

AMENDED IN SENATE FEBRUARY 19, 2010

CALIFORNIA LEGISLATURE—2009—10 EIGHTH EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 5

Introduced by Committee on Budget (Evans (Chair), Arambula, Beall, Blumenfield, Brownley, Carter, Chesbro, De La Torre, Feuer, Hernandez, Hill, Huffman, Monning, Ruskin, and Swanson)

January 15, 2010

An act relating to the Budget Act of 2009. An act to amend Section 22954 and 22955 of the Education Code, to add Section 16324 to, and to add and repeal Sections 16325, 16325.5, and 16326 of, the Government Code, and to amend Section 2103.1 of the Streets and Highways Code, relating to state finance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as amended, Committee on Budget. ~~Budget Act of 2009.~~ *State cash resources.*

(1) Existing law requires the Controller to notify the Governor and the Pooled Money Investment Board when the General Fund is or will be exhausted. The Governor is then authorized to order the Controller to direct the transfer of all or any part of the moneys not needed in other funds or accounts, with specified exceptions, to the General Fund from those funds or accounts, as determined by the Pooled Money Investment Board.

This bill would require that specified General Fund payments to be made in March 2010 would be paid no sooner than April 15, 2010, but no later than May 1, 2010, which would be carried out by the Controller. The bill would require the Controller, Treasurer, and Director of

Finance, prior to the payment deferrals, to jointly review and compare the actual General Fund receipts and disbursements with the receipt and disbursement projections contained in the cashflow statements associated with the proposed 2010–11 Governor’s Budget. The bill would require the payments that would otherwise be deferred to be made if sufficient cash is available, as specified, and would require the Department of Finance to notify the Joint Legislative Budget Committee of the payments. If payments are deferred, beginning April 1, 2010, the bill would require the Controller, Treasurer, and Director of Finance to review daily the actual cash receipts and disbursements in comparison to the receipt and disbursement projections associated with the proposed 2010–11 Governor’s Budget. The bill would require the deferred payments to be made as soon as feasible, in a specified order, if sufficient cash is available to make all payments through April 15, 2010, including the payments otherwise subject to deferral, and maintain a prudent cash reserve.

This bill would enact, until September 1, 2011, a cash management plan to authorize the Controller, Treasurer, and Director of Finance to defer General Fund payments for up to 60 or 90 days, as specified, beginning July 2010, for specific departments and programs subject to specific conditions.

(2) Existing law requires specified transfers of General Fund revenue to the Supplemental Benefit Maintenance Account in the Teachers’ Retirement Fund, a continuously appropriated fund, on November 1 and April 1 of each fiscal year.

This bill would revise those transfer dates to October 15 and April 15, respectively, of each fiscal year, and would specify that each payment be 50% of the annual appropriation.

(3) Existing law requires state excise fuel tax revenues to be deposited in certain accounts and to be allocated, in part, for various purposes, including the cost of collection and authorized refunds. Existing law requires the balance of these funds remaining after authorized deductions to be transferred to, and deposited monthly in, the Highway Users Tax Account in the Transportation Tax Fund. Existing law provides for annual and monthly apportionment by the Controller of specified revenues in the Highway Users Tax Account to cities, counties, and cities and counties for the transportation purposes authorized by Article XIX of the California Constitution. Existing law requires transfers of those revenues from the Highway Users Tax Account to counties or cities that would otherwise be made during certain months

of 2009 and 2010 to instead be deferred and paid on or within 2 working days of April 28, 2010, with a specified exception.

The bill would extend the deferral of apportionments from the Highway Users Tax Account in the Transportation Tax Fund to cities, counties, and cities and counties from July 2010 to March 2011, inclusive, and limit the amount of those deferrals to no more than \$50,000,000 per month.

(4) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

~~The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.~~

~~This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22954 of the Education Code is amended
- 2 to read:
- 3 22954. (a) Notwithstanding Section 13340 of the Government
- 4 Code, a continuous appropriation is hereby annually made from
- 5 the General Fund to the Controller, pursuant to this section, for
- 6 transfer to the Supplemental Benefit Maintenance Account in the
- 7 Teachers' Retirement Fund.

1 (b) Except as reduced pursuant to subdivision (c), the total
 2 amount of the appropriation for each year shall be equal to 2.5
 3 percent of the total of the creditable compensation of the fiscal
 4 year ending in the immediately preceding calendar year upon which
 5 members' contributions are based for purposes of funding the
 6 supplemental payments authorized by Section 24415, as reported
 7 annually to the Director of Finance, the Chairperson of the Joint
 8 Legislative Budget Committee, and the Legislative Analyst
 9 pursuant to Section 22955.5.

10 (c) Beginning with the 2008–09 fiscal year, the appropriation
 11 in subdivision (b) shall be reduced in accordance with the following
 12 schedule:

13

14	2008–09.....	\$66,386,000
15	2009–10.....	\$70,000,000
16	2010–11.....	\$71,000,000
17	2011–12 and each fiscal year thereafter.....	\$72,000,000

18

19 (d) Transfers made to the Supplemental Benefit Maintenance
 20 Account, pursuant to subdivision (a) shall be made on ~~November~~
 21 ~~1~~ *October 15* and April ~~1~~ *15* of each fiscal year *with each payment*
 22 *to be 50 percent of the annual appropriation.*

23 (e) The board may deduct from the annual appropriation made
 24 pursuant to this section an amount necessary for the administrative
 25 expenses of Section 24415.

26 (f) It is the intent of the Legislature in enacting this section to
 27 establish the supplemental payments pursuant to Section 24415
 28 as vested benefits pursuant to a contractually enforceable promise
 29 to make annual contributions from the General Fund to the
 30 Supplemental Benefit Maintenance Account in the Teachers'
 31 Retirement Fund in order to provide a continuous annual source
 32 of revenue for the purposes of making the supplemental payments
 33 under Section 24415.

34 *SEC. 2. Section 22955 of the Education Code is amended to*
 35 *read:*

36 22955. (a) Notwithstanding Section 13340 of the Government
 37 Code, commencing July 1, 2003, a continuous appropriation is
 38 hereby annually made from the General Fund to the Controller,
 39 pursuant to this section, for transfer to the Teachers' Retirement
 40 Fund. The total amount of the appropriation for each year shall be

1 equal to 2.017 percent of the total of the creditable compensation
2 of the fiscal year ending in the immediately preceding calendar
3 year upon which members' contributions are based, as reported
4 annually to the Director of Finance, the Chairperson of the Joint
5 Legislative Budget Committee, and the Legislative Analyst
6 pursuant to Section 22955.5, and shall be divided into four equal
7 ~~quarterly~~ payments. *The payments shall be made on, or the*
8 *following business day after, July 1, October 1, December 15, and*
9 *April 15 of each fiscal year.*

10 (b) Notwithstanding Section 13340 of the Government Code,
11 commencing October 1, 2003, a continuous appropriation, in
12 addition to the appropriation made by subdivision (a), is hereby
13 annually made from the General Fund to the Controller for transfer
14 to the Teachers' Retirement Fund. The total amount of the
15 appropriation for each year shall be equal to 0.524 percent of the
16 total of the creditable compensation of the fiscal year ending in
17 the immediately preceding calendar year upon which members'
18 contributions are based, as reported annually to the Director of
19 Finance, the Chairperson of the Joint Legislative Budget
20 Committee, and the Legislative Analyst pursuant to Section
21 22955.5, and shall be divided into four equal quarterly payments.
22 The percentage shall be adjusted to reflect the contribution required
23 to fund the normal cost deficit or the unfunded obligation as
24 determined by the board based upon a recommendation from its
25 actuary. If a rate increase is required, the adjustment may be for
26 no more than 0.25 percent per year and in no case may the transfer
27 made pursuant to this subdivision exceed 1.505 percent of the total
28 of the creditable compensation of the fiscal year ending in the
29 immediately preceding calendar year upon which members'
30 contributions are based. At any time when there is neither an
31 unfunded obligation nor a normal cost deficit, the percentage shall
32 be reduced to zero. The funds transferred pursuant to this
33 subdivision shall first be applied to eliminating on or before June
34 30, 2027, the unfunded actuarial liability of the fund identified in
35 the actuarial valuation as of June 30, 1997.

36 (c) For the purposes of this section, the term "normal cost
37 deficit" means the difference between the normal cost rate as
38 determined in the actuarial valuation required by Section 22311
39 and the total of the member contribution rate required under Section
40 22901 and the employer contribution rate required under Section

1 22950, and shall exclude (1) the portion for unused sick leave
 2 service credit granted pursuant to Section 22717, and (2) the cost
 3 of benefit increases that occur after July 1, 1990. The contribution
 4 rates prescribed in Section 22901 and Section 22950 on July 1,
 5 1990, shall be utilized to make the calculations. The normal cost
 6 deficit shall then be multiplied by the total of the creditable
 7 compensation upon which member contributions under this part
 8 are based to determine the dollar amount of the normal cost deficit
 9 for the year.

10 (d) Pursuant to Section 22001 and case law, members are
 11 entitled to a financially sound retirement system. It is the intent of
 12 the Legislature that this section shall provide the retirement fund
 13 stable and full funding over the long term.

14 (e) This section continues in effect but in a somewhat different
 15 form, fully performs, and does not in any way unreasonably impair,
 16 the contractual obligations determined by the court in California
 17 Teachers’ Association v. Cory, 155 Cal.App.3d 494.

18 (f) Subdivision (b) shall not be construed to be applicable to
 19 any unfunded liability resulting from any benefit increase or change
 20 in contribution rate under this part that occurs after July 1, 1990.

21 (g) The provisions of this section shall be construed and
 22 implemented to be in conformity with the judicial intent expressed
 23 by the court in California Teachers’ Association v. Cory, 155
 24 Cal.App.3d 494.

25 (h) This section shall become operative on July 1, 2003, if the
 26 revenue limit cost-of-living adjustment computed by the
 27 Superintendent of Public Instruction for the 2001–02 fiscal year
 28 is equal to or greater than 3.5 percent. Otherwise this section shall
 29 become operative on July 1, 2004.

30 *SEC. 3. Section 16324 is added to the Government Code, to*
 31 *read:*

32 *16324. (a) Notwithstanding any other provision of law, in*
 33 *order to effectively manage state cash resources, the General Fund*
 34 *payments to be made in March 2010 for the programs or*
 35 *departments listed in subdivision (b) shall be paid no sooner than*
 36 *April 15, 2010, but not later than May 1, 2010, which shall be*
 37 *carried out by the Controller, subject to subdivision (c). Nothing*
 38 *in this section shall be construed to authorize the deferral of state*
 39 *payroll, debt service, or rental payments that support lease-revenue*
 40 *bonds.*

1 (b) *The departments and programs subject to subdivision (a)*
2 *are as follows:*

3 (1) *Trial court operations (nonpayroll).*

4 (2) *California State University.*

5 (3) *California Community Colleges (excluding twelve million*
6 *dollars (\$12,000,000)).*

7 (4) *University of California.*

8 (5) *State Teachers' Retirement Board, pursuant to Sections*
9 *22954 and 22955 of the Education Code.*

10 (c) *Prior to each of the payment deferrals identified in*
11 *subdivision (b), the Controller, Treasurer, and Director of Finance*
12 *shall jointly review and compare the actual General Fund receipts*
13 *and disbursements with the receipt and disbursement projections*
14 *contained in the cashflow statements associated with the proposed*
15 *2010–11 Governor's Budget. If the Controller, Treasurer, and*
16 *Director of Finance determine sufficient cash is available to make*
17 *all scheduled payments through April 15, 2010, including the*
18 *payments otherwise subject to deferral identified in subdivision*
19 *(b), and maintain a prudent cash reserve, the Controller shall*
20 *make the payments as originally scheduled. The Department of*
21 *Finance shall notify the Joint Legislative Budget Committee within*
22 *10 days of making this determination.*

23 (d) *In the event payments are deferred pursuant to subdivision*
24 *(a), beginning April 1, 2010, the Controller, Treasurer, and*
25 *Director of Finance shall review daily the actual cash receipts*
26 *and disbursements in comparison to the receipt and disbursement*
27 *projections associated with the proposed 2010–11 Governor's*
28 *Budget. If the Controller, Treasurer, and Director of Finance*
29 *determine sufficient cash is available to make payments through*
30 *April 15, 2010, including the payments otherwise subject to*
31 *deferral identified in subdivision (b), and maintain a prudent cash*
32 *reserve, the Controller shall make the deferred payments, in whole*
33 *or in part, as soon as feasible, in the order listed in subdivision*
34 *(b). The Department of Finance shall notify the Joint Legislative*
35 *Budget Committee within 10 days of making this determination*
36 *and identify the date upon which the payments were made.*

37 SEC. 4. *Section 16325 is added to the Government Code, to*
38 *read:*

39 16325. (a) *An effective cash management plan is needed for*
40 *the 2010–11 fiscal year to address General Fund cash shortages*

1 that otherwise may occur during the fiscal year. The goals of the
2 cash management plan described in this section are to accomplish
3 the following:

4 (1) Increase the state's ability to address cash shortages in a
5 quick and responsible manner.

6 (2) Address rating agencies' and bond markets' concerns
7 regarding the state's ability to react effectively to cashflow
8 pressures while providing a higher level of certainty to
9 bondholders.

10 (3) Preserve external borrowing capacity and affordability for
11 the state's infrastructure programs.

12 (4) Provide a higher level of predictability to affected programs
13 and entities where deferrals or delays are required.

14 (b) Nothing in this section or in Sections 16325.5 and 16326
15 shall be construed to affect in any way the timing or amount of
16 payments of state payroll or to affect in any way any judicial
17 proceeding related to the timing or amount of state employee
18 compensation. Nothing in this section shall be construed to
19 authorize the delay of debt service payments, rental payments that
20 support lease-revenue bonds, reimbursements to local governments
21 for certain reductions in ad valorem property taxes, as required
22 by Section 25.5 of Article XIII of the California Constitution, or
23 required payments for borrowings secured by these repayment
24 obligations, payments required under a Funds Transfer
25 Cooperative Agreement that are pledged to pay debt service on
26 state payment acceleration notes that were issued to finance toll
27 bridge seismic retrofit and replacement projects, payments
28 appropriated in any year to pay a court judgment pursuant to the
29 settlement agreement in *Paterno v. State* (2003) 113 Cal.App.4th
30 998, or payments to small vendors as defined in the California
31 Prompt Payment Act (Chapter 4.5 (commencing with Section 927)
32 of Part 3 of Division 3.6 of Title 1). Nothing in this section shall
33 be construed to affect the applicability of interest, late payment
34 penalty, and similar payment requirements under the California
35 Prompt Payment Act or Section 926.19 when payments to persons
36 or entities specified in those laws are delayed.

37 (c) Deferrals authorized in the cash management plan described
38 in this section and in Sections 16325.5 and 16326 are in addition
39 to any payment delays, payment deferrals, or payment schedules
40 specified in other laws. Deferrals authorized in the cash

1 *management plan described in this section and in Sections 16325.5*
2 *and 16326 do not replace, remove, or alter any previously*
3 *implemented payment delays or payment deferrals.*

4 *(d) Activities by the Controller, Treasurer, and Director of*
5 *Finance to implement and carry out the cash management plan*
6 *described in this section and Sections 16325.5 and 16326 are*
7 *hereby exempted from the provisions of the Administrative*
8 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*
9 *Part I of Division 3).*

10 *(e) This section shall become inoperative on September 1, 2011,*
11 *and, as of January 1, 2012, is repealed, unless a later enacted*
12 *statute, that becomes operative on or before January 1, 2012,*
13 *deletes or extends the dates on which it becomes inoperative and*
14 *is repealed.*

15 *SEC. 5. Section 16325.5 is added to the Government Code, to*
16 *read:*

17 *16325.5. (a) Notwithstanding any other provision of law, and*
18 *to the extent not prohibited by federal law or the California*
19 *Constitution, in order to effectively manage state cash resources,*
20 *the General Fund payments projected to be made for the programs*
21 *or departments listed in subdivision (b) shall be deferred, effective*
22 *beginning in the months of July 2010, October 2010, and March*
23 *2011, in full for no more than 60, 90, and 60 days, respectively,*
24 *unless otherwise specified in Section 16326, and Section 2103.1*
25 *of the Streets and Highways Code. Nothing in this section shall*
26 *be construed to authorize the deferral of state payroll, debt service,*
27 *or rental payments that support lease-revenue bonds.*

28 *(b) The departments and programs subject to subdivision (a)*
29 *are as follows:*

30 *(1) Kindergarten to grade 12, inclusive, apportionments.*

31 *(2) Supplementary Security Income/State Supplementary*
32 *Payments made by the State Department of Social Services.*

33 *(3) Local government social services and transportation*
34 *payments.*

35 *(4) Trial court operations (nonpayroll).*

36 *(c) Prior to implementing each of the payment deferrals*
37 *identified in subdivision (b) and other provisions of the act adding*
38 *this section, the Controller, Treasurer, and Director of Finance*
39 *shall jointly review and compare the actual General Fund receipts*
40 *and disbursements with the receipts and disbursements contained*

1 *in the most current published cashflow projections. If the*
2 *Controller, Treasurer, and Director of Finance determine sufficient*
3 *cash is available to make all scheduled payments through the 60-*
4 *or 90-day period or other period specified in law, including the*
5 *payments otherwise subject to deferral identified in subdivision*
6 *(b), and maintain a prudent cash reserve, the Controller shall*
7 *make the deferred payment as originally scheduled or within the*
8 *time provided for by law. In making the determination that cash*
9 *is sufficient to make the payments, the Controller, Treasurer, and*
10 *Director of Finance shall also consider costs for state government,*
11 *the scope of any identified cash shortage, timing, achievability,*
12 *legislative direction, and the impact and hardship imposed on*
13 *potentially affected programs, entities, and related public services.*
14 *The Department of Finance shall notify the Joint Legislative Budget*
15 *Committee of this action within 10 days of making this*
16 *determination.*

17 *(d) In the event payments are deferred pursuant to subdivision*
18 *(a) or other provisions of the act adding this section, beginning*
19 *July 1, 2010, the Controller, Treasurer, and Director of Finance*
20 *shall review on a monthly basis, or as necessary, the actual*
21 *General Fund cash receipts and disbursements in comparison to*
22 *the receipt and disbursement projections associated with the*
23 *Governor's most current cashflow statements. If the Controller,*
24 *Treasurer, and Director of Finance determine sufficient cash is*
25 *available to make payments otherwise deferred for the 60- or*
26 *90-day period or other period specified in law, including the*
27 *payments otherwise subject to deferral identified in subdivision*
28 *(b) or other provisions of the act adding this section, and maintain*
29 *a prudent cash reserve, the Controller shall make the deferred*
30 *payments, in whole or in part, as soon as feasible unless otherwise*
31 *provided in Section 16326, or Section 2103.1 of the Streets and*
32 *Highways Code. In making the determination that cash is sufficient*
33 *to make the payments, in whole or in part, the Controller,*
34 *Treasurer, and Director of Finance shall also consider costs for*
35 *state government, the scope of any identified cash shortage, timing,*
36 *achievability, legislative direction, and the impact and hardship*
37 *imposed on potentially affected programs, entities, and related*
38 *public services. The Department of Finance shall notify the Joint*
39 *Legislative Budget Committee within 10 days of this determination*
40 *and identify the date upon which the payments were made.*

1 (e) Upon concurrence of the Controller, Treasurer, and Director
2 of Finance, payment deferrals authorized pursuant to subdivision
3 (a) or other provisions of the act adding this section may be moved
4 forward to the prior month or delayed to the subsequent month.
5 Any changes may be authorized no sooner than 30 days after
6 notification in writing by the Department of Finance to the Joint
7 Legislative Budget Committee, or not sooner than whatever lesser
8 time the Chairperson of the Joint Legislative Budget Committee,
9 or his or her designee, may determine.

10 (f) This section shall become inoperative on September 1, 2011,
11 and, as of January 1, 2012, is repealed, unless a later enacted
12 statute, that becomes operative on or before January 1, 2012,
13 deletes or extends the dates on which it becomes inoperative and
14 is repealed.

15 SEC. 6. Section 16326 is added to the Government Code, to
16 read:

17 16326. (a) Notwithstanding any other provision of law, except
18 as otherwise specified in Sections 16325 and 16325.5, cash
19 deferrals specified in Sections 16324, 16325, and 16325.5, and
20 Section 2103.1 of the Streets and Highways Code, as amended by
21 the act adding this section, shall be limited, as follows:

22 (1) Payments to public schools in which kindergarten or grades
23 1 to 12, inclusive, are taught shall be deferred as specified in
24 Section 16325.5 with the total outstanding amount of the deferrals
25 under this action limited to two billion five hundred million dollars
26 (\$2,500,000,000) at any given point in time, and a maximum of
27 three deferrals during the fiscal year.

28 (A) In order for a county office of education to receive scheduled
29 apportionments in the event payments are deferred, as described
30 in this paragraph, the Superintendent of Public Instruction shall
31 determine, and notify the Director of Finance on or before May
32 17, 2010, that the deferral of warrants pursuant to this paragraph
33 will result in the county office of education being unable to meet
34 its expenditure obligations for the time period during which
35 warrants are deferred. The criteria, as applicable, set forth in
36 statute and regulations to qualify a school district for an emergency
37 apportionment shall be used to make the determination specified
38 in this section.

39 (B) In order for a charter school to receive scheduled
40 apportionments in the event payments are deferred, as described

1 *in this paragraph, the chartering authority shall determine, in*
2 *consultation with the county superintendent of schools, and notify*
3 *the Superintendent of Public Instruction and the Director of*
4 *Finance on or before May 17, 2010, that the deferral of warrants*
5 *pursuant to this paragraph will result in the charter school being*
6 *unable to meet its expenditure obligations for the time period*
7 *during which warrants are deferred. The criteria, as applicable,*
8 *set forth in statute and regulations to qualify a school district for*
9 *an emergency apportionment shall be used to make the*
10 *determination specified in this section.*

11 *(C) In order for a local education agency to receive scheduled*
12 *apportionments in the event payments are deferred, as described*
13 *in this paragraph, the county superintendent of schools shall certify*
14 *to the Superintendent of Public Instruction and to the Director of*
15 *Finance on or before May 17, 2010, that the deferral of warrants*
16 *pursuant to this paragraph will result in qualifying the local*
17 *educational agency for an emergency apportionment pursuant to*
18 *Article 2 (commencing with Section 41320) of Chapter 3 of Part*
19 *24 of Division 3 of Title 2 of the Education Code.*

20 *(2) Of the amount appropriated from the General Fund to the*
21 *University of California for the 2010–11 fiscal year, payments*
22 *made by the state to the University of California shall not exceed*
23 *one-twelfth of the annual appropriation for each month from July*
24 *2010 through April 2011. Any remaining appropriation balance*
25 *may be paid to the University of California thereafter with no*
26 *limitations.*

27 *(3) Notwithstanding Sections 84320, 84321, and 84321.5 of the*
28 *Education Code and any other law that governs the regulations*
29 *adopted by the Chancellor of the California Community Colleges*
30 *to disburse funds, two hundred million dollars (\$200,000,000) and*
31 *one hundred million dollars (\$100,000,000) from the payment of*
32 *apportionments to districts pursuant to Sections 84320, 84321,*
33 *and 84321.5 of the Education Code for July 2010 and March 2011,*
34 *respectively, shall be deferred to October 2010 and May 2011,*
35 *respectively. Notwithstanding this paragraph and subject to the*
36 *approval of the Director of Finance, the Controller shall issue*
37 *warrants pursuant to Sections 84320, 84321, and 84321.5 of the*
38 *Education Code that include the full amount of the apportionment*
39 *payments for the months of July 2010 or March 2011, or both, for*
40 *a community college for which the Chancellor of the California*

1 *Community Colleges determines, in consultation with the Director*
2 *of Finance, on or before May 17, 2010, that the deferral of*
3 *warrants pursuant to this paragraph will present an imminent*
4 *threat to the fiscal integrity and security of the community college.*

5 *(4) Of the amount appropriated from the General Fund to the*
6 *California State University for the 2010–11 fiscal year, payments*
7 *made by the state to the California State University shall not exceed*
8 *one-twelfth of the annual appropriation for each month from July*
9 *2010 through April 2011. Any remaining appropriation balance*
10 *may be paid to the California State University thereafter with no*
11 *limitations.*

12 *(5) The 2010–11 cash management plan described in Sections*
13 *16325 and 16325.5 may include deferrals in state payments for*
14 *specific programs that are disbursed to cities, counties, and other*
15 *public entities not addressed elsewhere in this section. Deferral*
16 *of payments by the state to cities, counties, and other public entities*
17 *not addressed elsewhere in this section shall be as follows:*

18 *(A) Payments shall be deferred as specified in Section 16325.5*
19 *per the specific program.*

20 *(B) Payments shall be limited to one billion dollars*
21 *(\$1,000,000,000) for all programs that affect cities, counties, and*
22 *other public entities not addressed elsewhere in this section at any*
23 *given point in time.*

24 *(C) A maximum of three deferrals per specific program may be*
25 *made during the fiscal year.*

26 *(D) The state shall not defer any payments to a county with a*
27 *population less than 50,000, or a city within a county with a*
28 *population less than 50,000.*

29 *(E) Payments to local governments may be deferred for social*
30 *services programs, transportation programs, and Mental Health*
31 *Services Act (Proposition 63 of 2004) programs.*

32 *(6) In addition to implementing the payment schedule described*
33 *in paragraph (4), the Director of Finance may at any time during*
34 *the 2010–11 fiscal year defer payment of General Fund moneys,*
35 *in a cumulative amount not to exceed two hundred fifty million*
36 *dollars (\$250,000,000), appropriated to the California State*
37 *University. Payment of the amount deferred shall be made in the*
38 *final week of April 2011.*

39 *(b) Limits on payment deferrals specified in subparagraphs (A)*
40 *and (C) of paragraph (5) of subdivision (a) shall not apply to*

1 *payments authorized in paragraph (3) of subdivision (a) of Section*
2 *2103.1 of the Streets and Highways Code to cities and counties.*
3 *Limits on payment deferrals specified in subparagraphs (A) and*
4 *(C) of paragraph (5) of subdivision (a) shall not apply to payments*
5 *to the Mental Health Services Act (Proposition 63) programs.*

6 *(c) Upon the Controller's receipt of a letter from the executive*
7 *officer of the Administrative Office of the Courts, or any other*
8 *executive officer representing cities or counties, the state may*
9 *defer payments to the entity or entities that the executive officer*
10 *represents as specified in the letter even if the specified amounts*
11 *exceed the deferrals authorized in this section or elsewhere in law.*

12 *(d) This section shall become inoperative on September 1, 2011,*
13 *and, as of January 1, 2012, is repealed, unless a later enacted*
14 *statute, that becomes operative on or before January 1, 2012,*
15 *deletes or extends the dates on which it becomes inoperative and*
16 *is repealed.*

17 *SEC. 7. Section 2103.1 of the Streets and Highways Code is*
18 *amended to read:*

19 2103.1. (a) Notwithstanding any other law, the apportionment
20 of revenues deposited to the credit of the Highway Users Tax
21 Account in the Transportation Tax Fund that are otherwise required
22 to be made, pursuant to this chapter, to cities, counties, and cities
23 and counties for the following months shall be deferred and shall
24 be made as follows:

25 (1) For the months of July and August of 2009, the
26 apportionments shall be paid with the payment of August revenues
27 in September 2009. This deferral shall not apply to a county with
28 a population of less than 40,000.

29 (2) For the months of November and December of 2009, and
30 January, February, and March of 2010, the apportionments shall
31 be paid on or within two business days of April 28, 2010. This
32 deferral shall not apply to a county with a population of less than
33 40,000.

34 (3) *For the months of July, August, September, October,*
35 *November, and December 2010, and January, February, and*
36 *March 2011, no more than fifty million dollars (\$50,000,000) for*
37 *each month shall be deferred. The balance of unpaid*
38 *apportionments for these months shall be paid on or within two*
39 *business days of April 28, 2011. The state shall not defer any*

1 *payments to a county with a population less than 50,000, or a city*
2 *within a county with a population less than 50,000.*

3 (b) For the purpose of meeting the cash obligations associated
4 with ongoing budgeted costs, a city, county, or city and county
5 may make use of any cash balance in its account that is designated
6 for the receipt of state funds allocated for local streets and roads
7 or the county road fund, including that resulting from the receipt
8 of funds pursuant to the Highway Safety, Traffic Reduction, Air
9 Quality, and Port Security Bond Act of 2006 (Chapter 12.49
10 (commencing with Section 8879.20) of Division 1 of Title 2 of
11 the Government Code) for local street and road maintenance and
12 operations, during the period of the deferrals of apportionment
13 payments pursuant to subdivision (a). The use of this cash shall
14 not be considered as an expenditure of bond act funds if the cash
15 is replaced when the payments in subdivision (a) are made.

16 (c) Notwithstanding any other provision of law, for the purpose
17 of meeting the cash obligations associated with ongoing street and
18 road costs, a city, county, or city and county may make use of any
19 cash balance available to a special fund of the city, county, or city
20 and county during the period of deferral of apportionment payments
21 pursuant to subdivision (a).

22 (d) This section shall not affect any requirement that an
23 expenditure is required to be accrued and reflected from the
24 appropriate funding source for which the money was received and
25 that an expenditure is required to meet all the requirements of its
26 funding source.

27 *SEC. 8. The provisions of this act are severable. If any*
28 *provision of this act or its application is held invalid, that invalidity*
29 *shall not affect other provisions or applications that can be given*
30 *effect without the invalid provision or application.*

31 *SEC. 9. Nothing in this act shall be construed to in any way*
32 *interfere with, contravene, or limit the power, authority, or duty*
33 *of the Controller, Treasurer, or Director of Finance.*

34 *SEC. 10. This act addresses the fiscal emergency declared by*
35 *the Governor by proclamation on January 8, 2010, pursuant to*
36 *subdivision (f) of Section 10 of Article IV of the California*
37 *Constitution.*

38 *SEC. 11. This act is an urgency statute necessary for the*
39 *immediate preservation of the public peace, health, or safety within*

1 *the meaning of Article IV of the Constitution and shall go into*
2 *immediate effect. The facts constituting the necessity are:*

3 *Due to the projected insufficient cash balance in late March or*
4 *early April of this year, it is necessary to defer certain payments*
5 *so that all other General Fund payments can be made.*

6 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
7 ~~changes relating to the Budget Act of 2009.~~

8 ~~SEC. 2. This act addresses the fiscal emergency declared by~~
9 ~~the Governor by proclamation on January 8, 2010, pursuant to~~
10 ~~subdivision (f) of Section 10 of Article IV of the California~~
11 ~~Constitution.~~

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