

Senate Bill No. 82

CHAPTER 12

An act to amend Sections 16325, 16325.5, 16326, and 70371.5 of, and to add Sections 16328 and 16329 to, the Government Code, to repeal Section 2103.1 of the Streets and Highways Code, and to amend Section 14167.35 of the Welfare and Institutions Code, relating to state cash resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately, bill related to the budget.

[Approved by Governor March 24, 2011. Filed with
Secretary of State March 24, 2011.]

To the Members of the California State Senate:

I am signing Senate Bill 82 with the following objection:

I am deleting the appropriation in Section 9 of this bill, which provides \$1,000 General Fund to the State Controller. Sufficient appropriation authority will be provided in the Budget Bill; therefore this additional appropriation is unnecessary.

Sincerely,

EDMUND G. BROWN JR., Governor

LEGISLATIVE COUNSEL'S DIGEST

SB 82, Committee on Budget and Fiscal Review. State cash resources.

(1) Existing law, until September 1, 2011, provides for a cash management plan for the 2010–11 fiscal year 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 entities, including county offices of education, public schools, and charter schools, subject to certain conditions.

This bill would modify these provisions and apply the cash management plan to the 2011–12 fiscal year. This bill would also establish specified procedures for deferrals, and repayment of those deferrals, from county offices of education, public schools, and charter schools. The bill would make conforming changes and make these provisions inoperative on September 1, 2012.

(2) Existing law establishes the Immediate and Critical Needs Account of the State Court Facilities Construction Fund and the Hospital Quality Assurance Revenue Fund for the planning, financing, and construction of court facilities and the support and enhancement of hospital quality, respectively.

The bill would, notwithstanding existing law, authorize the Controller to use funds in the Immediate and Critical Needs Account and the Hospital Quality Assurance Revenue Fund for cashflow loans to the General Fund, as provided in specified provisions of law.

(3) Existing law provides for the deferral of specified apportionments on a pro rata basis 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 limits the amount of those deferrals. Existing law permits cities, counties, and cities and counties to borrow certain designated funds from their accounts and requires that any borrowing be repaid with interest that would be applied to a specified purpose.

The bill would repeal these provisions of law.

(4) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(5) This bill would appropriate the sum of \$1,000 from the General Fund for administrative costs associated with this act.

(6) This bill would declare that it is to take effect immediately as an urgency statute and a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 16325 of the Government Code is amended to read:

16325. (a) An effective cash management plan is needed for the 2010–11 and 2011–12 fiscal years to address General Fund cash shortages that otherwise may occur during the fiscal year. The goals of the cash management plan described in this section are to accomplish the following:

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

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

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

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

(b) Nothing in this section or in Sections 16325.5 and 16326 shall be construed to affect in any way the timing or amount of payments of state payroll or to affect in any way any judicial proceeding related to the timing

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

(c) Deferrals authorized in the cash management plan described in this section and in Sections 16325.5 and 16326 are in addition to any payment delays, payment deferrals, or payment schedules specified in other laws. Deferrals authorized in the cash management plan described in this section and in Sections 16325.5 and 16326 do not replace, remove, or alter any previously implemented payment delays or payment deferrals.

(d) Activities by the Controller, Treasurer, and Director of Finance to implement and carry out the cash management plan described in this section and Sections 16325.5 and 16326 are hereby exempted from the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3).

(e) This section shall become inoperative on September 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 16325.5 of the Government Code is amended to read:

16325.5. (a) Notwithstanding any other law, and to the extent not prohibited by federal law or the California Constitution, in order to effectively manage state cash resources, the 2010–11 and 2011–12 General Fund payments projected to be made for the programs or departments listed in subdivision (b) shall be deferred in the months of July, October, and March, in whole or in part for no more than 60, 90, and 60 days, respectively, unless otherwise specified in Section 16326, except for the 2011–12 General Fund payments referenced in paragraph (1) of subdivision (b), which shall be deferred as described in paragraph (2) of subdivision (a) of Section 16326. Nothing in this section shall be construed to authorize the deferral of state payroll, debt service, or rental payments that support lease-revenue bonds.

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

- (1) Kindergarten to grade 12, inclusive.
- (2) Supplementary Security Income/State Supplementary Payments made by the State Department of Social Services to the federal government.
- (3) Local government social services payments.

(c) Prior to implementing each of the payment deferrals identified in subdivision (b) and other provisions of the act adding this section, the Controller, Treasurer, and Director of Finance shall jointly review and compare the actual General Fund receipts and disbursements with the receipts and disbursements contained in the most current published cashflow projections. If the Controller, Treasurer, and Director of Finance determine sufficient cash is available to make scheduled payments, in whole or in part, through the 60- or 90-day period or other period specified in law, including the payments otherwise subject to deferral identified in subdivision (b), and maintain a prudent cash reserve, the Controller shall make the deferred payment, in whole or in part, as originally scheduled or within the time provided for by law. In making the determination that cash is sufficient to make the payments, the Controller, Treasurer, and Director of Finance shall also consider costs for state government, the scope of any identified cash shortage, timing, achievability, legislative direction, and the impact and hardship imposed on potentially affected programs, entities, and related public services. The Department of Finance shall notify the Joint Legislative Budget Committee of this action within 10 days of making this determination.

(d) In the event payments are deferred pursuant to subdivision (a) or other provisions of the act adding this section, beginning July 1 of the appropriate fiscal year, the Controller, Treasurer, and Director of Finance shall review on a monthly basis, or as necessary, the actual General Fund cash receipts and disbursements in comparison to the receipt and disbursement projections associated with the Governor's most current cashflow statements. If the Controller, Treasurer, and Director of Finance determine sufficient cash is available to make payments otherwise deferred for the 60- or 90-day period or other period specified in law, including the payments otherwise subject to deferral identified in subdivision (b) or other provisions of the act adding this section, and maintain a prudent cash reserve, the Controller shall make the deferred payments, in whole or in part, as soon as feasible unless otherwise provided in Section 16326. In making the determination that cash is sufficient to make the payments, in whole or in part, the Controller, Treasurer, and Director of Finance shall also consider costs for state government, the scope of any identified cash shortage, timing, achievability, legislative direction, and the impact and hardship imposed on potentially affected programs, entities, and related public services. The Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of this determination and identify the date upon which the payments were made or will be made.

(e) Upon concurrence of the Controller, Treasurer, and Director of Finance, deferrals authorized pursuant to subdivision (a) or other provisions of the act adding this section may be moved forward to the prior month or

delayed to the subsequent month. This subdivision shall not apply to those payments to kindergarten to grade 12 specified in paragraph (1) of subdivision (b) for the 2011–12 fiscal year. Any changes may be authorized no sooner than 30 days after notification in writing by the Department of Finance to the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine. In the event cash is available to make the payments earlier than identified in the notification, as determined by the Controller, Treasurer, and Director of Finance, the Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of making this determination.

(f) This section shall become inoperative on September 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 16326 of the Government Code is amended to read:

16326. (a) Notwithstanding any other law, except as otherwise specified in Sections 16325 and 16325.5, cash deferrals specified in Sections 16325 and 16325.5, as amended by the act amending this section, shall be limited, as follows:

(1) For the 2010–11 fiscal year, payments to school districts, county offices of education, and charter schools shall be deferred as specified in Section 16325.5 with the total amount of the deferrals under this action limited to two billion five hundred million dollars (\$2,500,000,000) for each deferral, and a maximum of three deferrals during the fiscal year. The total outstanding amount of these deferrals, as described in Section 16325.5, shall not exceed two billion five hundred million dollars (\$2,500,000,000) at any given time. The Controller, Treasurer, and the Director of Finance shall determine and jointly provide a written declaration to the Legislature and to the State Department of Education, and the State Department of Education shall inform school districts, county offices of education, and charter schools of the amounts and timing of payment deferrals for the 2010–11 fiscal year. This declaration shall be provided no later than March 31, 2010. It is the intent of the Legislature that the advance principal apportionment payment due in July be deferred first as a part of the July 2010 deferral as specified in Section 16325.5.

(A) Subject to the approval of the Director of Finance, in order for a county office of education to receive scheduled apportionments from the Controller if payments are deferred, as specified in Section 16325.5, the Superintendent of Public Instruction shall certify that the deferral of warrants will result in the county office of education being unable to meet its expenditure obligations for the time period during which warrants are deferred, and shall notify the Director of Finance of this fact on or before June 1, 2010. Subject to the approval of the Director of Finance, a county office of education that did not receive apportionments for July 2010 and October 2010, as specified in Section 16325.5, may seek a hardship waiver to receive scheduled apportionments from the Controller if payments are

deferred in March 2011. To apply for a hardship waiver, the Superintendent of Public Instruction shall certify that the deferral of March 2011 warrants will result in the county office of education being unable to meet its expenditure obligations for the time period during which warrants are deferred, and shall notify the Director of Finance of this fact on or before January 5, 2011. 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 certifications specified in this subparagraph.

(B) Subject to the approval of the Director of Finance, in order for a charter school to receive scheduled apportionments from the Controller if payments are deferred, as specified in Section 16325.5, the chartering authority, in consultation with the county superintendent of schools, shall certify that the deferral of warrants will result in the charter school being unable to meet its expenditure obligations for the time period during which warrants are deferred, and shall notify the Superintendent of Public Instruction and the Director of Finance of this fact on or before June 1, 2010. Subject to the approval of the Director of Finance, a charter school that did not receive apportionments for July 2010 and October 2010, as specified in Section 16325.5, may seek a hardship waiver to receive scheduled apportionments from the Controller if payments are deferred in March 2011. To apply for a hardship waiver, the chartering authority, in consultation with the county superintendent of schools, shall certify that the deferral of March 2011 warrants will result in the charter school being unable to meet its expenditure obligations for the time period during which warrants are deferred, and shall notify the Superintendent of Public Instruction and the Director of Finance on or before January 5, 2011. 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 certifications specified in this subparagraph.

(C) Subject to the approval of the Director of Finance, in order for a school district to receive scheduled apportionments from the Controller if payments are deferred, as specified in Section 16325.5, the county superintendent of schools shall certify to the Superintendent of Public Instruction and to the Director of Finance on or before June 1, 2010, that the deferral of warrants will result in the school district being unable to meet its expenditure obligations for the time period during which warrants are deferred. Subject to the approval of the Director of Finance, a school district that did not receive apportionments for July 2010 and October 2010, as specified in Section 16325.5, may seek a hardship waiver to receive scheduled apportionments from the Controller if payments are deferred in March 2011. To apply for a hardship waiver, the county superintendent of schools shall certify to the Superintendent of Public Instruction and to the Director of Finance on or before January 5, 2011, that the deferral of March 2011 warrants will result in the school district 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 certifications specified in this subparagraph.

(D) Notwithstanding Section 16325.5, payment of the March 2011 deferral to county offices of education, school districts, and charter schools shall be made no later than April 29, 2011.

(E) A county office of education may apply for a waiver for early payment of the deferrals specified in Section 14041.65 of the Education Code. To receive a waiver, the Superintendent of Public Instruction shall certify to the Director of Finance before June 1, 2011, that the county office of education would be unable to meet its expenditure obligations in July or August 2011. Subject to the approval and determination of the Department of Finance, a county office of education may receive a payment of 2010–11 funds in July 2011 up to the amount needed to cover its demonstrated expenditure obligations. The criteria, as applicable, set forth in statute and regulation to qualify a school district for an emergency apportionment shall be used to make the certifications specified in this subparagraph. Required payments of temporary revenue anticipation notes or other short-term debt issued for cashflow purposes in 2010–11 shall be considered expenditure obligations.

(F) A charter school may apply for a waiver for early payment of the deferrals specified in Section 14041.65 of the Education Code. To receive a waiver, the chartering authority, in consultation with the county superintendent of schools, shall certify to the Superintendent of Public Instruction and the Director of Finance before June 1, 2011, that the charter school would be unable to meet its expenditure obligations in July or August 2011. Subject to the approval and determination of the Department of Finance, a charter school may receive a payment of 2010–11 funds in July 2011 up to the amount needed to cover its demonstrated expenditure obligations. The criteria, as applicable, set forth in statute and regulation to qualify a school district for an emergency apportionment shall be used to make the certifications specified in this subparagraph. Required payments of temporary revenue anticipation notes or other short-term debt issued for cashflow purposes in 2010–11 shall be considered expenditure obligations.

(G) A school district may apply for a waiver for early payment of the deferrals specified in Section 14041.65 of the Education Code. To receive a waiver, the county superintendent of schools shall certify to the Superintendent of Public Instruction and the Director of Finance before June 1, 2011, that the school district would be unable to meet its expenditure obligations in July or August 2011. Subject to the approval and determination of the Department of Finance, a school district may receive a payment of 2010–11 funds in July 2011 up to the amount needed to cover its demonstrated expenditure obligations. The criteria, as applicable, set forth in statute and regulation to qualify a school district for an emergency apportionment shall be used to make the certifications specified in this subparagraph. Required payments of temporary revenue anticipation notes or other short-term debt issued for cashflow purposes in 2010–11 shall be considered expenditure obligations.

(2) For the 2011–12 fiscal year, deferrals described in paragraph (1) of subdivision (b) of Section 16325.5, and repayment of those deferrals, shall be scheduled as follows: One billion four hundred million dollars (\$1,400,000,000) shall be deferred in both July and August of 2011. Two billion four hundred million dollars (\$2,400,000,000) shall be deferred in October 2011. Seven hundred million (\$700,000,000) of the July 2011 deferral shall be paid in September 2011, and four billion five hundred million dollars (\$4,500,000,000) shall be paid in January 2012 for the remaining July, August, and October 2011 deferrals. One billion four hundred million dollars (\$1,400,000,000) shall be deferred in March 2012 and paid entirely in April 2012. The State Department of Education shall inform school districts, county offices of education, and charter schools of the amounts and timing of payment deferrals for the 2011–12 fiscal year. This declaration shall be provided no later than April 15, 2011. It is the intent of the Legislature that the advance principal apportionment payment due in July be deferred as a part of the July 2011 deferral and that the advance principal apportionment payment due in August be deferred as a part of the August 2011 deferral.

(A) Subject to the approval of the Director of Finance, in order for a county office of education to receive scheduled payments from the Controller if payments are deferred, the Superintendent of Public Instruction shall certify that the deferral of warrants will result in the county office of education being unable to meet its expenditure obligations for the time period during which warrants are deferred, and shall notify the Director of Finance of this fact on or before June 1, 2011. Subject to the approval of the Director of Finance, a county office of education that did not receive payments for July 2011, August 2011, and October 2011 may seek a hardship waiver to receive scheduled payments from the Controller if payments are deferred in March 2012. To apply for a hardship waiver, the Superintendent of Public Instruction shall certify that the deferral of March 2012 warrants will result in the county office of education being unable to meet its expenditure obligations for the time period during which warrants are deferred, and shall notify the Director of Finance of this fact on or before January 5, 2012. 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 certifications specified in this subparagraph.

(B) Subject to the approval of the Director of Finance, in order for a charter school to receive scheduled payments from the Controller if payments are deferred, the chartering authority, in consultation with the county superintendent of schools, shall certify that the deferral of warrants will result in the charter school being unable to meet its expenditure obligations for the time period during which warrants are deferred, and shall notify the Superintendent of Public Instruction and the Director of Finance of this fact on or before June 1, 2011. Subject to the approval of the Director of Finance, a charter school that did not receive payments for July 2011, August 2011, and October 2011 may seek a hardship waiver to receive scheduled payments from the Controller if payments are deferred in March 2012. To apply for

a hardship waiver, the chartering authority, in consultation with the county superintendent of schools, shall certify that the deferral of March 2012 warrants will result in the charter school being unable to meet its expenditure obligations for the time period during which warrants are deferred, and shall notify the Superintendent of Public Instruction and the Director of Finance on or before January 5, 2012. 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 certifications specified in this subparagraph.

(C) Subject to the approval of the Director of Finance, in order for a school district to receive scheduled payments from the Controller if payments are deferred, the county superintendent of schools shall certify to the Superintendent of Public Instruction and the Director of Finance on or before June 1, 2011, that the deferral of warrants will result in the school district being unable to meet its expenditure obligations for the time period during which warrants are deferred. Subject to the approval of the Director of Finance, a school district that did not receive payments for July 2011, August 2011, and October 2011 may seek a hardship waiver to receive scheduled payments from the Controller if payments are deferred in March 2012. To apply for a hardship waiver, the county superintendent of schools shall certify to the Superintendent of Public Instruction and to the Director of Finance on or before January 5, 2012, that the deferral of March 2012 warrants will result in the school district 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 certifications specified in this subparagraph.

(D) Notwithstanding Section 16325.5, payments of the March 2012 deferral to the county offices of education, school districts, and charter schools, shall be made no later than April 29, 2012.

(3) Of the amount appropriated from the General Fund to the University of California for the 2010–11 and 2011–12 fiscal years, payments made by the state to the University of California shall not exceed one-twelfth of the annual appropriation for each month from July through April. Any remaining appropriation balance may be paid to the University of California thereafter with no limitations.

(4) 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, two hundred million dollars (\$200,000,000) and one hundred million dollars (\$100,000,000) from the payment of apportionments to districts pursuant to Sections 84320, 84321, and 84321.5 of the Education Code for July and March, respectively, shall be deferred to October and May, respectively. Notwithstanding this paragraph 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 months of July or March, or both, for a community college for which the Chancellor of the California Community

Colleges determines, in consultation with the Director of Finance, on or before June 1 of the preceding fiscal year, that the deferral of warrants pursuant to this paragraph will present an imminent threat to the fiscal integrity and security of the community college.

(5) Of the amount appropriated from the General Fund to the California State University for the 2010–11 and 2011–12 fiscal years, payments made by the state to the California State University shall not exceed one-twelfth of the annual appropriation for each month from July through April. Any remaining appropriation balance may be paid to the California State University thereafter with no limitations.

(6) The 2010–11 and the 2011–12 cash management plans described in Sections 16325 and 16325.5 may include deferrals in state payments for specific programs that are disbursed to cities, counties, and other public entities not addressed elsewhere in this section. Deferral of payments by the state to cities, counties, and other public entities not addressed elsewhere in this section shall be as follows:

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

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

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

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

(E) Payments to local governments may be deferred for social services programs and Mental Health Services Act (Proposition 63) programs.

(7) In addition to implementing the payment schedule described in paragraph (5), the Director of Finance may at any time during the 2010–11 and the 2011–12 fiscal years defer payment of General Fund moneys, in a cumulative amount not to exceed two hundred fifty million dollars (\$250,000,000) annually, appropriated to the California State University. Payment of the amount deferred shall be made in the final week of April.

(b) Limits on payment deferrals specified in subparagraphs (A) and (C) of paragraph (6) of subdivision (a) shall not apply to payments to the Mental Health Services Act (Proposition 63) programs.

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

(d) This section shall become inoperative on September 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 16328 is added to the Government Code, to read:

16328. Subdivision (g) of Section 36 of Article XIII of the California Constitution created the Education Protection Account in the State Treasury. Notwithstanding any law, the Controller may use the funds in the Education Protection Account for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

SEC. 5. Section 16329 is added to the Government Code, to read:

16329. Subdivision (d) of Section 36 of Article XIII of the California Constitution created the Local Revenue Fund 2011 in the State Treasury. Notwithstanding any law, the Controller may use the funds in the Local Revenue Fund 2011 for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

SEC. 6. Section 70371.5 of the Government Code is amended to read:

70371.5. (a) There is hereby established the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, the proceeds of which shall only be used for any of the following:

(1) The planning, design, construction, rehabilitation, renovation, replacement, or acquisition of court facilities.

(2) Repayment for moneys appropriated for lease of court facilities pursuant to the issuance of lease-revenue bonds.

(3) Payment for lease or rental of court facilities or payment of service contracts, including those made for facilities in which one or more private sector participants undertake some of the risks associated with the financing, design, construction, or operation of the facility.

(b) Any funds expended from the Immediate and Critical Needs Account are not subject to Section 77202.

(c) Notwithstanding Section 13340, until July 1, 2012, the Immediate and Critical Needs Account is hereby continuously appropriated, without regard to fiscal year, only for the purposes of acquiring real property and completing preliminary plans.

(d) It is the intent of the Legislature that the money in the Immediate and Critical Needs Account shall be used in part to pay the debt service of lease revenue bonds, notes, bond anticipation notes, or other appropriate financial instruments used to pay for the costs referred to in subdivision (a) in the amount of up to five billion dollars (\$5,000,000,000). The total bonded indebtedness shall not exceed that amount for which fine and fee revenues may fully satisfy the debt service.

(e) The Judicial Council shall collect and make available upon request information regarding the moneys deposited in the Immediate and Critical Needs Account resulting from new and increased fees, assessments, and penalties authorized by the act that added this section.

(f) (1) The Judicial Council shall make recommendations to the State Public Works Board before it undertakes projects based on its determination that the need for a project is most immediate and critical using the then most recent version of the Prioritization Methodology for Trial Court Capital-Outlay Projects originally adopted on August 26, 2006, subject to the availability of funds in the Immediate and Critical Needs Account. Any such recommendation shall be accompanied by a certification that there are

sufficient funds in the Immediate and Critical Needs Account. The State Public Works Board shall establish the scope and cost for each individual project.

(2) The Legislature finds that there may not be enough resources to pay for the cost of the projects identified as immediate and critical needs by the Judicial Council pursuant to its Prioritization Methodology for Trial Court Capital-Outlay Projects originally adopted on August 26, 2006, even after considering any bonded indebtedness that may be issued relying at least in part on those resources. Therefore, in choosing which projects shall be recommended to the State Public Works Board to be funded from the Immediate and Critical Needs Account, the Judicial Council shall consider and apply, as appropriate, the following factors, among others:

(A) Any economic opportunity that exists for a project.

(B) The effect on available resources of using alternative methods of project delivery as provided by Section 70391.5.

(3) Nothing in paragraph (2) shall authorize the Judicial Council to exceed the resources provided by the Immediate and Critical Needs Account, together with other available resources, in undertaking projects identified as immediate and critical needs.

(4) As used in paragraph (2), “economic opportunity” includes, but is not limited to, free or reduced costs of land for new construction, viable financing partnerships with, or fund contributions by, other government entities or private parties that result in lower project delivery costs, cost savings resulting from adaptive reuse of existing facilities, operational efficiencies from consolidation of court calendars and operations, operational savings from sharing of facilities by more than one court, and building operational cost savings from consolidation of facilities.

(5) The Judicial Council shall not consider and apply an economic opportunity unless it is reasonably assured that the economic opportunity is viable and will be realized. If a project is selected for funding based on an economic opportunity that is withdrawn after the project is approved, the Judicial Council may cancel the project.

(g) Notwithstanding any law, the Controller may use the funds in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

SEC. 7. Section 2103.1 of the Streets and Highways Code is repealed.

SEC. 8. Section 14167.35 of the Welfare and Institutions Code is amended to read:

14167.35. (a) The Hospital Quality Assurance Revenue Fund is hereby created in the State Treasury.

(b) (1) All fees required to be paid to the state pursuant to this article shall be paid in the form of remittances payable to the department.

(2) The department shall directly transmit the fee payments to the Treasurer to be deposited in the Hospital Quality Assurance Revenue Fund. Notwithstanding Section 16305.7 of the Government Code, any interest and

dividends earned on deposits in the fund shall be retained in the fund for purposes specified in subdivision (c).

(c) All funds in the Hospital Quality Assurance Revenue Fund, together with any interest and dividends earned on money in the fund, shall, upon appropriation by the Legislature, be used exclusively to enhance federal financial participation for hospital services under the Medi-Cal program, to provide additional reimbursement to, and to support quality improvement efforts of, hospitals, and to minimize uncompensated care provided by hospitals to uninsured patients, in the following order of priority:

(1) To pay for the department's staffing and administrative costs directly attributable to implementing Article 5.21 (commencing with Section 14167.1) and this article, including any administrative fees that the director determines shall be paid to mental health plans pursuant to subdivision (d) of Section 14167.11 and repayment of the loan made to the department from the Private Hospital Supplemental Fund pursuant to the act that added this section.

(2) To pay for the health care coverage for children in the amount of eighty million dollars (\$80,000,000) for each subject fiscal quarter for which payments are made under Article 5.21 (commencing with Section 14167.1).

(3) To make increased capitation payments to managed health care plans pursuant to Article 5.21 (commencing with Section 14167.1).

(4) To pay funds from the Hospital Quality Assurance Revenue Fund pursuant to Section 14167.5 that would have been used for grant payments and that are retained by the state, and to make increased payments to hospitals, including grants, pursuant to Article 5.21 (commencing with Section 14167.1), both of which shall be of equal priority.

(5) To make increased payments to mental health plans pursuant to Article 5.21 (commencing with Section 14167.1).

(d) Any amounts of the quality assurance fee collected in excess of the funds required to implement subdivision (c), including any funds recovered under subdivision (d) of Section 14167.14 or subdivision (e) of Section 14167.36, shall be refunded to general acute care hospitals, pro rata with the amount of quality assurance fee paid by the hospital, subject to the limitations of federal law. If federal rules prohibit the refund described in this subdivision, the excess funds shall be deposited in the Distressed Hospital Fund to be used for the purposes described in Section 14166.23, and shall be supplemental to and not supplant existing funds.

(e) Any methodology or other provision specified in Article 5.21 (commencing with Section 14167.1) and this article may be modified by the department, in consultation with the hospital community, to the extent necessary to meet the requirements of federal law or regulations to obtain federal approval or to enhance the probability that federal approval can be obtained, provided the modifications do not violate the spirit and intent of Article 5.21 (commencing with Section 14167.1) or this article and are not inconsistent with the conditions of implementation set forth in Section 14167.36.

(f) The department, in consultation with the hospital community, shall make adjustments, as necessary, to the amounts calculated pursuant to Section 14167.32 in order to ensure compliance with the federal requirements set forth in Section 433.68 of Title 42 of the Code of Federal Regulations or elsewhere in federal law.

(g) The department shall request approval from the federal Centers for Medicare and Medicaid Services for the implementation of this article. In making this request, the department shall seek specific approval from the federal Centers for Medicare and Medicaid Services to exempt providers identified in this article as exempt from the fees specified, including the submission, as may be necessary, of a request for waiver of the broad based requirement, waiver of the uniform fee requirement, or both, pursuant to paragraphs (1) and (2) of subdivision (e) of Section 433.68 of Title 42 of the Code of Federal Regulations.

(h) (1) For purposes of this section, a modification pursuant to this section shall be implemented only if the modification, change, or adjustment does not do either of the following:

(A) Reduces or increases the supplemental payments or grants made under Article 5.21 (commencing with Section 14167.1) in the aggregate for the 2008–09, 2009–10, and 2010–11 federal fiscal years to a hospital by more than 2 percent of the amount that would be determined under this article without any change or adjustment.

(B) Reduces or increases the amount of the fee payable by a hospital in total under this article for the 2008–09, 2009–10, and 2010–11 federal fiscal years by more than 2 percent of the amount that would be determined under this article without any change or adjustment.

(2) The department shall provide the Joint Legislative Budget Committee and the fiscal and appropriate policy committees of the Legislature a status update of the implementation of Article 5.21 (commencing with Section 14167.1) and this article on January 1, 2010, and quarterly thereafter. Information on any adjustments or modifications to the provisions of this article or Article 5.21 (commencing with Section 14167.1) that may be required for federal approval shall be provided coincident with the consultation required under subdivisions (f) and (g).

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this article or Article 5.21 (commencing with Section 14167.1) by means of provider bulletins, all plan letters, or other similar instruction, without taking regulatory action. The department shall also provide notification to the Joint Legislative Budget Committee and to the appropriate policy and fiscal committees of the Legislature within five working days when the above-described action is taken in order to inform the Legislature that the action is being implemented.

(j) Notwithstanding any law, the Controller may use the funds in the Hospital Quality Assurance Revenue Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

SEC. 9. The sum of one thousand dollars (\$1,000) is hereby appropriated to the Controller from the General Fund for administrative costs associated with this act.

SEC. 10. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 11. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

SEC. 12. 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 protect the credit and fiscal health of the state, it is necessary that this act take effect immediately.