

Senate Bill No. 16

CHAPTER 23

An act to amend Sections 14041 and 14041.6 of, and to add Section 14401.1 to, the Education Code, to amend Sections 927.2, 927.4, 927.6, 927.7, 927.11, 8880.61, 13943.1, and 13943.2 of, and to add Sections 13311.1, 16583.1, and 16583.2 to, the Government Code, to amend Section 7104.2 of the Revenue and Taxation Code, to add Section 2103.1 to the Streets and Highways Code, and to amend Sections 39, 40, and 41 of Chapter 12 of the Statutes of 2009 of the Third Extraordinary Session, relating to state finances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 2009. Filed with
Secretary of State July 28, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 16, Ducheny. State finances.

(1) Existing law requires the Controller to draw warrants on the State Treasury in favor of the county treasurer of each county in each month of each year in prescribed amounts and in a prescribed manner.

This bill would revise the schedule pursuant to which the Controller draws these warrants and the amount of the warrants.

(2) Existing law, the California Prompt Payment Act, requires a state agency that acquires property or services pursuant to a contract with a business to make payment to the person or business on the date required by the contract, or be subject to a late payment penalty. The act provides that the maximum time from state agency receipt of an undisputed invoice to issuance of a warrant for payment is 45 calendar days. The act requires the payment of specified penalties to the claimant if the state agency fails to submit a correct claim schedule to the Controller by the required payment approval date, or if the Controller fails to make a payment within 15 calendar days of receipt of the claim schedule from the state agency, as specified.

This bill would require late payment penalties to be paid to the claimant if payment is not issued within 45 calendar days from state agency receipt of an undisputed invoice, but would require the state agency and Controller to pay those penalties only when a payment is not issued within 45 calendar days from state agency receipt of the undisputed invoice, and the state agency fails to submit a correct claim schedule by the required payment approval date, or the Controller fails to make a payment within 15 calendar days of receipt of the claim schedule from the state agency. The bill would define "payment" for purposes of these provisions.

(3) The California Lottery Act establishes the State Lottery Fund. The act, an initiative measure, provides that certain provisions may be changed by a bill that furthers the purposes of the act and is passed by a $\frac{2}{3}$ vote of

each house of the Legislature and signed by the Governor. The act, until September 30, 2009, authorizes the Controller to loan moneys in the State Lottery Fund to the General Fund and requires the payment of interest at a specified rate on all moneys loaned to the General Fund.

This bill would delete the September 30, 2009, repeal date for those provisions authorizing the loan of moneys from the State Lottery Fund, thereby extending their operation indefinitely.

This bill would declare that it furthers the purposes of the California State Lottery Act.

(4) Existing law authorizes the Director of Finance, to defer payment of General Fund moneys, in a cumulative amount not to exceed \$500,000 annually, appropriated to the University of California in the annual Budget Act, as specified.

This bill would additionally authorize the Director of Finance to defer payments of General Fund moneys in July through September of 2009 in an amount not to exceed \$750,000,000, appropriated to the University of California in the Budget Act of 2009, as specified. The bill would specify the schedule of payments for the amount deferred, as specified. The bill would also authorize the Director of Finance to defer payments of General Fund moneys in July 2009 in an amount not to exceed \$290,000,000, appropriated to the California State University in the Budget Act of 2009, as specified. That deferred payment would be made in October 2009.

(5) Existing law releases a person from a debt owed to the Franchise Tax Board, under specified conditions, including that the Franchise Tax Board is discharged from collecting the debt which is less than \$250.

This bill would increase the amount of the debt that the Franchise Tax Board is discharged from collecting to less than \$500.

(6) Existing law requires state excise fuel tax revenues to be deposited in various 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.

This bill would require transfers of those revenues from the Highway Users Tax Account to counties or cities that would otherwise be made during certain months of 2009, to instead be deferred and made after January 1, 2010.

(7) Existing law does not require a state agency to collect a tax, license, fee, or money owed to the state, under specified conditions, including that the amount to be collected is \$250 or less.

This bill would increase that amount to \$500 or less.

(8) Existing law, the Accounts Receivable Management Act, requires each state agency, department, and office to allocate collection resources by giving highest priority to accounts with the highest expected return.

This bill would authorize these state entities to impose a reasonable fee for the actual costs of its collection of past due accounts, and require them to submit an annual report to the Controller of its accounts receivables and discharged accounts.

(9) Existing law, pursuant to Article XIXB of the California Constitution, creates the Transportation Investment Fund, which receives a portion of gasoline sales tax revenues that are deposited in the General Fund. Moneys in the Transportation Investment Fund are allocated to various transportation purposes, including the state transportation improvement program, local streets and roads, and mass transportation. Existing law requires the Controller to transfer and apportion these funds on a quarterly basis.

This bill would suspend and defer, until May 31, 2010, the quarterly apportionments from the Transportation Investment Fund for local streets and roads that are scheduled to be made in October 2009 and January 2010. The bill would authorize a city or county to temporarily make use of any cash balance in its city or county road fund, including certain transportation bond act funds, for local street and road maintenance, provided that the cash is replaced once the payments from the Transportation Investment Fund are received.

(10) Existing law appropriates \$540,000,000 from the General Fund to the Board of Governors of the California Community Colleges for apportionments to community college districts for expenditure during the 2009–10 fiscal year and defers the disbursement of those funds until July of the 2009–10 fiscal year. Existing law makes an identical appropriation for expenditure during the 2010–11 fiscal year and defers the disbursement of those funds until July of the 2010–11 fiscal year.

This bill would increase those appropriations and deferrals to \$703,000,000 with \$81,500,000 of those appropriations and deferrals representing the April apportionment and \$81,500,000 representing the May apportionment.

(11) Existing law defers to July the payment of \$115,000,000 of the apportionments to community college districts for each of the months of January and February and \$55,000,000 of the apportionments to community college districts for each of the months of March and April.

This bill, in addition, would defer to July the payment of \$81,500,000 of the apportionments to community college districts for each of the months of April and May.

(12) 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 July 1, 2009.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.

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

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

SECTION 1. Section 14041 of the Education Code is amended to read:

14041. (a) The Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county in each month of each year in the amounts and manner prescribed in this section so as to provide in each warrant a portion of the total amount certified by the Superintendent as apportioned under the provisions of Sections 41330 to 41343, inclusive, and Chapter 4 (commencing with Section 41600) and Chapter 5 (commencing with Section 41700) and Article 2 (commencing with Section 42237) of Chapter 7 of Part 24 of Division 3 of Title 2, inclusive, during the fiscal year from the State School Fund to the school districts under the jurisdiction of the county superintendent of schools of the county, to the county school service fund, and to the county school tuition fund of the county.

(1) Warrants for amounts allowed to the county school service funds under subdivisions (a) and (b) of Section 14054 shall be for amounts equal to 5 percent in July, 5 percent in August, and 9 percent in each remaining month of the fiscal year of the amounts certified by the Superintendent as a part of the advance apportionment.

(2) Warrants for amounts apportioned to school districts and county school service funds for classes maintained by county superintendents of schools and to the county school tuition funds shall be for amounts equal to 5 percent in July, 5 percent in August, and 9 percent in September, October, November, December, and January, of the amounts certified by the Superintendent as a part of the advance apportionment.

(3) Warrants in the months of February to May, inclusive, shall be for amounts equal to one-fifth of the difference between the amounts certified by the Superintendent for school districts and county school service funds for classes maintained by county superintendents of schools and county school tuition funds as the first principal apportionment and the amounts required by paragraph (2).

(4) Warrants for the month of June shall be for amounts equal to the difference between the amounts certified by the Superintendent for school districts and county school service funds for classes maintained by county superintendents of schools and county school tuition funds as the second principal apportionment and the amounts required by paragraphs (2) and (3).

(5) Warrants in the months of July and August shall include 5 percent of the estimated total amounts of the special purpose apportionment, as determined by the Superintendent. Warrants in the months of September to November, inclusive, shall include 9 percent of the estimated total amounts of the special purpose apportionment, as determined by the Superintendent.

Warrants in December shall include 9 percent of the amounts certified by the Superintendent as the special purpose apportionment, as adjusted, if necessary, to correct excesses or deficiencies in the estimates made for purposes of the warrants in the months of September to November, inclusive. An additional 9 percent of the amounts of the special purpose apportionment shall be included in the warrants for the months from January to June, inclusive.

(6) Warrants in June shall include the total amounts certified by the Superintendent as the final apportionment.

(7) Notwithstanding paragraph (2) to the contrary, for school districts that reported less than 5,000 units of average daily attendance in the 1979–80 fiscal year and that received 39 percent or more, but less than 75 percent, of their total revenue limits from local property taxes in that fiscal year, warrants for amounts apportioned to the districts shall be for amounts equal to 15 percent in July, August, September, and October; zero percent in November and December; and 6 percent in January of the amounts certified by the Superintendent as a part of the advance apportionment. Warrants for amounts apportioned to the districts for the months of February to May, inclusive, shall be in accordance with paragraph (3), and for the month of June, shall be in accordance with paragraph (4).

(8) Notwithstanding paragraph (2) or (7) to the contrary, for school districts which reported less than 5,000 units of average daily attendance in the 1979–80 fiscal year and which received 75 percent or more of their total revenue limits from local property taxes in that fiscal year, warrants for amounts apportioned to the districts shall be for amounts equal to 15 percent in July; 30 percent in August and September; 15 percent in October; zero percent in November and December; 6 percent in January; and zero percent in February, March, April, and May, of the amounts certified by the Superintendent as a part of the advance apportionment. Warrants for the month of June shall be in accordance with paragraph (4).

(b) The drawing of the warrants required to be drawn during any one of the months mentioned may be postponed by the Controller for not to exceed 30 days, but the total amounts due the several counties during any fiscal year shall be paid within the fiscal year. The warrants shall be paid by the State Treasurer from the State School Fund and are not subject to the provisions of Government Code Section 925.6.

SEC. 2. Section 14041.6 of the Education Code is amended to read:

14041.6. (a) Notwithstanding subdivision (a) of Section 14041, or any other law, commencing with the 2008–09 fiscal year, warrants for the principal apportionments for the month of February in the amount of two billion dollars (\$2,000,000,000) instead shall be drawn in July of the same calendar year pursuant to the certification made pursuant to Section 41339.

(b) Notwithstanding subdivision (a) of Section 14041 or any other law, commencing with the 2009–10 fiscal year, warrants for the principal apportionments for the month of April in the amount of six hundred seventy-eight million six hundred eleven thousand dollars (\$678,611,000) and for the month of May in the amount of one billion dollars

(\$1,000,000,000) instead shall be drawn in August of the same calendar year pursuant to the certification made pursuant to Section 41339.

(c) Except as provided in subdivisions (c) and (e) of Section 41202, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the warrants drawn pursuant to subdivisions (a) and (b) shall be deemed to be “General Fund revenues appropriated to school districts,” as defined in subdivision (c) of Section 41202, for the fiscal year in which the warrants are drawn and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for the fiscal year in which the warrants are drawn.

SEC. 3. Section 14401.1 is added to the Education Code, to read:

14401.1. Of the amounts appropriated in the items listed in paragraph (2) of subdivision (a) of Section 42605 that are contained in the annual Budget Act, payments equal to 5 percent of the total amount appropriated in those items shall be made for the months of July and August. Payments for the months of September to June, inclusive, shall be equal to 9 percent of the total amount appropriated in those items.

SEC. 4. Section 927.2 of the Government Code is amended to read:

927.2. The following definitions apply to this chapter:

(a) “Claim schedule” means a schedule of invoices prepared and submitted by a state agency to the Controller for payment to the named claimant.

(b) “Grant” means a signed final agreement between any state agency and a local government agency or organization authorized to accept grant funding for victim services or prevention programs administered by any state agency. Any such grant is a contract and subject to this chapter.

(c) “Invoice” means a bill or claim that requests payment on a contract under which a state agency acquires property or services or pursuant to a signed final grant agreement.

(d) “Medi-Cal program” means the program established pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) “Nonprofit public benefit corporation” means a corporation, as defined by subdivision (b) of Section 5046 of the Corporations Code, that has registered with the Department of General Services as a small business.

(f) “Nonprofit service organization” means a nonprofit entity that is organized to provide services to the public.

(g) “Payment” means the issuance of a warrant or a registered warrant by the Controller, or the issuance of a revolving fund check by a state agency, to a claimant in the amount of an undisputed invoice.

(h) “Reasonable cause” means a determination by a state agency that any of the following conditions are present:

(1) There is a discrepancy between the invoice or claimed amount and the provisions of the contract or grant.

(2) There is a discrepancy between the invoice or claimed amount and either the claimant's actual delivery of property or services to the state or the state's acceptance of those deliveries.

(3) Additional evidence supporting the validity of the invoice or claimed amount is required to be provided to the state agency by the claimant.

(4) The invoice has been improperly executed or needs to be corrected by the claimant.

(5) The state agency making the determination or the claimant involved has been subject to a computing or accounting failure related to the Year 2000 Problem.

(i) "Received by a state agency" means the date an invoice is delivered to the state location or party specified in the contract or grant or, if a state location or party is not specified in the contract or grant, wherever otherwise specified by the state agency.

(j) "Required payment approval date" means the date on which payment is due as specified in a contract or grant or, if a specific date is not established by the contract or grant, 30 calendar days following the date upon which an undisputed invoice is received by a state agency.

(k) "Revolving fund" means a fund established pursuant to Article 5 (commencing with Section 16400) of Division 4 of Title 2.

(l) "Small business" means a business certified as a "small business" in accordance with subdivision (d) of Section 14837.

(m) "Small business" and "nonprofit organization" mean, in reference to providers under the Medi-Cal program, a business or organization that meets all of the following criteria:

(1) The principal office is located in California.

(2) The officers, if any, are domiciled in California.

(3) If a small business, it is independently owned and operated.

(4) The business or organization is not dominant in its field of operation.

(5) Together with any affiliates, the business or organization has gross receipts from business operations that do not exceed three million dollars (\$3,000,000) per year, except that the Director of Health Services may increase this amount if the director deems that this action would be in furtherance of the intent of this chapter.

(n) "Year 2000 Problem" has the same meaning as that set forth in subdivision (a) of Section 3269 of the Civil Code.

SEC. 5. Section 927.4 of the Government Code is amended to read:

927.4. Except as otherwise provided in this chapter, to avoid late payment penalties, the maximum time from state agency receipt of an undisputed invoice to the date of payment is 45 calendar days. If payment is not issued within 45 calendar days from the state agency receipt of an undisputed invoice, late payment penalties shall be paid to the claimant in accordance with Sections 927.6 and 927.7.

SEC. 6. Section 927.6 of the Government Code is amended to read:

927.6. (a) State agencies shall pay applicable penalties, without requiring that the claimant submit an additional invoice for these amounts, whenever the state agency fails to submit a correct claim schedule to the Controller

by the required payment approval date and payment is not issued within 45 calendar days from the state agency receipt of an undisputed invoice. The penalty shall cease to accrue on the date the state agency submits the claim schedule to the Controller for payment, and shall be paid for out of the state agency's funds. If the claimant is a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the state agency shall pay to the claimant a penalty of one-quarter of 1 percent of the amount due, per calendar day, from the required payment date. However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars (\$500,000).

(b) For all other businesses, the state agency shall pay a penalty at a rate of 1 percent above the rate accrued on June 30 of the prior year by the Pooled Money Investment Account, not to exceed a rate of 15 percent, except that, if the amount of the penalty is seventy-five dollars (\$75) or less, the penalty shall be waived and not paid by the state agency. On an exception basis, state agencies may avoid payment of penalties, for failure to submit a correct claim schedule to the Controller by the required payment approval date, by paying the claimant directly, from the state agency's revolving fund within 45 calendar days following the date upon which an undisputed invoice is received by the state agency.

SEC. 7. Section 927.7 of the Government Code is amended to read:

927.7. The Controller shall pay claimants within 15 calendar days of receipt of a correct claim schedule from the state agency. If the Controller fails to make payment within 15 calendar days of receipt of the claim schedule from a state agency, and payment is not issued within 45 calendar days from state agency receipt of an undisputed invoice, the Controller shall pay applicable penalties to the claimant without requiring that the claimant submit an invoice for these amounts. Penalties shall cease to accrue on the date full payment is made, and shall be paid for out of the Controller's funds. If the claimant is a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the Controller shall pay to the claimant a penalty of one-quarter of 1 percent of the amount due, per calendar day, from the 16th calendar day following receipt of the claim schedule from the state agency. However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars (\$500,000). For all other businesses, the Controller shall pay penalties at a rate of 1 percent above the rate accrued on June 30 of the prior year by the Pooled Money Investment Account, not to exceed a rate of 15 percent, except that, if the amount of the penalty is seventy-five dollars (\$75) or less, the penalty shall be waived and not paid by the Controller.

SEC. 8. Section 927.11 of the Government Code is amended to read:

927.11. (a) Except in the case of a contract with a certified small business, a nonprofit organization, or a nonprofit public benefit corporation,

if an invoice from a business under a contract with the Department of Forestry and Fire Protection would become subject to late payment penalties during the annually declared fire season, as declared by the Director of Forestry and Fire Protection, then the required payment approval date shall be extended by 30 calendar days.

(b) No nonprofit public benefit corporation shall be eligible for a late payment penalty if a state agency fails to make timely payment because no Budget Act has been enacted.

(c) If the Director of Finance determines that a state agency or the Controller is unable to promptly pay an invoice as provided for by this chapter due to a major calamity, disaster, or criminal act, then otherwise applicable late payment penalty provisions contained in Sections 927.6 and 927.7 shall be suspended except as they apply to a claimant that is either a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program. The suspension shall remain in effect until the Director of Finance determines that the suspended late payment penalty provisions of this section should be reinstated.

(d) Except as provided in subdivision (b), in the event a state agency fails to make timely payment because no Budget Act has been enacted, penalties shall continue to accrue until the time that the invoice is paid.

SEC. 9. Section 8880.61 of the Government Code is amended to read:
8880.61. State Lottery Fund

(a) A special fund to be known as the “State Lottery Fund” is created within the State Treasury that is continuously appropriated for carrying out the purposes of this chapter. The fund shall receive all proceeds from the sales of lottery tickets or shares, the temporary line of credit for initial startup costs, and all other moneys credited to the Lottery from any other source. The Treasurer shall designate a depository to receive lottery proceeds for transmission to the State Treasury and for deposit in the State Lottery Fund.

(b) Except as provided by this chapter, moneys in the General Fund or any other state fund shall not be transferred to the State Lottery Fund or otherwise used to support the California State Lottery or the Lottery Commission, or to pay the debts, obligations, or encumbrances of the State Lottery Fund or the Commission.

(c) Notwithstanding any other law, the Controller may use the moneys in the State Lottery Fund for loans to the General Fund as provided in Sections 16310 and 16381. Interest shall be paid on all moneys loaned to the General Fund from the State Lottery Fund. Interest payable shall be computed at a rate of 110 percent of the Pooled Money Investment Account rate, with the interest accruing on the date the loan is made from the State Lottery Fund to the General Fund. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the State Lottery Fund was created.

SEC. 10. Section 13311.1 is added to the Government Code, to read:

13311.1. (a) Notwithstanding any other law, including, but not limited to, Section 13311, in order to achieve effective management of state cash

resources, the Director of Finance, may defer payments of General Fund moneys in July through September of 2009, in an amount not to exceed seven hundred fifty million dollars (\$750,000,000), appropriated to the University of California in the 2009 Budget Act.

(b) Of the amount deferred pursuant to subdivision (a), the payment of two hundred fifty million dollars (\$250,000,000) shall be made in October 2009. The payment of the remaining amount deferred pursuant to subdivision (a) shall occur no earlier than April 2010 and at the earlier of (1) the day after all outstanding revenue anticipation notes issued by the state in 2009–10 have been repaid, as determined by the Director of Finance, or (2) June 30, 2010.

(c) Notwithstanding any other provision of law, in order to achieve effective management of state cash resources, the Director of Finance may defer payments of General Fund moneys in July 2009, in an amount not to exceed two hundred ninety million dollars (\$290,000,000) appropriated to the California State University in the 2009 Budget Act.

(d) The payment of the amount deferred pursuant to subdivision (c) shall be made in October 2009.

SEC. 11. Section 13943.1 of the Government Code is amended to read:

13943.1. (a) Except as provided in subdivision (b), a discharge granted pursuant to this chapter to a state agency or employee does not release any person from the payment of any tax, license, fee, or other money that is due and owing to the state.

(b) A discharge granted pursuant to this chapter to the Franchise Tax Board shall release a person from a liability for the payment of any tax, fee, or other liability deemed uncollectible that is due and owing to the state and extinguish that liability, if at least one of the following conditions is met:

(1) The liability is for an amount less than five hundred dollars (\$500).

(2) The liable person has been deceased for more than four years and there is no active probate with respect to that person.

(3) The Franchise Tax Board has determined that the liable person has a permanent financial hardship.

(4) The liability has been unpaid for more than 30 years.

SEC. 12. Section 13943.2 of the Government Code is amended to read:

13943.2. Upon authorization of the board, a state agency is not required to collect taxes, licenses, fees, or money owing to the state for any reason if the amount to be collected is five hundred dollars (\$500) or less. A state agency that seeks this authorization shall file an application with the board accompanied by a statement of circumstances. Nothing contained in this section shall be construed as releasing any person from the payment of any money due the state.

SEC. 13. Section 16583.1 is added to the Government Code, to read:

16583.1. A participant may impose a reasonable fee, not to exceed the actual costs, to recover the participant's collection costs on a past due account.

SEC. 14. Section 16583.2 is added to the Government Code, to read:

16583.2. (a) A participant shall submit an annual report to the Controller of the participant's accounts receivables and discharged accounts.

(b) The Controller shall inform a participant, not less than 60 days before the annual report is required to be submitted to the Controller, of both of the following:

- (1) The format for the annual report.
- (2) The submission date for the annual report.

SEC. 15. Section 7104.2 of the Revenue and Taxation Code is amended to read:

7104.2. (a) The Transportation Investment Fund (hereafter the fund) in the State Treasury is hereby continued in existence. All revenues transferred to the fund pursuant to Article XIX B of the California Constitution beginning with the 2008–09 fiscal year shall be available for expenditure as provided in this section. Notwithstanding Section 13340 of the Government Code or any other provision of law, moneys in the fund are continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7304.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2008–09 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter, commencing with the 2008–09 fiscal year, the Controller shall make all of the following transfers and apportionments from the fund:

(1) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the revenues deposited in the fund. Funds transferred under this paragraph shall be made available as follows:

(A) Twenty-five percent for purposes of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature.

(B) Thirty-seven and one-half percent to the Controller, for allocation pursuant to Section 99314 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99314 of the Public Utilities Code. These funds are continuously appropriated to the Controller for purposes of this subparagraph.

(C) Thirty-seven and one-half percent to the Controller, for allocation pursuant to Section 99313 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99313 of the Public Utilities Code. These

funds are continuously appropriated to the Controller for purposes of this subparagraph.

(D) Notwithstanding subparagraphs (A), (B), and (C), for the 2009–10 to 2012–13 fiscal years, inclusive, all funds transferred under this paragraph shall be made available only for purposes of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature.

(2) To the Department of Transportation for expenditure for transportation capital improvement projects subject to all of the rules governing the State Transportation Improvement Program, 40 percent of the revenues deposited in the fund.

(3) To the Controller for apportionment pursuant to paragraphs (A) and (B), 40 percent of the revenues deposited in the fund.

(A) Of the amount available under this paragraph, 50 percent shall be apportioned by the Controller to the counties, including a city and county, in accordance with the following formulas:

(i) Seventy-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(ii) Twenty-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(B) Of the amount available under this paragraph, 50 percent shall be apportioned by the Controller to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(d) Funds received under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(e) Funds allocated to a city, county, or city and county under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair. For purposes of this section, the following terms have the following meanings:

(1) “Maintenance” means either or both of the following:

(A) Patching.

(B) Overlay and sealing.

(2) “Reconstruction” includes any overlay, sealing, or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for 3R (reconstruction, resurfacing, and rehabilitation) projects that are not on a freeway, but does not include widening for the purpose of increasing the traffic capacity of a street or highway.

(3) “Storm damage repair” is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (c).

(2) In order to receive any allocation pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city’s or county’s annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, may not be considered when calculating a city’s or county’s annual general fund expenditures.

(3) For any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, that the city was incorporated.

(4) For purposes of paragraph (2), the Controller may request fiscal data from cities and counties in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (2).

(7) The allocation made under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in subparagraph (A) or (B) of paragraph (3) of subdivision (c).

(g) For the purpose of allocating funds under subparagraph (A) or (B) of paragraph (3) of subdivision (c) to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 2008, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3.

(h) (1) Notwithstanding any other law, the quarterly apportionments scheduled to be made in October 2009 and January 2010 pursuant to paragraph (3) of subdivision (c) shall be suspended and deferred until May 31, 2010.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in its city or county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local street and road maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all requirements of those funding sources.

SEC. 16. Section 2103.1 is added to the Streets and Highways Code, to read:

2103.1. Notwithstanding any other law, the apportionment of revenues deposited to the credit of the Highway Users Tax Account in the

Transportation Tax Fund that are otherwise required to be made, pursuant to this chapter, to cities, counties, and cities and counties for the months of July, August, September, October, November, and December of 2009 shall be deferred and shall be made after January 1, 2010.

SEC. 17. Section 39 of Chapter 12 of the Statutes of 2009 of the Third Extraordinary Session is amended to read:

Sec. 39. (a) Notwithstanding Sections 84320, 84321, and 84321.5 of the Education Code and any other law that covers the regulations adopted by the Chancellor of the California Community Colleges to disburse funds, two hundred million dollars (\$200,000,000) from the payment of apportionments to districts pursuant to Sections 84320, 84321, and 84321.5 of the Education Code for July 2009, shall be deferred to October 2009.

(b) Notwithstanding any other law, one billion dollars (\$1,000,000,000) from the payment of apportionments pursuant to Section 14041 of the Education Code for July 2009, to local educational agencies that maintain kindergarten and any of grades 1 to 12, inclusive, shall be deferred to December 2009.

(c) Notwithstanding any other law, one billion five hundred million dollars (\$1,500,000,000) from the payment of apportionments pursuant to Section 14041 of the Education Code for August 2009, to local educational agencies that maintain kindergarten or any of grades 1 to 12, inclusive, shall be deferred to October 2009.

(d) Notwithstanding any other law, one billion dollars (\$1,000,000,000) from the payment of apportionments pursuant to Section 14041 of the Education Code for November 2009, to local educational agencies that maintain kindergarten and any of grades 1 to 12, inclusive, shall be deferred to January 2010.

(e) (1) Notwithstanding subdivisions (b), (c), and (d) and subject to the approval of the Director of Finance, the Controller shall issue warrants pursuant to Section 14041 of the Education Code that include the full amount of the apportionment payments for the months of July, August, and November for a local educational agency for which the county superintendent of schools certifies to the Superintendent of Public Instruction and to the Director of Finance on or before August 10, 2009, that the deferral of warrants pursuant to subdivisions (b) and (c) will result in qualifying the local educational agency for an emergency apportionment pursuant to Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code.

(2) In order for a county office of education to receive payments pursuant to paragraph (1), the Superintendent of Public Instruction shall determine, and notify the Director of Finance on or before August 10, 2009, that the deferral of warrants pursuant to subdivisions (b) and (c) will result in the county office of education being unable to meet its expenditure obligations for the time period during which warrants are deferred. The criteria, as applicable, set forth in statute and regulations to qualify a school district for an emergency apportionment shall be used to make the determination specified in this section.

(3) In order for a charter school to receive payments pursuant to paragraph (1), the chartering authority shall determine, in consultation with the county superintendent of schools, and notify the Superintendent of Public Instruction and the Director of Finance on or before August 10, 2009, that the deferral of warrants pursuant to subdivisions (b) and (c) will result in the charter school being unable to meet its expenditure obligations for the time period during which warrants are deferred. The criteria, as applicable, set forth in statute and regulations to qualify a school district for an emergency apportionment shall be used to make the determination specified in this section.

(f) Notwithstanding subdivision (a) and subject to the approval of the Director of Finance, the Controller shall issue warrants pursuant to Sections 84320, 84321, and 84321.5 of the Education Code that include the full amount of the apportionment payments for the month of July for a community college for which the Chancellor of the California Community Colleges determines, in consultation with the Director of Finance, on or before August 10, 2009, that the deferral of warrants pursuant to subdivision (a) will present an imminent threat to the fiscal integrity and security of the community college.

(g) This section shall apply to payments in the 2009–10 fiscal year only.

SEC. 18. Section 40 of Chapter 12 of the Statutes of 2009, Third Extraordinary Session is amended to read:

Sec. 40. (a) Notwithstanding Sections 84320, 84321, and 84321.5 of the Education Code and any other law that covers the regulations adopted by the Chancellor of the California Community Colleges to disburse funds, the payment of apportionments to districts pursuant to Sections 84320, 84321, and 84321.5 of the Education Code for the months of January and February, in the amount of one hundred fifteen million dollars (\$115,000,000) for each month, and the months of March and April, in the amounts of fifty-five million dollars (\$55,000,000) for each month, shall be deferred to July. The total amount of these payments deferred to the month of July shall be three hundred forty million dollars (\$340,000,000).

(b) Notwithstanding Sections 84320, 84321, and 84321.5 of the Education Code and any other law that governs the regulations adopted by the Chancellor of the California Community Colleges to disburse funds, the payment of apportionments to districts pursuant to Sections 84320, 84321, and 84321.5 of the Education Code for the months of April and May, in the amounts of eighty-one million five hundred thousand dollars (\$81,500,000) for each month, shall be deferred to July. The total amount of these payments deferred to the month of July shall be one hundred sixty-three million dollars (\$163,000,000). This subdivision is operative commencing with the 2009–10 fiscal year and is operative in addition to the provisions of subdivision (a).

SEC. 19. Section 41 of Chapter 12 of the Statutes of 2009, Third Extraordinary Session is amended to read:

Sec. 41. (a) The sum of seven hundred three million dollars (\$703,000,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for apportionments to

community college districts, for expenditure during the 2010–11 fiscal year, to be expended in accordance with Schedule (1) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2009.

(b) The disbursal of funds appropriated in subdivision (a) shall be deferred until July of the 2010–11 fiscal year. This appropriation and deferment represent one hundred fifteen million dollars (\$115,000,000) of the January apportionment to community college districts, one hundred fifteen million dollars (\$115,000,000) of the February apportionment to community college districts, fifty-five million dollars (\$55,000,000) of the March apportionment to community college districts and fifty-five million dollars (\$55,000,000) of the April apportionment to community college districts, eighty-one million five hundred thousand dollars (\$81,500,000) of the April apportionment to community college districts and eighty-one million five hundred thousand dollars (\$81,500,000) of the May apportionment to community college districts, and two hundred million dollars (\$200,000,000) of the June apportionment to community college districts.

(c) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be “General Fund revenues appropriated for community college districts,” as defined in subdivision (d) of Section 41202 of the Education Code, for the 2010–11 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code, for the 2010–11 fiscal year.

SEC. 20. The Legislature finds and declares that Section 9 of this act furthers the purpose of the California State Lottery Act of 1984, enacted by Proposition 37 at the November 6, 1984, statewide general election.

SEC. 21. This act addresses the fiscal emergency declared by the Governor by proclamation on July 1, 2009, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 22. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the state may meet its financial obligations and avoid a fiscal crisis, it is necessary that this act take effect immediately.

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