November 1998 election. The initiative measure created the California Children and Families Commissions, now commonly known as the state and local First 5 Commissions, which rely upon revenues generated by state excise taxes on cigarettes and other tobacco products to fund early childhood development programs for children up to age five. Proposition 10 revenues amount to about $500 million for the current year, of which the local commissions receive 80 percent while the state commission receives the remaining 20 percent.

Governor's Budget Proposal

Ballot Measure. The Governor's budget proposes to place before voters in the June 2010 election a measure to allow the use of Proposition 10 funds for General Fund-supported children's programs in DDS and DSS. Specifically, the proposed ballot measure would (1) sweep up to $308 million, but not less than $249 million, on a one-time basis from the state commission's fund reserves and (2) redirect around 50 percent of state and local commissions' ongoing revenues—amounting to an estimated $242 million in 2010-11—for five years to fund various state children's programs. This proposal would result in General Fund savings of $550 million ($200 million in DDS and $350 million in DSS) in 2010-11. The General Fund savings and the funds remaining for the commissions would decline gradually in the out-years, in accordance with the slow decreases that have been occurring in tobacco product consumption and related revenues.

Voluntary Contributions. In addition to the savings from the proposed ballot measure, the budget assumes that Proposition 10 local commissions will voluntarily provide an additional $50 million to the DDS Early Start program and $55.6 million to the Managed Risk Medical Insurance Board Healthy Families Program (HFP) on a one-time basis in 2010-11.

LAO Comments

As noted above, the administration indicates an amount ranging between $249 million and $308 million in Proposition 10 state commission reserves. The budget assumes $308 million will come from the state commission reserves to offset General Fund costs in 2010-11. The actual amount available for the one-time sweep of the state commission's reserves will depend on the commission's fund balance as of June 30, 2010. We are still assessing whether these funds would be available.

Also, we note that the Governor's budget assumes voluntary contributions from the local commissions to Early Start and HFP, even though the local commissions have yet to make any funding commitments for 2010-11. This means it is uncertain at this point whether the General Fund savings assumed from this approach will actually be realized in the budget year.

LAO Alternatives

The Legislature may wish to consider the following additional options to increase the magnitude of the General Fund solution that is proposed to come from Proposition 10.

Assure Local Funds Are Available for State Programs. Rather than rely on a total of

$105.6 million in voluntary contributions from the local commissions for Early Start and HFP, the Legislature may wish to sweep this amount on a one-time basis from the local commissions' reserves. This option would eliminate the risk of budget deficits in Early Start and HFP, should the local commissions not provide the voluntary contributions for these programs in 2010-11. On the other hand, this would leave the local commissions with lower reserves to prioritize their temporarily reduced revenues to meet local needs. In considering this option to sweep some local reserves, the Legislature should weigh the trade-offs of securing Proposition 10 funding for Early Start and HFP in 2010-11 versus providing a level of flexibility for local Proposition 10 commissions to prioritize their commitments while temporarily receiving decreased revenues.

Permanently Redirect a Portion of Proposition 10 Funds. The Legislature could permanently redirect 50 percent of the Proposition 10 revenues to General Fund-supported children's programs, rather than adopt the administration proposal for a five-year period. Under this approach, the Legislature could leave both the state and local commissions' existing reserves intact, which would help the commissions transition to a permanently reduced program environment.

Analyst's Recommendation

Proposition 10, which generally funds early childhood development, health, and education programs that were designed to be enhancements to previously existing core programs, was approved by voters during a period when state finances were healthier. Given the state's fiscal condition now, we believe it is reasonable for the Legislature to consider a reduction to programs for enhanced services, such as Proposition 10, rather than cut more deeply into core programs. Accordingly, we recommend the Legislature adopt the Governor's proposal to ask the voters to prioritize the use of Proposition 10 funds to support core children's programs and services. Moreover, the Legislature may wish to go beyond the Governor's proposal by considering the additional alternatives we presented above to (1) not rely on voluntary contributions from local First 5 commissions, and instead redirect additional funding for these purposes, and/or (2) make the ongoing redirections of funding permanent. We note that early action is necessary for the Legislature to qualify any Proposition 10 measure for the June 2010 election.

REDIRECTION OF COUNTY SAVINGS TO CHILDREN'S PROGRAMS

Governor's Budget Proposal

As previously described, the Governor's budget proposes several reductions to the IHSS and CalWORKs programs, as well as increased federal funding for various social services programs, which would result in General Fund savings of about $950 million in 2010-11. Because counties have a share of cost in these programs, the reductions and increased federal funding would result in county savings of about $675 million.

The Governor proposes to redirect a portion of these county savings—$505.5 million in 2010-11—to fund increased county shares of cost in the Foster Care, Adoption Assistance (AAP), and Child Welfare Services programs. Figure 7 shows the existing state and county shares of nonfederal costs for these children's programs, as well as the proposed changes and corresponding General Fund savings.

LAO Comments

Potential Mandate Issues. Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the California Constitution generally requires the state to reimburse that local government for its costs of complying with that mandate. Proposition 1A (enacted in 2004) expanded the definition of a new program or higher level of service to include certain changes in program cost-sharing ratios between state and local governments.

The Constitution and statutes establish some exemptions to these reimbursement requirements. One such exemption (specified in statute) is when the cost of a new local requirement is fully offset by savings to local agencies, so that the local agencies incur no net costs from the new state requirement. The administration argues that its proposal does not constitute a reimbursable state mandate because the state is providing such offsetting savings.

However, it is difficult to determine whether the Governor's proposal actually does avoid creating a new reimbursable state mandate for all counties. The caseloads for each of these programs vary significantly from county to county. This means that a particular county may not receive the same level of savings from these program reductions or increases in federal funding than another county. Therefore, the proposed across-the-board change in cost-sharing ratios for children's programs would create fiscal winners and losers among counties.

Moreover, it is likely that the savings experienced by counties from the proposed social service program reductions and increased federal funding—some of which are temporary—would vary significantly from year to year. Therefore, the state might need to establish a mechanism to adjust these new cost-sharing ratios for children's programs each year to avoid inadvertently creating a reimbursable state mandate.

Finally, the "offsetting savings" provision of mandate law has been used very infrequently and is not well-established. In addition, the Commission on State Mandates (CSM) advises us that it has never ruled on a case in which the savings from one program were proposed to be applied to another. Therefore, it is difficult to determine whether the Governor's proposal could use this exemption and avoid being found to be a state-reimbursable mandate.

Interaction With Previous Realignments. In 1991, the state enacted major changes in several social services programs to realign program control and funding responsibility from the state to local governments. Counties were provided with dedicated tax revenues from the sales tax and vehicle license fees to pay for these changes. Over the years, caseload increases and other

Figure 7

Redirection of County Savings to Children's Programs
Changes in Sharing Ratios and Estimated Savings

Program	State/County Sharing Ratio: Existing	State/County Sharing Ratio: Proposed	2010-11 General Fund Savings
Child Welfare Services	70/30	30/70	$93.2
Adoption Assistance Program	75/25	41/59	154.5
Foster Care	40/60	25/75	257.8
Total			**$505.5**

factors have increased the costs of many of these social services programs. The base amount of funding dedicated to social services from this original realignment, however, has not kept pace with these increased program costs. In addition, counties have not received an inflationary adjustment to reflect increases in their administrative costs since 2001-02.

At the time of the enactment of the 1991 realignment statutes, a series of "poison pill" provisions were put into place that would make components of realignment inoperative under specified circumstances. One such circumstance is if the CSM determines the realignment provisions constitute a reimbursable mandate of more than $1 million or there is an appellate court determination that upholds a reimbursable mandate. Although counties indicate that social services funding levels have not kept pace with program growth since the 1991 realignment, they have not filed for reimbursable mandate claims. However, the Governor's proposal to further increase counties' share of costs in children's programs by redirecting county savings associated with other social services proposals may lead counties to pursue reimbursable mandate claims related to the original realignment, which increases the risk of triggering the aforementioned poison pill provision.

Therefore, before enacting any further changes to existing cost sharing ratios for children's programs, it would be important for the Legislature, administration, counties, and other key parties to seek a consensus to ensure that this new realignment proposal does not jeopardize the previous realignment.

Policy Rationale for Realignment. As we have discussed in several previous publications, realignment, implemented correctly, can improve the management and delivery of important programs. For this reason, we believe the Legislature's decision to realign a program should focus on program policy objectives and interest in increasing local control—not simply on shifting costs to local governments to achieve General Fund savings.

In our *2003-04 Budget: Perspectives and Issues* report, we discuss the merits of realigning children's programs. In general, we believe it may be beneficial to give counties more control and responsibility for the full system of children's programs. This would encourage counties to manage each element of the program effectively and efficiently to meet local community needs. We note, however, that there are other social services programs, such as CalWORKs, that may be better candidates for realignment.

Analyst's Recommendation

Because the Governor's proposed county redirection of savings achieves General Fund savings without potentially reducing service levels, we believe the proposal has merit. On the other hand, there are serious questions about whether the proposal constitutes a reimbursable mandate and how it might impact the 1991 realignment and its poison pills. Accordingly, we recommend that the Legislature and administration work with the counties to seek consensus on these issues before enacting any further changes to existing cost-sharing ratios for children's programs.

INCREASED FEDERAL ELIGIBILITY FOR FOSTER CARE

The Foster Care program provides funds for the out-of-home care of children removed from the custody of a parent or guardian as a result of judicial order or a voluntary placement agreement. The Foster Care program is supported with federal funding under Title IV-E of the Social Security Act for eligible cases, as well as with General Fund and county funds. About 71 percent of Foster Care children are from families with incomes low enough to meet eligibility requirements for federal funding.

Governor's Budget Proposal

As part of its new federal-state partnership proposal, the administration proposes to ask the federal government to provide federal funding for all children placed in the Foster Care program. This would require changes in federal law and regulations relating to various existing eligibility requirements for federal Title IV-E funds. The budget assumes an implementation date of June 1, 2010 from such a change in federal law, with General Fund savings of $7.5 million in 2009-10 and $86.9 million in 2010-11. Although this change would be permanent, the savings estimates reflect a temporarily enhanced federal match of 56.2 percent for the Foster Care program under ARRA.

LAO Comments

Current Federal Funding Structure Tied to Outdated Program. Many of the current federal funding provisions for the child welfare system are tied to the old federal welfare program, known as the Aid to Families with Dependent Children (AFDC) program. This is because foster care used to be part of AFDC, which included certain income eligibility standards for federal funding. Although Congress created a separate federal foster care program under the Social Security Act in 1980, the new program kept many of its previous links, including the income eligibility standards to the AFDC welfare program. In 1996, when Congress eliminated AFDC and replaced it with the TANF program, it kept in place existing AFDC income standards for providing federal assistance for foster care and adoption. Therefore, for a child to currently qualify for federal foster care assistance, his or her family must meet the income test of the AFDC program as it existed on July 16, 1996.

Because these income standards have not been revised, including any changes for inflation, the number of children who enter Foster Care who are eligible for federal assistance tends to decrease each year. For 2010-11, the DSS estimates that about 71 percent of Foster Care cases will be eligible for federal funding.

New Federal Legislation Already "De-Linking" Adoption Assistance. We note that the federal Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351), which was passed in October of 2008, includes a provision to gradually de-link AFDC income requirements for federal assistance in AAP. As a result, all AAP cases will be eligible for federal funding by 2017-18. In addition, a vehicle to pursue similar action on the Foster Care side already exists—H.R. 3329 was introduced in July 2009 to de-link federal funding for foster care maintenance payments from AFDC eligibility requirements.

Analyst's Recommendation

We recommend the Legislature support the Governor's proposal to pursue federal funding for all Foster Care cases. As discussed above, the eligibility requirements for federal funding for Foster Care are tied to an outdated income standard from a welfare program that no longer exists. Moreover, the federal government requires states to protect all children from abuse and neglect, regardless of their families' income. Therefore, there does not seem to be a strong policy rationale to only provide federal funding for low-income Foster Care cases. We would also note that eliminating cumbersome federal eligibility determinations in the Foster Care program would result in some administrative savings for the state and counties.

Although we recommend the Legislature support this proposal for increased federal funds for Foster Care, there is no basis to assume such federal changes will occur anytime soon. Accordingly, we recommend the budget not be adjusted at this time to reflect any savings from this proposal.

LAO Publications

This report was prepared by Ginni Bella Navarre and Minsun Park, and reviewed by Todd Bland. The Legislative Analyst's Office (LAO) is a nonpartisan office which provides fiscal and policy information and advice to the Legislature.

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