

## Senate Bill No. 1100

### CHAPTER 560

An act to add and repeal Article 5.2 (commencing with Section 14166) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to hospitals, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 2005. Filed with  
Secretary of State October 5, 2005.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1100, Perata. Hospital funding.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits, including hospital services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law authorizes the California Medical Assistance Commission to negotiate selective provider contracts with eligible hospitals to provide inpatient hospital services to Medi-Cal beneficiaries.

Existing law generally defines a disproportionate hospital as a hospital that has disproportionately higher costs, volume, or services related to the provision of services to Medi-Cal or other low-income patients than the statewide average. Under existing law, an eligible disproportionate share hospital may receive supplemental Medi-Cal reimbursement.

This bill would establish the Medi-Cal Hospital/Uninsured Care Demonstration Project Act that would revise hospital reimbursement methodologies in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals that provide care to Medi-Cal beneficiaries and uninsured patients. These provisions would have retroactive application to services rendered on and after July 1, 2005.

This bill would authorize the director, if certain conditions exist, to modify the processes and methodologies established under the demonstration project to achieve equitable distribution of demonstration project funding, and if equitable distribution cannot be achieved, as determined by the director after consulting with affected hospitals, to execute a declaration to that affect. The bill would provide that the demonstration project shall become inoperative on the date that the director executes the declaration and shall be repealed as of January 1 of the following year. Unless repealed as provided in that provision, the bill would provide that the demonstration project shall become inoperative on the date that the director executes a declaration, which shall be retained by the director and provided to the fiscal and appropriate policy committees

of the Legislature, stating that the federal demonstration project provided for in this bill has been terminated by the federal Centers for Medicare and Medicaid Services, in which case the provisions of the bill would be repealed 6 months after the date the declaration is executed.

This bill would appropriate to the department \$1,700,000 from the General Fund and \$1,700,000 from the Federal Trust Fund to fund staff positions to support the implementation of the demonstration project.

The bill would establish the following continuously appropriated funds to be expended by the department:

(1) The Demonstration Disproportionate Share Hospital Fund, that would consist of federal funds claimed and received by the department as federal financial participation with respect to certified public expenditures.

(2) The Health Care Support Fund, consisting of safety net care pool funds, as defined, claimed and received by the department.

(3) The Private Hospital Supplemental Fund, the Nondesignated Public Hospital Supplemental Fund, and the Distressed Hospital Fund, which would consist of moneys from various sources, to be used as the source of the nonfederal share of payments to private hospitals, as defined, nondesignated public hospitals, as defined, and distressed hospitals, as defined, respectively.

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

Appropriation: yes.

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

SECTION 1. Article 5.2 (commencing with Section 14166) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 5.2. Medi-Cal Hospital Care/Uninsured Hospital Care  
Demonstration Project Act

14166. (a) This article shall be known and may be cited as the “Medi-Cal Hospital/Uninsured Care Demonstration Project Act.”

(b) The Legislature finds and declares all of the following:

(1) The preservation of the state’s disproportionate share hospitals and the University of California hospitals is of critical importance to the health and welfare of the people of the state.

(2) These hospitals, as well as many nondisproportionate district hospitals, are facing unprecedented financial challenges. Many are facing significant budget deficits impeding their ability to continue serving their essential role in the health care delivery system, including providing care to Medi-Cal beneficiaries and uninsured patients.

(3) The financial viability of these hospitals has been sustained through funding that has been available for California’s disproportionate share

hospital program under Medi-Cal. Without these funds, many of these hospitals would be unable to keep their doors open and others would be forced to curtail services, thereby impacting service to Medi-Cal beneficiaries and other needy individuals.

(4) The federal Centers for Medicare and Medicaid Services has indicated in negotiations with the State Department of Health Services that it is changing its approach to federal funding of Medicaid in various respects. For instance, the methodology that many states, including California, have used to fund their disproportionate share hospital programs successfully for more than a decade has become the subject of negative attention by the federal Centers for Medicare and Medicaid Services, which is refusing to approve discretionary waivers and state plan amendments that rely on these funding methods. Accordingly, the State of California has proposed that the funding mechanism for inpatient hospital services under Medi-Cal be modified to secure federal approval and address continued and adequate funding to the University of California and disproportionate share hospitals. To this end, the state has negotiated a waiver from various federal Medicaid requirements that will allow it to implement a demonstration project using modified funding methodologies. The Medi-Cal Hospital/Uninsured Care Demonstration Project is intended to make up to \$3.3 billion in additional federal funds available to California safety net hospitals over a five-year period.

(5) The methodologies used to fund the Medi-Cal program should maximize the use of federal funds consistent with federal Medicaid law in an effort to access all of the increased federal funding available under the Medi-Cal Hospital/Uninsured Care Demonstration Project.

(6) The amount of Medi-Cal funding to the University of California hospitals and disproportionate share hospitals as a whole should not be less than the amount of funding for the 2004-05 fiscal year. Similarly, the amount of Medi-Cal funding for the public disproportionate share hospitals as a group and for the private disproportionate share hospitals as a group should not be less than the amount of funding for the 2004-05 fiscal year.

(7) The distributions of Medi-Cal funds should provide a predictable and stable amount of funding for these hospitals in order to allow them to engage in short-term and long-term planning. The distribution methodologies should be fair and equitable, and take into account utilization changes among hospitals.

(8) The payments of Medi-Cal funds to these hospitals should be made regularly and periodically throughout the year in order to provide hospitals with necessary cashflow.

14166.1. For purposes of this article, the following definitions shall apply:

(a) “Allowable costs” means those costs recognized as allowable under Medicare reasonable cost principles and additional costs recognized under the demonstration project, including those expenditures identified in Appendix D to the Special Terms and Conditions for the demonstration

project. Allowable costs under this subdivision shall be determined in accordance with the Special Terms and Conditions for the demonstration project and demonstration project implementation documents approved by the federal Centers for Medicare and Medicaid Services.

(b) “Base year private DSH hospital” means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of subdivision (a) of Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for the 2004-05 state fiscal year.

(c) “Demonstration project” means the Medi-Cal Hospital/Uninsured Care Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services.

(d) “Designated public hospital” means any one of the following 22 hospitals identified in Attachment C, “Government-operated Hospitals to be Reimbursed on a Certified Public Expenditure Basis,” to the Special Terms and Conditions for the demonstration project issued by the federal Centers for Medicare and Medicaid Services:

- (1) UC Davis Medical Center.
- (2) UC Irvine Medical Center.
- (3) UC San Diego Medical Center.
- (4) UC San Francisco Medical Center.
- (5) UC Los Angeles Medical Center, including Santa Monica/UCLA Medical Center.
- (6) LA County Harbor/UCLA Medical Center.
- (7) LA County Martin Luther King Jr. Charles R. Drew Medical Center.
- (8) LA County Olive View UCLA Medical Center.
- (9) LA County Rancho Los Amigos National Rehabilitation Center.
- (10) LA County University of Southern California Medical Center.
- (11) Alameda County Medical Center.
- (12) Arrowhead Regional Medical Center.
- (13) Contra Costa Regional Medical Center.
- (14) Kern Medical Center.
- (15) Natividad Medical Center.
- (16) Riverside County Regional Medical Center.
- (17) San Francisco General Hospital.
- (18) San Joaquin General Hospital.
- (19) San Mateo Medical Center.
- (20) Santa Clara Valley Medical Center.
- (21) Tuolumne General Hospital.
- (22) Ventura County Medical Center.

(e) “Federal medical assistance percentage” means the federal medical assistance percentage applicable for federal financial participation purposes for medical services under the Medi-Cal state plan pursuant to Section 1396b(a) of Title 42 of the United States Code.

(f) “Nondesignated public hospital” means a public hospital defined in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.

(g) “Project year” means the applicable state fiscal year of the Medi-Cal Hospital/Uninsured Care Demonstration Project.

(h) “Project year private DSH hospital” means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98, for the particular project year.

(i) “Prior supplemental funds” means the Emergency Services and Supplemental Payment Fund, the Medi-Cal Medical Education Supplemental Payment Fund, the Large Teaching Emphasis Hospital and Children’s Hospital Medi-Cal Medical Education Supplemental Payment Fund, and the Small and Rural Hospital Supplemental Payments Fund, established under Sections 14085.6, 14085.7, 14085.8, and 14085.9, respectively.

(j) “Private hospital” means a nonpublic hospital, nonpublic converted hospital, or converted hospital, as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.

(k) “Safety net care pool” means the federal funds available under the Medi-Cal Hospital/Uninsured Care Demonstration Project to ensure continued government support for the provision of health care services to uninsured populations.

(l) “Uninsured” shall have the same meaning as that term has in the Special Terms and Conditions issued by the federal Centers for Medicare and Medicaid Services for the demonstration project.

14166.2. (a) The demonstration project shall be implemented and administered pursuant to this article.

(b) The director may modify any process or methodology specified in this article to the extent necessary to comply with federal law or the terms of the demonstration project, but only if the modification results in the equitable distribution of funding, consistent with this article, among the hospitals affected by the modification. If the director, after consulting with affected hospitals, determines that an equitable distribution cannot be achieved, the director shall execute a declaration stating that this determination has been made. The director shall retain the declaration and provide a copy, within five working days of the execution of the declaration, to the fiscal and appropriate policy committees of the Legislature. This article shall become inoperative on the date that the director executes a declaration pursuant to this subdivision, and as of January 1 of the following year shall be repealed.

(c) The director shall administer the demonstration project and related Medi-Cal payment programs in a manner that attempts to maximize available payment of federal financial participation, consistent with federal law, the Special Terms and Conditions for the demonstration project

issued by the federal Centers for Medicare and Medicaid Services, and this article.

(d) As permitted by the federal Centers for Medicare and Medicaid Services, this article shall be effective with regard to services rendered throughout the term of the demonstration project, and retroactively, with regard to services rendered on or after July 1, 2005, but prior to the implementation of the demonstration project.

(e) In the administration of this article, the state shall continue to make payments to hospitals that meet the eligibility requirements for participation in the supplemental reimbursement program for hospital facility construction, renovation, or replacement pursuant to Section 14085.5 and shall continue to make inpatient hospital payments not covered by the contract. These payments shall not duplicate any other payments made under this article.

(f) The department shall continue to operate the selective provider contracting program in accordance with Article 2.6 (commencing with Section 14081) in a manner consistent with this article. A designated public hospital participating in the certified public expenditure process shall maintain a selective provider contracting program contract. These contracts shall continue to be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In the event of a final judicial determination made by any state or federal court that is not appealed in any action by any party or a final determination by the administrator of the Centers for Medicare and Medicaid Services that federal financial participation is not available with respect to any payment made under any of the methodologies implemented pursuant to this article because the methodology is invalid, unlawful, or is contrary to any provision of federal law or regulation, the director may modify the process or methodology to comply with law, but only if the modification results in the equitable distribution of demonstration project funding, consistent with this article, among the hospitals affected by the modification. If the director, after consulting with affected hospitals, determines that an equitable distribution cannot be achieved, the director shall execute a declaration stating that this determination has been made. The director shall retain the declaration and provide a copy, within five working days of the execution of the declaration, to the fiscal and appropriate policy committees of the Legislature. This article shall become inoperative on the date that the director executes a declaration pursuant to this subdivision, and as of January 1 of the following year shall be repealed.

(h) (1) The department may adopt regulations to implement this article. These regulations may initially be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For purposes of this article, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and

safety or general welfare. Any emergency regulations adopted pursuant to this section shall not remain in effect subsequent to 24 months after the effective date of this article.

(2) As an alternative, and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other provision of law, the department may implement and administer this article by means of provider bulletins, manuals, or other similar instructions, without taking regulatory action. The department shall notify the fiscal and appropriate policy committees of the Legislature of its intent to issue a provider bulletin, manual, or other similar instruction, at least five days prior to issuance. In addition, the department shall provide a copy of any provider bulletin, manual, or other similar instruction issued under this paragraph to the fiscal and appropriate policy committees of the Legislature. The department shall consult with interested parties and appropriate stakeholders, regarding the implementation and ongoing administration of this article.

(i) To the extent necessary to implement this article, the department shall submit, by September 30, 2005, to the federal Centers for Medicare and Medicaid Services proposed amendments to the Medi-Cal state plan, including, but not limited to, proposals to modify inpatient hospital payments to designated public hospitals, modify the disproportionate share hospital payment program, and provide for supplemental Medi-Cal reimbursement for certain physician and nonphysician professional services. The department shall, subsequent to September 30, 2005, submit any additional proposed amendments to the Medi-Cal state plan that may be required by the federal Centers for Medicare and Medicaid Services, to the extent necessary to implement this article.

(j) Each designated public hospital shall implement a comprehensive process to offer individuals who receive services at the hospital the opportunity to apply for the Medi-Cal program, the Healthy Families Program, or any other public health coverage program for which the individual may be eligible, and shall refer the individual to those programs, as appropriate.

(k) In any judicial challenge of the provisions of this article, nothing shall create an obligation on the part of the state to fund any payment from state funds due to the absence or shortfall of federal funding.

14166.3. (a) During the demonstration project term, payment adjustments to disproportionate share hospitals shall not be made pursuant to Section 14105.98. Payment adjustments to disproportionate share hospitals shall be made solely in accordance with this article.

(b) Except as otherwise provided in this article, the department shall continue to make all eligibility determinations and perform all payment adjustment amount computations under the disproportionate share hospital payment adjustment program pursuant to Section 14105.98 and pursuant to the disproportionate share hospital provisions of the Medicaid state plan in effect as of the 2004-05 state fiscal year.

(c) (1) Notwithstanding Section 14105.98, the federal disproportionate share hospital allotment specified for California under Section 1396r-4(f) of Title 42 of the United States Code for each of federal fiscal years 2006 to 2010, inclusive, shall be distributed solely among the following hospitals:

(A) Eligible hospitals, as determined pursuant to Section 14105.98 for each project year in which the particular federal fiscal year commences, which meet the definition of a public hospital as specified in paragraph (25) of subdivision (a) of Section 14105.98.

(B) Hospitals that are licensed to the University of California, which meet the requirements set forth in Section 1396r-4(d) of Title 42 of the United States Code.

(2) The federal disproportionate share hospital allotment for each of the federal fiscal years 2006 to 2010, inclusive, shall be aligned with the project year in which the applicable federal fiscal year commences. The payment adjustment year, as used within the meaning of paragraph (6) of subdivision (a) of Section 14105.98, shall be the corresponding project year.

(3) Uncompensated Medi-Cal and uninsured costs as reported pursuant to Section 14166.8, shall be used by the department as the basis for determining the hospital-specific disproportionate share hospital payment limits required by Section 1396r-4(g) of Title 42 of the United States Code for the hospitals described in paragraph (1).

(4) The distribution of the federal disproportionate share hospital allotment to hospitals described in paragraph (1) shall satisfy the state's payment obligations, if any, with respect to those hospitals under Section 1396r-4 of Title 42 of the United States Code.

(d) Eligible hospitals, as determined pursuant to Section 14105.98 for each project year, which are nonpublic hospitals, nonpublic-converted hospitals, and converted hospitals, as those terms are defined in paragraphs (26), (27) and (28), respectively, of subdivision (a) of Section 14105.98, shall receive Medi-Cal disproportionate share hospital replacement payment adjustments pursuant to Section 14166.11. The payment adjustments so provided shall satisfy the state's payment obligations, if any, with respect to those hospitals under Section 1396r-4 of Title 42 of the United States Code. The federal share of these payments shall not be claimed from the federal disproportionate share hospital allotment described in subdivision (c).

(e) The nonfederal share of payments described in subdivisions (c) and (d) shall be derived from the following sources:

(1) With respect to the payments described in paragraph (1) of subdivision (c) that are made to designated public hospitals, the nonfederal share shall consist of certified public expenditures described in subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 14166.9, and intergovernmental transfer amounts described in paragraph (2) of subdivision (d) of Section 14166.6.

(2) With respect to the payments described in paragraph (1) of subdivision (c) that are made to nondesignated public hospitals, the nonfederal share shall consist solely of state General Fund appropriations.

(3) With respect to the payments described in subdivision (d), the nonfederal share shall consist of state General Fund appropriations.

(f) (1) During the term of the demonstration project, for the 2005-06 state fiscal year and any subsequent state fiscal years, no public entity shall be obligated to make any intergovernmental transfer pursuant to Section 14163, and all transfer amount determinations for those state fiscal years shall be suspended. However, during the demonstration project term, intergovernmental transfers shall be made with respect to the disproportionate share hospital payment adjustments made in accordance with paragraph (2) of subdivision (d) of Section 14166.6.

(2) During the term of the demonstration project, for the 2005-06 state fiscal year and any subsequent state fiscal years, transfer amounts from the Medi-Cal Inpatient Payment Adjustment Fund to the Health Care Deposit Fund, as provided for pursuant to paragraph (2) of subdivision (d) of Section 14163, are hereby reduced to zero. Unless otherwise specified in this article, this paragraph shall be disregarded for purposes of the calculations made under Section 14105.98 during the demonstration project.

14166.35. (a) For each project year, designated public hospitals shall be eligible to receive the following:

(1) Payments for Medi-Cal inpatient hospital services and supplemental payments for physician and nonphysician practitioner services, as specified in Section 14166.4.

(2) Disproportionate share hospital payment adjustments, as specified in Section 14166.6.

(3) Safety net care pool funding, as specified in Section 14166.7.

(4) Stabilization funding, as specified in Section 14166.75.

(5) Grants to distressed hospitals as negotiated by the California Medical Assistance Commission pursuant to Section 14199.23.

(b) Payments under this section shall be in addition to other payments that may be made in accordance with law.

14166.4. (a) Notwithstanding Article 2.6 (commencing with Section 14081), and any other provision of law, fee-for-service payments to the designated public hospitals for inpatient services to Medi-Cal beneficiaries shall be governed by this section. Each of the designated public hospitals shall receive as payment for inpatient hospital services provided to Medi-Cal beneficiaries during any project year, the hospital's allowable costs incurred in providing those services, multiplied by the federal medical assistance percentage. These costs shall be determined, certified, and claimed in accordance with Sections 14166.8 and 14166.9. All Medicaid federal financial participation received by the state for the certified public expenditures of the hospital, or the governmental entity with which the hospital is affiliated, for inpatient hospital services rendered to Medi-Cal beneficiaries shall be paid to the hospital.

(b) With respect to each project year, each of the designated public hospitals shall receive an interim payment for each day of inpatient hospital services rendered to Medi-Cal beneficiaries based upon claims filed by the hospital in accordance with the claiming process set forth in Division 3 (commencing with Section 50000) of Title 22 of the California Code of Regulations. The interim per diem payment amount shall be based on estimated costs, which shall be derived from statistical data from the following sources and which shall be multiplied by the federal medical assistance percentage:

(1) For allowable costs reflected in the Medicare cost report, the cost report most recently audited by the hospital's Medicare fiscal intermediary adjusted by a trend factor to reflect increased costs, as approved by the federal Centers for Medicare and Medicaid Services for the demonstration project.

(2) For allowable costs not reflected in the Medicare cost report, each hospital shall provide hospital-specific cost data requested by the department. The department shall adjust the data by a trend factor as necessary to reflect project year allowable costs.

(c) Until the department commences making payments pursuant to subdivision (b), the department may continue to make fee-for-service, per diem payments to the designated public hospitals, pursuant to the selective provider contracting program in accordance with Article 2.6 (commencing with Section 14081), for services rendered on and after July 1, 2005, for a period of 120 days following the award of this demonstration. Per diem payments shall be adjusted retroactively to the amounts determined under the payment methodology prescribed in this article.

(d) No later than April 1 following the end of the project year, the department shall undertake an interim reconciliation of payments made pursuant to subdivisions (a) to (c), inclusive, based on Medicare and other cost and statistical data submitted by the hospital for the project year and shall adjust payments to the hospital accordingly.

(e) (1) The designated public hospitals shall receive supplemental reimbursement for the costs incurred for physician and nonphysician practitioner services provided to Medi-Cal beneficiaries who are patients of the hospital, to the extent that those services are not claimed as inpatient hospital services under the hospital's Medi-Cal provider number and the costs of those services are not otherwise recognized under subdivision (a).

(2) Expenditures made by the designated public hospital, or a governmental entity with which it is affiliated, for the services identified in paragraph (1) shall be reduced by any payments received pursuant to Article 7 (commencing with Section 51501) of Title 22 of the California Code of Regulations. The remainder shall be certified by the appropriate public official and claimed by the department in accordance with Sections 14166.8 and 14166.9. These expenditures may include any of the following:

(A) Compensation to physicians or nonphysician practitioners pursuant to contracts with the designated public hospital.

(B) Salaries and related costs for employed physicians and nonphysician practitioners.

(C) The costs of interns, residents, and related teaching physician and supervision costs.

(D) Administrative costs associated with the services described in subparagraphs (A) to (C), inclusive, including billing costs.

(3) Designated public hospitals shall receive federal funding based on the expenditures identified and certified in paragraph (2). All federal financial participation received by the department for the certified public expenditures identified in paragraph (2) shall be paid to the designated public hospital, or a governmental entity with which it is affiliated.

(4) To the extent that the supplemental reimbursement received under this subdivision relates to services provided to hospital inpatients, the reimbursement shall be applied in determining whether the designated public hospital has received full baseline payments for purposes of paragraph (1) of subdivision (b) of Section 14166.21.

(5) Supplemental reimbursement under this subdivision may be distributed as part of the interim payments under subdivision (b), on a per-visit basis, on a per-procedure basis, or on any other federally permissible basis.

(6) The department shall submit for federal approval, by September 30, 2005, a proposed amendment to the Medi-Cal state plan to implement this subdivision, retroactive to July 1, 2005, to the extent permitted by the federal Centers for Medicare and Medicaid Services. If necessary to obtain federal approval, the department may limit the application of this subdivision to costs determined allowable by the federal Centers for Medicare and Medicaid Services. If federal approval is not obtained, this subdivision shall not be implemented.

14166.5. (a) With respect to each project year, the director shall determine a baseline funding amount for each designated public hospital. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004-05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081).

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(5) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The baseline funding amount for each designated public hospital shall reflect a reduction for the total amount of intergovernmental transfers made pursuant to Sections 14085.6, 14085.7, 14085.8, 14085.9, and 14163 for the 2004-05 state fiscal year by the designated public hospital, or the governmental entity with which it is affiliated.

(c) With respect to each project year beginning after the 2005-06 project year, the department shall determine an adjusted baseline funding amount for each designated public hospital to reflect any increase or decrease in volume. The adjustment for designated public hospitals shall be calculated as follows:

(1) Applying the cost-finding methodology approved under the demonstration project, and applying accounting and reporting practices consistent with those applied in paragraph (2), the department shall determine the total allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, in rendering hospital services that would be recognized under the demonstration project to Medi-Cal beneficiaries and the uninsured during the 2004-05 state fiscal year.

(2) Applying the cost-finding methodology approved under the demonstration project, and applying accounting and reporting practices consistent with those applied in paragraph (1), the department shall determine the total allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, in rendering hospital services under the demonstration project to Medi-Cal beneficiaries and the uninsured during the state fiscal year preceding the project year for which the volume adjustment is being calculated.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage determined in subparagraph (B) to that amount that results from the hospital's baseline funding amount determined under subdivision (a) as adjusted by subdivision (b) minus the amount of disproportionate share hospital payments in paragraph (4) of subdivision (a).

(4) The designated public hospital's adjusted baseline for the project year is the amount determined for the hospital in subdivision (a) as adjusted by subdivision (b), plus the amount in subparagraph (C) of paragraph (3).

(5) Notwithstanding paragraphs (3) and (4), when, as determined by the department, in consultation with the designated public hospital, there has been a material reduction in patient services at the designated public hospital during the project year, and the reduction has resulted in a diminution of access for Medi-Cal and uninsured patients and a related reduction in total costs at the designated public hospital of at least 20 percent, the department may utilize current or adjusted data that are

reflective of the diminution of access, even if the data are not annual data, to determine the hospital's adjusted baseline amount.

(d) The aggregate designated public hospital baseline funding amount for each project year shall be the sum of all baseline funding amounts determined under subdivisions (a) and (b), as adjusted in subdivision (c), as appropriate, for all designated public hospitals.

(e) (1) The adjustments set forth in subdivision (c) of Section 14166.13 and in subdivision (c) shall not apply if either of the following conditions exist:

(A) The difference between the percentage adjustment in subparagraph (B) of paragraph (3) of subdivision (c) of this section, computed in the aggregate for designated public hospitals, and subparagraph (B) of paragraph (3) of subdivision (c) of Section 14166.13 is greater than 3 percentage points.

(B) The stabilization funding amount from the Health Care Support Fund, established pursuant to Section 14166.21, as determined in Section 14166.20 for any project year is less than one hundred fifty-three million dollars (\$153,000,000).

(2) Notwithstanding paragraph (1), the department may apply the adjustments set forth in paragraph (5) of subdivision (c).

14166.6. (a) For the 2005-06 project year and subsequent project years, each designated public hospital described in subdivision (c) of Section 14166.3 shall be eligible to receive an allocation of federal Medicaid funding from the applicable federal disproportionate share hospital allotment pursuant to this section. The department shall establish the allocations in a manner that maximizes federal Medicaid funding to the state during the term of the demonstration project, and shall consider, at a minimum, all of the following factors, taking into account all other payments to each hospital under this article:

(1) The optimal use of intergovernmental transfer-funded payments described in subdivision (d).

(2) Each hospital's pro rata share of the applicable aggregate designated public hospital baseline funding amount described in subdivision (d) of Section 14166.5.

(3) That the allocation under this section, in combination with the federal share of certified public expenditures for Medicaid inpatient hospital services for the project year determined under subdivision (a) of Section 14166.4, any supplemental reimbursement for professional services rendered to hospital inpatients determined for the project year under subdivision (e) of Section 14166.4, and the distribution of safety net care pool funds from the Health Care Support Fund determined under subdivision (a) of Section 14166.7, shall not exceed the baseline funding amount or adjusted baseline funding amount, as appropriate, for the hospital.

(4) Minimizing the need to redistribute federal funds that are based on the certified public expenditures of designated public hospitals as described in subdivision (c).

(b) Each designated public hospital shall receive its allocation of federal disproportionate share hospital payments in one or both of the following forms:

(1) Distributions from the Demonstration Disproportionate Share Hospital Fund established pursuant to subdivision (d) of Section 14166.9, consisting of federal funds claimed and received by the department, pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 14166.9 based on designated public hospitals' certified public expenditures up to 100 percent of uncompensated Medi-Cal and uninsured costs.

(2) Intergovernmental transfer-funded payments, as described in subdivision (d). For purposes of determining whether the hospital has received its allocation of federal disproportionate share hospital payments established under this section, only the federal share of intergovernmental transfer-funded payments shall be considered.

(c) The distributions described in paragraph (1) of subdivision (b) may be made to a designated public hospital independent of the amount of uncompensated Medi-Cal and uninsured costs certified as public expenditures by that hospital pursuant to Section 14166.8, provided that, in accordance with the Special Terms and Conditions for the demonstration project, the recipient hospital does not return any portion of the funds received to any unit of government, excluding amounts recovered by the state or federal government.

(d) Designated public hospitals that meet the requirement of Section 1396r-4(b)(1)(A) of Title 42 of the United States Code regarding the Medicaid inpatient utilization rate or Section 1396r-4(b)(1)(B) of Title 42 of the United States Code regarding the low-income utilization rate, may receive intergovernmental transfer-funded disproportionate share hospital payments as follows:

(1) The department shall establish the amount of the hospital's intergovernmental transfer-funded disproportionate share hospital payment. The total amount of that payment, consisting of the federal and nonfederal components, shall in no case exceed that amount equal to 75 percent of the hospital's uncompensated Medi-Cal and uninsured costs of hospital services, determined in accordance with the Special Terms and Conditions for the demonstration project.

(2) A transfer amount shall be determined for each hospital that is subject to this subdivision, equal to the nonfederal share of the payment amount established for the hospital pursuant to paragraph (1). The transfer amount so determined shall be paid by the hospital, or the public entity with which the hospital is affiliated, and deposited into the Medi-Cal Inpatient Payment Adjustment Fund established pursuant to subdivision (b) of Section 14163. The sources of funds utilized for the transfer amount shall not include impermissible provider taxes or donations as defined under Section 1396b(w) of Title 42 of the United States Code or other federal funds. For this purpose, federal funds do not include patient care

revenue received as payment for services rendered under programs such as Medicare or Medicaid.

(3) The department shall pay the amounts established pursuant to paragraph (1) to each hospital using the transfer amounts deposited pursuant to paragraph (2) as the nonfederal share of those payments. The total intergovernmental transfer-funded payment amount, consisting of the federal and nonfederal share, paid to a hospital shall be retained by the hospital in accordance with the Special Terms and Conditions for the demonstration project.

(e) The total federal disproportionate share hospital funds allocated under this section to designated public hospitals with respect to each project year, in combination with the federal share of disproportionate share hospital payment adjustments made to nondesignated public hospitals pursuant to Section 14166.16 for the same project year, shall not exceed the applicable federal disproportionate share hospital allotment.

(f) Each designated public hospital shall receive quarterly interim payments of its disproportionate share hospital allocation during the project year. The determinations set forth in subdivisions (a) to (e), inclusive, shall be made on an interim basis prior to the start of each project year, except that, with respect to the 2005-06 project year, the interim determinations shall be made prior to January 1, 2006. The department shall use the same cost and statistical data used in determining the interim payments for Medi-Cal inpatient hospital services under Section 14166.4, and available payments and uncompensated and uninsured cost data, including data from the Medi-Cal paid claims file and the hospital's books and records, for the corresponding period.

(g) No later than April 1 following the end of the project year, the department shall undertake an interim reconciliation of payments based on Medicare and other cost, payment, and statistical data submitted by the hospital for the project year, and shall adjust payments to the hospital accordingly.

(h) Each designated public hospital shall receive its disproportionate share hospital allocation, as computed pursuant to subdivisions (a) to (e), inclusive, subject to final audits of all applicable Medicare and other cost, payment, and statistical data for the project year.

14166.7. (a) (1) With respect to each project year, designated public hospitals, or governmental entities with which they are affiliated, shall be eligible to receive safety net care pool payments from the Health Care Support Fund established pursuant to Section 14166.21. The total amount of these payments, in combination with the federal share of certified public expenditures for Medicaid inpatient hospital services determined for the project year under subdivision (a) of Section 14166.4, any supplemental reimbursement for physician and nonphysician practitioner services rendered to hospital inpatients determined for the project year under subdivision (e) of Section 14166.4, and the federal disproportionate share hospital allocation determined under Section 14166.6, shall not exceed the

hospital's baseline funding amount or adjusted baseline funding amount, as appropriate.

(2) The department shall establish the amount of the safety net care pool payment described in paragraph (1) for each designated public hospital in a manner that maximizes federal Medicaid funding to the state during the term of the demonstration project.

(3) A safety net care pool payment amount may be paid to a designated public hospital, or governmental entity with which it is affiliated, pursuant to this section independent of the amount of uncompensated Medi-Cal and uninsured costs that is certified as public expenditures pursuant to Section 14166.8, provided that, in accordance with the Special Terms and Conditions for the demonstration project, the recipient hospital does not return any portion of the funds received to any unit of government, excluding amounts recovered by the state or federal government.

(4) In establishing the amount to be paid to each designated public hospital under this subdivision, the department shall minimize to the extent possible the redistribution of federal funds that are based on certified public expenditures as described in paragraph (3).

(b) Each designated public hospital, or governmental entity with which it is affiliated, shall receive the amount established pursuant to subdivision (a) in quarterly interim payments during the project year. The determination of the interim payments shall be made on an interim basis prior to the start of each project year, except that, with respect to the 2005-06 project year, the determination of the interim payments shall be made prior to January 1, 2006. The department shall use the same cost and statistical data that is used in determining the interim payments for Medi-Cal inpatient hospital services under Section 14166.4 and for the disproportionate share hospital allocations under Section 14166.6, for the corresponding period.

(c) (1) No later than April 1 following the end of the project year, the department shall undertake an interim reconciliation of the payment amount established pursuant to subdivision (a) for each designated public hospital using Medicare and other cost, payment, and statistical data submitted by the hospital for the project year, and shall adjust payments to the hospital accordingly.

(2) The final payment to a designated public hospital for purposes of subdivision (b) and paragraph (1) of this subdivision, shall be subject to final audits of all applicable Medicare and other cost, payment, and statistical data for the project year, and the distribution priorities set forth in Section 14166.20.

(d) (1) Each designated public hospital, or governmental entity with which it is affiliated, shall be eligible to receive additional safety net care pool payments above the baseline funding amount or adjusted baseline funding amount, as appropriate, from the Health Care Support Fund, established pursuant to Section 14166.21, for the project year in accordance with the stabilization funding determination for the hospital made pursuant to Section 14166.75.

(2) Payment of the additional safety net care pool amounts shall be subject to the distribution priorities set forth in Section 14166.21.

14166.75. (a) For services provided during the 2005-06 project year, the amount allocated to designated public hospitals pursuant to subparagraph (A) of paragraph (2) and subparagraph (A) of paragraph (5) of subdivision (b) of Section 14166.20 shall be allocated, in accordance with this section, among the designated public hospitals and paid as direct grants, which shall not constitute Medi-Cal payments.

(b) The baseline funding amount, as determined under Section 14166.5, for San Mateo Medical Center shall be increased by eight million dollars (\$8,000,000) for purposes of this section.

(c) The following payments shall be made from the amount identified in subdivision (a), in addition to any other payments due to the University of California hospitals and health system and County of Los Angeles hospitals under this section:

(1) The lower of eleven million dollars (\$11,000,000) or 3.67 percent of the amount identified in subdivision (a) to the University of California hospitals and health system.

(2) In the event that the one hundred eighty million dollars (\$180,000,000) identified in paragraph 41 of the Special Terms and Conditions for the demonstration project is available in the safety net care pool for the project year, the lower of twenty-three million (\$23,000,000) or 7.67 percent of the amount identified in subdivision (a) to the County of Los Angeles, Department of Health Services, hospitals. If an amount less than the one hundred eighty million dollars (\$180,000,000) is available during the project year, the amount determined under this paragraph shall be reduced proportionately.

(d) The amount identified in subdivision (a), as reduced by the amounts identified in subdivision (c), shall be distributed among the designated public hospitals as follows:

(1) Designated public hospitals that are donor hospitals, and their associated donated certified public expenditures, shall be identified as follows:

(A) An initial pro rata allocation of the amount subject to this subdivision shall be made to each designated public hospital, based upon the hospital's baseline funding amount determined pursuant to Section 14166.5, and as further adjusted in subdivision (b). This initial allocation shall be used for purposes of the calculations under subparagraph (C) and paragraph (3).

(B) The federal financial participation amount arising from the certified public expenditures of each designated public hospital, including the expenditures of the governmental entity, nonhospital clinics, and other provider types to which it is affiliated, that were claimed by the department from the federal disproportionate share hospital allotment pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 14166.9, and from the safety net care pool funds pursuant to paragraph (3) of subdivision (a) of Section 14166.9, shall be determined.

(C) The amount of federal financial participation received by each designated public hospital, and by the governmental entity, nonhospital clinics, and other provider types to which it is affiliated, based on certified public expenditures from the federal disproportionate share hospital allotment pursuant to paragraph (1) of subdivision (b) of Section 14166.6, and from the safety net care pool payments pursuant to subdivision (a) of Section 14166.7 shall be identified. The resulting amount shall be increased by amounts distributed to the hospital pursuant to subdivision (c) of this section, paragraph (1) of subdivision (b) of Section 14166.20, and the initial allocation determined for the hospitals in subparagraph (A).

(D) If the amount in subparagraph (B) is greater than the amount determined in subparagraph (C), the hospital is a donor hospital, and the difference between the two amounts is deemed to be that donor hospital's associated donated certified public expenditures amount.

(2) Seventy percent of the total amount subject to this subdivision shall be allocated pro rata among the designated public hospitals based upon each hospital's baseline funding amount determined pursuant to Section 14166.5, and as further adjusted in subdivision (b).

(3) The lesser of the remaining 30 percent of the total amount subject to this subdivision or the total amounts of donated certified public expenditures for all donor hospitals, shall be distributed pro rata among the donor hospitals based upon the donated certified public expenditures amount determined for each donor hospital. Any amounts not distributed pursuant to this paragraph shall be distributed in accordance with paragraph (2).

(e) The department shall consult with designated public hospital representatives regarding the appropriate distribution of stabilization funding before stabilization funds are allocated and paid to hospitals. No later than 30 days after this consultation, the department shall issue a final allocation of stabilization funding under this section that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

14166.8. (a) Within five months after the end of each project year, each of the designated public hospitals shall submit to the department all of the following reports:

(1) The hospital's Medicare cost report for the project year.

(2) Other cost reporting and statistical data necessary for the determination of amounts due the hospital under the demonstration project, as requested by the department.

(b) For each project year, the reports shall identify all of the following:

(1) The costs incurred in providing inpatient hospital services to Medi-Cal beneficiaries on a fee-for-service basis and physician and nonphysician practitioner services costs, as identified in subdivision (e) of Section 14166.4.

(2) The amount of uncompensated costs incurred in providing hospital services to Medi-Cal beneficiaries, including managed care enrollees.

(3) The costs incurred in providing hospital services to uninsured individuals.

(c) Each designated public hospital, or governmental entity with which it is affiliated, that operates nonhospital clinics or provides physician, nonphysician practitioner, or other health care services that are not identified as hospital services under the Special Terms and Conditions for the demonstration project, may report and certify all, or a portion, of the uncompensated Medi-Cal and uninsured costs of the services furnished. The amount of these uncompensated costs to be claimed by the department shall be determined by the department in consultation with the governmental entity so as to optimize the level of claimable federal Medicaid funding.

(d) Reports submitted under this section shall include all allowable costs.

(e) The appropriate public official shall certify to all of the following:

(1) The accuracy of the reports required under this section.

(2) That the expenditures to meet the reported costs comply with Section 433.51 of Title 42 of the Code of Federal Regulations.

(3) That the sources of funds used to make the expenditures certified under this section do not include impermissible provider taxes or donations as defined under Section 1396b(w) of Title 42 of the United States Code or other federal funds. For this purpose, federal funds do not include patient care revenue received as payment for services rendered under programs such as Medicare or Medicaid.

(f) The certification of public expenditures made pursuant to this section shall be based on a schedule established by the department. The director may require the designated public hospitals to submit quarterly estimates of anticipated expenditures, if these estimates are necessary to obtain interim payments of federal Medicaid funds. All reported expenditures shall be subject to reconciliation to allowable costs, as determined in accordance with applicable demonstration project implementing documents.

(g) Except as provided in subdivision (c), the director shall seek Medicaid federal financial participation for all certified public expenditures recognized under the demonstration project and reported by the designated public hospitals, to the extent consistent with Section 14166.9.

(h) Governmental or public entities other than those that operate a designated public hospital may, at the request of a governmental or public entity, certify uncompensated Medi-Cal and uninsured costs in accordance with this section, subject to the department's discretion and prior approval of the federal Centers for Medicare and Medicaid Services.

14166.9. (a) The department, in consultation with the designated public hospitals, shall determine the mix of sources of federal funds for payments to the designated public hospitals in a manner that provides baseline funding to hospitals and maximizes federal Medicaid funding to

the state during the term of the demonstration project. Federal funds shall be claimed according to the following priorities:

(1) The certified public expenditures of the designated public hospitals for inpatient hospital services and physician and nonphysician practitioner services, as identified in subdivision (e) of Section 14166.4, rendered to Medi-Cal beneficiaries.

(2) Federal disproportionate share hospital allotment, subject to the federal-hospital specific limit, in the following order:

(A) Those hospital expenditures that are eligible for federal financial participation only from the federal disproportionate share hospital allotment.

(B) Payments funded with intergovernmental transfers, consistent with the requirements of the demonstration project, up to the hospital's baseline funding amount or adjusted baseline funding amount, as appropriate, for the project year.

(C) Any other certified public expenditures for hospital services that are eligible for federal financial participation from the federal disproportionate share hospital allotment.

(3) Safety net care pool funds, using the optimal combination of hospital certified public expenditures and certified public expenditures of a hospital that operates nonhospital clinics or provides physician, nonphysician practitioner, or other health care services that are identified as hospital services under the Special Terms and Conditions for the demonstration project.

(4) Health care expenditures of the state that represent alternate state funding mechanisms approved by the federal Centers for Medicare and Medicaid Services under the demonstration project as set forth in Section 14166.22.

(b) The department shall implement these priorities, to the extent possible, in a manner that minimizes the redistribution of federal funds that are based on the certified public expenditures of the designated public hospitals.

(c) The department may adjust the claiming priorities to the extent that these adjustments result in additional federal Medicaid funding during the term of the demonstration project or facilitate the objectives of subdivision (b).

(d) There is hereby established in the State Treasury the "Demonstration Disproportionate Share Hospital Fund," consisting of all federal funds received by the department with respect to the certified public expenditures claimed pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a). Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department solely for the purposes specified in Section 14166.6.

(e) All federal safety net care pool funds claimed and received by the department based on health care expenditures incurred by the designated public hospitals, or the governmental entities with which they are

affiliated, shall be deposited in the Health Care Support Fund, established pursuant to Section 14166.21.

14166.10. (a) Payments to private hospitals under the demonstration project shall include, as applicable, all of the following:

(1) Payments under selective provider contracts with the department negotiated by the California Medical Assistance Commission in accordance with Article 2.6 (commencing with Section 14081).

(2) Disproportionate share replacement payments under Section 14166.11.

(3) Supplemental payments under Section 14166.12.

(4) Payments to distressed hospitals as negotiated by the California Medical Assistance Commission pursuant to Section 14166.23.

(b) Payments under subdivision (a) shall be in addition to other payments that may be made in accordance with law.

14166.11. (a) The department shall pay to each project year private DSH hospital the amounts that would have been paid under the disproportionate share hospital program using the formulas and methodology in effect for the 2004-05 fiscal year as more specifically set forth in this section.

(b) For each project year, the department shall develop and issue a tentative and final disproportionate share list in accordance with Section 14105.98.

(c) For each project year, the department shall perform the computations set forth in paragraphs (1) to (4), inclusive, and (6) to (8), inclusive, of subdivision (am) and paragraphs (1) to (3), inclusive, of subdivision (an) of Section 14105.98, subject to the following:

(1) For purposes of these computations, the maximum state disproportionate share hospital allotment for California for each project year shall be the allotment effective during the federal fiscal year beginning during the project year.

(2) All references to October 1 shall be deemed to be references to July 1.

(3) Notwithstanding any other provision of law, the transfer amounts for the Medi-Cal Inpatient Payment Adjustment Fund to the Health Care Deposit Fund, as provided for pursuant to paragraph (2) of subdivision (d) of Section 14163 shall be deemed to be eighty-five million dollars (\$85,000,000) for purposes of the computations under this subdivision.

(4) Notwithstanding any other provision of law, the payments made under this section shall be treated as payment adjustments made under Section 14105.98 for purposes of computing the OBRA 1993 payment limitation, as defined in paragraph (24) of subdivision (a) of Section 14105.98, the low-income utilization rate, and all related computations.

(5) Subdivision (m) of Section 14105.98 shall apply to payments made under this section.

(d) Interim payments shall be made for the first five months of each project year as follows:

(1) Interim payments shall be made to each private hospital identified on a tentative disproportionate share list for the project year that was also on the final disproportionate share list for the prior fiscal year. The interim payment amount per month for each of these hospitals shall equal one-twelfth of the total payments, excluding stabilization funds, made to the hospital for the prior fiscal year under this section or under Section 14105.98. The interim payment amount may be adjusted to reflect any changes in the total payment amounts, excluding stabilization funds, projected to be made under this section for the project year.

(2) The computation of interim payments described in this subdivision shall be made promptly after the department issues the tentative disproportionate share hospital list for the project year.

(3) The first interim payment for a project year shall be made to each hospital no later than 60 days after the issuance of the tentative disproportionate share hospital list for that project year and shall include the interim payment amounts for all prior months in the project year. Subsequent interim payments for a project year shall be made on the last checkwrite of each month made by the Controller until interim payments for the first five months of the project year have been made.

(4) The department may recover any interim payments for a project year made under this subdivision to a hospital that is not on the final disproportionate share hospital list for that project year. These interim payments shall be considered an overpayment. The department shall issue a demand for repayment to a hospital at least 30 days prior to taking action to recover the overpayment. After the 30-day period, the department may recover the overpayment using any of the methods set forth in Section 14115.5 or subdivision (c) of Section 14172.5. Any offset shall be subject to Section 14115.5 or subdivision (d) of Section 14172.5. No other provision of Section 14172.5 shall be applicable with respect to the recovery of overpayments under this subdivision. A hospital may appeal the department's determination of an overpayment under this subdivision pursuant to the appeal procedures set forth in Sections 51016 to 51047, inclusive, of Title 22 of the California Code of Regulations, and seek judicial review of the final administrative decision pursuant to Section 14171, provided that the only issues that may be raised in this appeal are whether the hospital, but for inadvertent error by the department, was on the final disproportionate share list for the project year and whether the department's computation of the overpayment amount is correct. If the hospital is reinstated on the final disproportionate share list pursuant to Section 14105.98, the department shall promptly refund any amount recovered under this paragraph.

(e) Tentative adjusted monthly payments shall be made for the months of December through March of each project year to each private hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An adjusted payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital

computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department, plus any applicable interim estimated stabilization funding pursuant to subdivision (b) of Section 14166.14.

(2) A tentative adjusted monthly payment amount shall be computed for each hospital equal to the adjusted payment amount for the hospital, minus the aggregate interim payments made to the hospital for the project year, divided by seven.

(3) The computation of tentative adjusted monthly payments described in this subdivision shall be made promptly after the department issues the final disproportionate share hospital list for the project year.

(4) The first tentative adjusted monthly payment for a project year shall be made to each hospital by January 15 or within 60 days after the issuance of the final disproportionate share hospital list for the project year, whichever is later, and shall include the tentative adjusted monthly payment amounts for all prior months in the project year for which those payments are due. Subsequent tentative adjusted monthly payments for a project year shall be made on the last checkwrite of each month made by the Controller until tentative adjusted monthly payments for December through March of the project year have been made.

(f) Three data corrected payments shall be made on the last checkwrite of the month made by the Controller for the months of April through June of each project year to each private hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An annual data corrected payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department, plus any interim estimated stabilization funding. The annual data corrected payment amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the adjusted payment amounts computed under paragraph (1) of subdivision (e).

(2) A monthly data corrected payment amount shall be computed for each hospital equal to the annual data corrected payment amount for the hospital, minus both the aggregate interim payments made to the hospital for the project year and the aggregate tentative adjusted monthly payments made to the hospital, divided by three.

(g) Payment under subdivisions (d), (e), and (f) for a month shall be made only to private hospitals open for patient care through the 15th day of the month.

(h) The department shall compute a final adjusted payment amount for each private hospital on the final disproportionate share list for a project year after the completion of the project year and the determination of the

amount of stabilization funding available to be paid under this section as follows:

(1) An amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department. These amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the annual data corrected payment amounts computed under paragraph (1) of subdivision (f) in a manner that ensures that any payments not payable or recouped are redistributed among hospitals eligible for a final adjusted payment amount in accordance with the calculations made pursuant to Section 14105.98.

(2) The department shall add to the amount computed for each hospital under paragraph (1) a pro rata share of any stabilization funding to be allocated and paid under this section, allocated based on the amounts computed under paragraph (1).

(3) The department shall for each hospital for each project year reconcile the total amount paid to the hospital for that project year under subdivisions (d), (e), and (f) with the amount determined under paragraph (2). The department shall issue a report to each hospital setting forth the result of the reconciliation that shall include the department's computation, data, and identification of data sources. The department shall pay to the hospital any underpayment determined as a result of this reconciliation and collect from the hospital any overpayment determined as a result of this reconciliation pursuant to paragraph (4) of subdivision (d) of Section 14166.11.

(4) A hospital may seek to correct the department's data and computations under this section in accordance with the processes undertaken by the department to implement Section 14105.98 in effect during the 2004-05 state fiscal year.

(i) In accordance with the demonstration project, the following shall apply:

(1) Payments under this section shall satisfy the state's obligation to have a payment adjustment program for disproportionate share hospitals under Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396r-4).

(2) Payments under this section and federal financial participation shall not be counted against the state's allotment of federal funding for Medicaid disproportionate share payment adjustments.

(j) (1) For purposes of this subdivision, "federal disproportionate share allotment" means the federal Medicaid disproportionate share hospital allotment specified for California under Section 1396r-4(f) of Title 42 of the United States Code.

(2) In the event any hospital, or any party on behalf of a hospital, shall initiate a case or proceeding in any state or federal court in which the hospital seeks any relief of any sort whatsoever, including, but not limited to, monetary relief, injunctive relief, declaratory relief, or a writ, based in

whole or in part on a contention that the hospital is entitled to, or should receive any portion of, the federal disproportionate share hospital allotment for any or all of federal fiscal years 2006 to 2010, inclusive, all of the following shall apply:

(A) No payments shall be made to the hospital pursuant to this section until the case or proceeding is finally resolved, including the final disposition of all appeals.

(B) Any amount computed to be payable to the hospital pursuant to this section for a project year shall be withheld by the department and shall be paid to the hospital only after the case or proceeding is finally resolved, including the final disposition of all appeals, and only if the case or proceeding does not result in any amount being paid or payable to the hospital from the federal disproportionate share hospital allotment for any portion of the project year.

(C) The hospital shall become ineligible to receive any amount pursuant to this section for any project year for which it is determined that the hospital is entitled to be paid any portion of the federal disproportionate share hospital allotment.

(D) Any amount that would have been payable to the hospital pursuant to this section, but is not paid to the hospital because the hospital has become ineligible to receive payments pursuant to this section shall be returned to the state General Fund.

(E) In the event any portion of the federal disproportionate share hospital allotment is applied to payments to any private hospital, the department shall make any additional payments that may be necessary from state funds so that the amount of the disproportionate share hospital payments that are made to designated public hospitals or nondesignated public hospitals is not less than the amount that would have been made if the allotment had not been applied to payments to any private hospital.

(F) A hospital's total project year payment amount determined under this section may be subject to reduction by offset pursuant to Section 14115.5 or 14172.5.

14166.12. (a) The California Medical Assistance Commission shall negotiate payment amounts, in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081), from the Private Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to private hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

(b) The Private Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this section, "fund" means the Private Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One hundred eighteen million four hundred thousand dollars (\$118,400,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund pursuant to subdivision (b) of Section 14166.14.

(4) Any moneys that any county, other political subdivision of the state, or other governmental entity in the state may elect to transfer to the department for deposit into the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal Medicaid laws.

(5) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(6) Any interest that accrues on amounts in the fund.

(e) Any public agency transferring moneys to the fund may, for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public moneys or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(f) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity that qualify for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(i) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracting program (Article 2.6 (commencing with Section 14081)), and shall not affect provider rates paid under the selective provider contracting program.

(j) Each private hospital that was a private hospital during the 2002-03 fiscal year, received payments for the 2002-03 fiscal year from any of the prior supplemental funds, and, during the project year, satisfies the criteria

in Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, shall receive no less from the Private Hospital Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior supplemental funds for the 2002-03 fiscal year. Each private hospital described in this subdivision shall be eligible for additional payments from the fund pursuant to subdivision (k).

(k) All amounts that are in the fund for a project year in excess of the amount necessary to make the payments under subdivision (j) shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for supplemental payments to private hospitals, which for the project year satisfy the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, and paid for services rendered during the project year pursuant to the selective provider contracting program established under Article 2.6 (commencing with Section 14081).

(l) The amount of any stabilization funding transferred to the fund with respect to a project year may in the discretion of the California Medical Assistance Commission be paid for services furnished in the same project year regardless of when the stabilization funds become available, provided the payment is consistent with other applicable federal or state law requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

(m) The department shall pay amounts due to a private hospital from the fund for a project year, with the exception of stabilization funding, in up to four installment payments, unless otherwise provided in the hospital's contract negotiated with the California Medical Assistance Commission, except that hospitals that are not described in subdivision (j) shall not receive the first installment payment. The first payment shall be made as soon as practicable after the issuance of the tentative disproportionate share hospital list for the project year, and in no event later than January 1 of the project year. The second and subsequent payments shall be made after the issuance of the final disproportionate hospital list for the project year, and shall be made only to hospitals that are on the final disproportionate share hospital list for the project year. The second payment shall be made by February 1 of the project year or as soon as practicable after the issuance of the final disproportionate share hospital list for the project year. The third payment, if scheduled, shall be made by April 1 of the project year. The fourth payment, if scheduled, shall be made by June 30 of the project year. This subdivision does not apply to hospitals that are scheduled to receive payments from the fund because they meet the criteria under Section 14085.7 and do not meet the criteria under Section 14085.6, 14085.8, or 14085.9, which shall be paid in accordance with the applicable contract or contract amendment negotiated by the California Medical Assistance Commission.

(n) The department shall pay stabilization funding transferred to the fund in amounts negotiated by the California Medical Assistance Commission and shall pay the scheduled payments in accordance with the applicable contract or contract amendment.

(o) Payments to private hospitals may be made using funds transferred from governmental entities to the state, at the option of the governmental entity. Any payments funded by intergovernmental transfers shall remain with the private hospital and shall not be transferred back to any unit of government. An amount equal to 25 percent of the amount of any intergovernmental transfer made in the project year that results in a supplemental payment made during the same project year to a project year private DSH hospital located in the county that made the intergovernmental transfer shall be deposited in the fund for distribution as determined by the California Medical Assistance Commission. An amount equal to 75 percent shall be deposited in the fund and distributed to the private hospitals designated by the counties.

14166.13. (a) With respect to each project year, the director shall determine a baseline funding amount for each base year private DSH hospital that is also a project year private DSH hospital. A private hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004-05 state fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081), or under the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The aggregate project year private DSH hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a).

(c) With respect to each project year beginning after the 2005-06 project year, an aggregate project year private hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), for inpatient hospital services rendered during the 2004-05 fiscal year for project year private hospitals, less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue paid or payable under this article, excluding stabilization funding under Section 14166.14, using amounts determined under subdivision (a) for inpatient hospital services rendered during the fiscal year preceding the project year for which the private hospital adjusted baseline funding amount is being calculated for project year private hospitals, less the total amount of disproportionate share hospital replacement payments in Section 14166.11 for those hospitals.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage in subparagraph (B) to the aggregate project year private DSH hospital baseline funding amount determined under subdivision (b), less the total amount of disproportionate share hospital replacement payments in Section 14166.11 for those hospitals.

(4) The aggregate private hospital adjusted baseline funding amount is the amount determined in paragraph (1), plus the amount determined in subparagraph (C), plus the amount in paragraph (5) of subdivision (a).

14166.14. The amount of any stabilization funding payable to the project year private DSH hospitals under Section 14166.20 for a project year, which amount shall not include the amount of stabilization funding paid or payable to hospitals prior to the computation of the stabilization funding under Section 14166.20 plus any amount payable to project year private DSH hospitals under paragraph (1) of subdivision (b) of Section 14166.21, shall be allocated as follows:

(a) (1) To fund any shortfall due under Section 14166.11.

(2) An amount shall be transferred to the Private Hospital Supplemental Fund established pursuant to Section 14166.20, as may be necessary so that the amount for the Private Hospital Supplemental Fund for the project year, including all funds previously transferred to, or deposited in, the Private Hospital Supplemental Fund for the project year, is not less than the Private Hospital Supplemental Fund base amount determined pursuant to subdivision (j) of Section 14166.12.

(3) The amounts paid or transferred under paragraphs (1) and (2) shall be reduced pro rata if there is not sufficient funding described under paragraphs (1) and (2).

(b) Of the stabilization funding remaining, after allocations pursuant to subdivision (a), that are payable to project year private DSH hospitals, 66.4 percent shall be allocated and distributed among those hospitals pro rata based on the amounts determined in accordance with Section

14166.11, and 33.6 percent shall be transferred to the Private Hospital Supplemental Fund.

14166.15. (a) Payments to nondesignated public hospitals under the demonstration project shall include, as applicable, the following:

(1) Payments under selective provider contracts with the department negotiated by the California Medical Assistance Commission in accordance with Article 2.6 (commencing with Section 14081).

(2) Disproportionate share hospital payments under Section 14166.16.

(3) Supplemental payments under Section 14166.17.

(4) Payments to distressed hospitals as negotiated by the California Medical Assistance Commission pursuant to Section 14166.23.

(5) Payment of amounts described in Section 14166.19.

(b) Payments under subdivision (a) shall be in addition to other payments that may be made in accordance with law.

14166.16. (a) The department shall compute for each nondesignated public hospital for a project year, that is an eligible hospital for the project year as determined under Section 14105.98, payment adjustment amounts as determined under subdivision (am) of Section 14105.98 and supplemental payment adjustment amounts as determined under subdivision (an) of Section 14105.98.

(b) Nondesignated public hospitals shall comply with subdivisions (a), (b), (d), (e), and (f) of Section 14166.8.

(c) Interim payments shall be made for the first five months of each project year as follows:

(1) Interim payments shall be made to each nondesignated public hospital identified on a tentative disproportionate share list for the project year that was also on the final disproportionate share list for the prior fiscal year. The interim payment amount per month for the hospital shall be equal to one-twelfth of the total payments, excluding stabilization funds, made to the hospital for the prior fiscal year under this section or under Section 14105.98. The interim payment amount may be adjusted to reflect any changes in the total amount payments, excluding stabilization funds, projected to be made under this section for the project year.

(2) The computation of interim payments described in this subdivision shall be made promptly after the department issues the tentative disproportionate share hospital list for the project year.

(3) The first interim payment to each hospital for a project year shall be made no later than 60 days after the issuance of the tentative disproportionate share hospital list for the project year and shall include the interim payment amounts for all prior months in the project year. Subsequent interim payments for a project year shall be made on the last checkwrite of each month made by the Controller until interim payments for the first five months of the project year have been made.

(4) The department may recover any interim payments made under this subdivision for a project year to a hospital that is not on the final disproportionate share hospital list for the project year. These interim payments shall be considered an overpayment. The department shall issue

a demand for repayment to a hospital at least 30 days prior to taking action to recover the overpayment. After the 30-day period, the department may recover the overpayment using any of the methods set forth in Section 14115.5 or subdivision (c) of Section 14172.5. Any offset shall be subject to Section 14115.5 or subdivision (d) of Section 14172.5. No other provision of Section 14172.5 shall be applicable with respect to the recovery of overpayments under this subdivision. A hospital may appeal the department's determination of an overpayment under this subdivision pursuant to the appeal procedures set forth in Sections 51016 to 51047, inclusive, of Title 22 of the California Code of Regulations, and seek judicial review of the final administrative decision pursuant to Section 14171, provided that the only issues that may be raised in the appeal are whether the hospital, but for inadvertent error by the department, was on the final disproportionate share list for the project year and whether the department's computation of the overpayment amount is correct. If the hospital is reinstated on the final disproportionate share list pursuant to Section 14105.98, the department shall promptly refund any amount recovered under this paragraph.

(d) Tentative adjusted monthly payments shall be made for December through March of each project year to each nondesignated public hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An adjusted payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department.

(2) A tentative adjusted monthly payment amount shall be computed for each hospital equal to the adjusted payment amount for the hospital, minus the aggregate interim payments made to the hospital for the project year, divided by seven.

(3) The computation of tentative adjusted monthly payments described in this subdivision shall be made promptly after the department issues the final disproportionate share hospital list for the project year.

(4) The first tentative adjusted monthly payment to each hospital for a project year shall be made by January 15 or within 60 days after the issuance of the final disproportionate share hospital list for the project year, whichever is later, and shall include the tentative adjusted monthly payment amounts for all prior months in the project year for which those payments are due. Subsequent tentative adjusted monthly payments for a project year shall be made on the last checkwrite of each month made by the Controller until tentative adjusted monthly payments for December through March of the project year have been made.

(e) Three data corrected payments shall be made on the last checkwrite of the month made by the Controller for the months of April through June of each project year to each nondesignated public hospital identified on the

final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An annual data corrected payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department. The annual data corrected payment amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the adjusted payment amounts computed under paragraph (1) of subdivision (d).

(2) A monthly data corrected payment amount shall be computed for each hospital equal to the annual data corrected payment amount for the hospital, minus both the aggregate interim payments made to the hospital for the project year and the aggregate tentative adjusted monthly payments made to the hospital, divided by three.

(f) Payment under subdivisions (c), (d), and (e) for a month shall be made only to hospitals open for patient care through the 15th day of the month.

(g) The department shall compute a final adjusted payment amount for each nondesignated public hospital on the final disproportionate share list for a project year after the completion of the project year and the determination of the amount of stabilization funding available to be paid under this section as follows:

(1) An amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department. These amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the annual data corrected payment amounts computed under paragraph (1) of subdivision (e) in a manner that ensures that any payments not payable or recouped are redistributed among hospitals eligible for a final adjusted payment amount in accordance with the calculations made pursuant to Section 14105.98.

(2) The department shall add to the amount computed for each hospital under paragraph (1) a pro rata share of any stabilization funding to be allocated and paid under this section allocated based on the amounts computed under paragraph (1).

(3) The department shall for each hospital for each project year reconcile the total amount computed for the hospital for the project year under subdivisions (c), (d), and (e) with the amount determined under paragraph (2). The department shall issue a report to each hospital setting forth the result of the reconciliation that shall include the department's computation, data, and identification of data sources. The department shall pay to the hospital any underpayment determined as a result of this

reconciliation and collect from the hospital any overpayment determined as a result of this reconciliation.

(4) A hospital may seek to correct the department's data and computations under this section in accordance with the processes undertaken by the department to implement Section 14105.98 in effect during the 2004-05 fiscal year.

14166.17. (a) The California Medical Assistance Commission shall negotiate payment amounts in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) from the Nondesignated Public Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to nondesignated public hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

(b) The Nondesignated Public Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this section, "fund" means the Nondesignated Public Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One million nine hundred thousand dollars (\$1,900,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the fund.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund.

(4) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(5) Any interest that accrues on amounts in the fund.

(e) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(f) Moneys in the funds shall be used as the source for the nonfederal share of payments to hospitals under this section.

(g) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(h) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with

customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracts negotiated under Article 2.6 (commencing with Section 14081), and shall not affect provider rates paid under the selective provider contracting program.

(i) Each nondesignated public hospital that was a nondesignated public hospital during the 2002-03 fiscal year, received payments for the 2002-03 fiscal year from any of the prior supplemental funds, and, during the project year satisfies the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections shall receive no less from the Nondesignated Public Hospital Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior supplemental funds for the 2002-03 fiscal year. Each hospital described in this subdivision shall be eligible for additional payments from the fund pursuant to subdivision (j).

(j) All amounts that are in the fund for a project year in excess of the amount necessary to make the payments under subdivision (i) shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for supplemental payments to nondesignated public hospitals that for the project year satisfy the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, and paid for services rendered during the project year pursuant to the selective provider contracting program under Article 2.6 (commencing with Section 14081).

(k) The amount of any stabilization funding transferred to the fund with respect to a project year may in the discretion of the California Medical Assistance Commission to be paid for services furnished in the same project year regardless of when the stabilization funds become available, provided the payment is consistent with other applicable federal or state legal requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

(l) The department shall pay amounts due to a nondesignated hospital from the fund for a project year, with the exception of stabilization funding, in up to four installment payments, unless otherwise provided in the hospital's contract negotiated with the California Medical Assistance Commission, except that hospitals that are not described in subdivision (i) shall not receive the first installment payment. The first payment shall be made as soon as practicable after the issuance of the tentative disproportionate share hospital list for the project year, and in no event later than January 1 of the project year. The second and subsequent payments shall be made after the issuance of the final disproportionate hospital list for the project year, and shall be made only to hospitals that are on the final disproportionate share hospital list for the project year. The second payment shall be made by February 1 of the project year or as soon

as practicable after the issuance of the final disproportionate share hospital list for the project year. The third payment, if scheduled, shall be made by April 1 of the project year. The fourth payment, if scheduled, shall be made by June 30 of the project year. This subdivision does not apply to hospitals that are scheduled to receive payments from the fund because they meet the criteria under Section 14085.7 but do not meet the criteria under Section 14085.6, 14085.8, or 14085.9.

(m) The department shall pay stabilization funding transferred to the fund in amounts negotiated by the California Medical Assistance Commission and paid in accordance with the applicable contract or contract amendment.

14166.18. (a) With respect to each project year, the director shall determine a baseline funding amount for each nondesignated public hospital that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for both the 2004-05 fiscal year and the project year. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during 2004-05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081) or the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The aggregate nondesignated public hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a).

(c) With respect to each project year beginning after the 2005-06 project year, an aggregate nondesignated public hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), with respect to inpatient hospital services rendered during the 2004-05 fiscal year for nondesignated public hospitals that were eligible hospitals under paragraph (3) of subdivision (a) of Section 14105.98 on the last day of the

project year less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), with respect to inpatient hospital services rendered during the fiscal year preceding the project year for which the nondesignated public hospital adjusted baseline funding amount is being calculated for the nondesignated public hospitals described in paragraph (1), less the total amount of disproportionate share hospital payments in paragraph (5) of subdivision (a) for those hospitals.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage in subparagraph (B) to the aggregate nondesignated public hospital baseline funding amount determined under subdivision (b) less the total amount of disproportionate share hospital payments in paragraph (5) of subdivision (a) for those hospitals.

(D) The aggregate nondesignated public hospital adjusted baseline funding amount is the amount determined in subdivision (b), plus the amount determined in subparagraph (C).

14166.19. The amount of any stabilization funding payable to the nondesignated public hospitals under paragraph (4) of subdivision (b) of Section 14166.20 for a project year, which amount shall not include the amount of stabilization funding paid or payable to hospitals prior to the computation of the stabilization funding under Section 14166.20, shall be allocated in the following priority:

(a) An amount shall be transferred to the Nondesignated Public Hospital Supplemental Fund, as may be necessary so that the amount for the Nondesignated Public Hospital Supplemental Fund for the project year, including all funds previously transferred to, or deposited in, the Nondesignated Public Hospital Supplemental Fund for the project year, is not less than one million nine hundred thousand dollars (\$1,900,000).

(b) Of the remaining stabilization funding payable to nondesignated public hospitals, 75 percent shall be allocated, distributed, and paid in accordance with Section 14166.16, and 25 percent shall be transferred to the Nondesignated Public Hospital Supplemental Fund.

14166.20. (a) With respect to each project year, the total amount of stabilization funding shall be the sum of the following:

(1) Federal Medicaid funds available in the Health Care Support Fund, established pursuant to Section 14166.21, reduced by the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005-06 project year for each designated public hospital, project year private DSH hospitals in the aggregate, and nondesignated public hospitals in the aggregate as determined in Sections 14166.5, 14166.13, and 14166.18,

respectively, taking into account all other payments to each hospital under this article. This amount shall be not less than zero.

(2) The state general funds that were made available due to the receipt of federal funding for previously state-funded programs through the safety net care pool and any federal Medicaid hospital reimbursements resulting from these expenditures, unless otherwise recognized under paragraph (1).

(3) To the extent not included in paragraph (1) or (2), the amount of the increase in state General Fund expenditures for Medi-Cal inpatient hospital services for the project year for project year private DSH hospitals and nondesignated public hospitals, including amounts expended in accordance with paragraph (1) of subdivision (c) of Section 14166.23 that exceeds the expenditure amount for the same purpose and the same hospitals in the 2004-05 state fiscal year, and any direct grants to designated public hospitals for services under the demonstration project.

(4) To the extent not included in paragraph (2), federal Medicaid funds received by the state as a result of the General Fund expenditures described in paragraph (3).

(5) The federal Medicaid funds received by the state as a result of federal financial participation with respect to Medi-Cal payments for inpatient hospital services made to project year private DSH hospitals for services rendered during the project year, the state share of which was derived from intergovernmental transfers or certified public expenditures of any public entity that does not own or operate a public hospital.

(b) With respect to the 2005-06 and 2006-07 project years, the stabilization funding determined under subdivision (a) shall be allocated as follows:

(1) Eight million dollars (\$8,000,000) shall be paid to San Mateo Medical Center.

(2) (A) Ninety-six million five hundred thousand dollars (\$96,500,000) shall be allocated to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty-two million five hundred thousand dollars (\$42,500,000) shall be allocated to private DSH hospitals to be paid in accordance with Section 14166.14.

(C) In the event that stabilization funding is less than one hundred forty-seven million dollars (\$147,000,000), the amounts allocated to designated public hospitals and private DSH hospitals under this paragraph shall be reduced proportionately.

(3) An amount equal to the lesser of 10 percent of the total amount determined under subdivision (a) of Section 14166.20 or twenty-three million five hundred thousand dollars (\$23,500,000) shall be made available for additional payments to distressed hospitals that participate in the selective provider contracting program under Article 2.6 (commencing with Section 14081), including designated public hospitals, in amounts to be determined by the California Medical Assistance Commission. The additional payments to designated public hospitals shall be negotiated by

the California Medical Assistance Commission, but shall be paid by the department in the form of a direct grant rather than as Medi-Cal payments.

(4) An amount equal to 0.56 percent of the total amount determined under subdivision (a), to nondesignated public hospitals to be paid in accordance with Section 14166.19.

(5) The amount remaining after subtracting the amount determined in paragraphs (1) to (4), inclusive, shall be allocated as follows:

(A) Sixty percent to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty percent to project year private DSH hospitals to be paid in accordance with Section 14166.14.

(c) By April 1 of the year following the project year for which the payment is made, and after taking into account final amounts otherwise paid or payable to hospitals under this article, the director shall calculate in accordance with subdivision (a), allocate in accordance with subdivision (b), and pay to hospitals in accordance with Sections 14166.75, 14166.14, and 14166.19, as applicable, the stabilization funding.

(d) For purposes of determining amounts paid or payable to hospitals under subdivision (c), the department shall apply the following:

(1) In determining amounts paid or payable to designated public hospitals that are based on allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, the following shall apply:

(A) If the final payment amount is based on the hospital's Medicare cost report, the department shall rely on the cost report filed with the Medicare fiscal intermediary for the project year for which the calculation is made, reduced by a percentage that represents the average percentage change from total reported costs to final costs for the three most recent cost reporting periods for which final determinations have been made, taking into account all administrative and judicial appeals. Protested amounts shall not be considered in determining the average percentage change unless the same or similar costs are included in the project year cost report.

(B) If the final payment amount is based on costs not included in subparagraph (A), the reported costs as of the date the determination is made under subdivision (c), shall be reduced by 10 percent.

(C) In addition to adjustments required in subparagraphs (A) and (B), the department shall adjust amounts paid or payable to designated public hospitals by any applicable deferrals or disallowances identified by the federal Centers for Medicare and Medicaid Services as of the date the determination is made under subdivision (c) not otherwise reflected in subparagraphs (A) and (B).

(2) Amounts paid or payable to project year private DSH hospitals and nondesignated public hospitals shall be determined by the most recently available Medi-Cal paid claims data increased by a percentage to reflect an estimate of amounts remaining unpaid.

(e) The department shall consult with hospital representatives regarding the appropriate calculation of stabilization funding before stabilization

funds are paid to hospitals. No later than 30 days after this consultation, the department shall establish a final determination of stabilization funding that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

(f) The department shall distribute 75 percent of the estimated stabilization funding on an interim basis throughout the project year.

14166.21. (a) The Health Care Support Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this article.

(b) Amounts in the Health Care Support Fund shall be paid in the following order of priority:

(1) To hospitals for services rendered to Medi-Cal beneficiaries and the uninsured in an amount necessary to meet the aggregate baseline funding amount, or the adjusted aggregate baseline funding amount for project years after the 2005-06 project year, as specified in subdivision (d) of Section 14166.5, subdivision (b) of Section 14166.13, and Section 14166.18, taking into account all other payments to each hospital under this article. If the amount in the Health Care Support Fund is inadequate to provide full aggregate baseline funding, or adjusted aggregate baseline funding, to all designated public hospitals, project year private DSH hospitals, and nondesignated public hospitals, each group's payments shall be reduced pro rata.

(2) To the extent necessary to maximize federal funding under the demonstration project and consistent with Section 14166.22, the department may obtain safety net care pool funds based on health care expenditures incurred by the department for uncompensated medical care costs of medical services provided to uninsured individuals, as approved by the federal Centers for Medicare and Medicaid Services.

(3) Stabilization funding, allocated and paid in accordance with Sections 14166.75, 14166.14, and 14166.19.

(4) Any amounts remaining after final reconciliation of all amounts due at the end of a project year shall remain available for payments in accordance with this section in the next project year.

(5) The fund shall include any interest that accrues on amounts in the fund.

14166.22. (a) To the extent required to maximize available federal funds under the demonstration project and to the extent authorized by the Special Terms and Conditions for the demonstration project, the department may claim federal reimbursement for expenditures, consistent with the equitable distribution established under this article, in the following priority order:

(1) The medically indigent adults long-term care program.

(2) The Genetically Handicapped Person's Program established pursuant to Article 1 (commencing with Section 125125) of Chapter 2 of Part 5 of Division 106 of the Health and Safety Code.

(3) The Breast and Cervical Cancer Treatment Program established pursuant to Article 1.5 (commencing with Section 104160) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code.

(4) The California Children's Services Program established pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code.

(b) Notwithstanding any other state law, the federal reimbursement received as a result of a claim made pursuant to subdivision (a) shall be used to create General Fund savings solely for the department for use in support of safety net hospitals under the demonstration project.

(c) The federal reimbursement received as a result of a claim made pursuant to subdivision (a) is hereby appropriated to the department for the program in which the claimed expenditures were made.

(d) An amount of General Fund moneys appropriated to the department for programs specified in subdivision (a) equal to the amount of federal reimbursement identified pursuant to subdivision (c) is hereby reappropriated to the Health Care Deposit Fund to be used for the purposes set forth in this article.

14166.23. (a) For purposes of this section, "distressed hospitals" are hospitals that participate in selective providers contracting under Article 2.6 (commencing with Section 14081) and that meet all of the following requirements, as determined by the California Medical Assistance Commission in its discretion:

(1) The hospital serves a substantial volume of Medi-Cal patients measured either as a percentage of the hospital's overall volume or by the total volume of Medi-Cal services furnished by the hospital.

(2) The hospital is a critical component of the Medi-Cal program's health care delivery system, such that the Medi-Cal health care delivery system would be significantly disrupted if the hospital reduced its Medi-Cal services or no longer participated in the Medi-Cal program.

(3) The hospital is facing a significant financial hardship that may impair its ability to continue its range of services for the Medi-Cal program.

(b) The Distressed Hospital Fund is hereby created in the State Treasury.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) The amounts transferred to the fund pursuant to subdivision (e).

(2) Any additional amounts appropriated to the fund by the Legislature.

(3) Any interest that accrues on amounts in the fund.

(e) The following amounts shall be transferred to the fund from the prior supplemental funds at the beginning of each project year.

(1) Twenty percent of the amount in the prior supplemental funds on the effective date of this article, less any and all payments for services rendered prior to July 1, 2005, but paid after July 1, 2005.

(2) Interest that accrued on the prior supplemental funds during the prior project year.

(f) No distributions, payments, transfers, or disbursements shall be made from the prior supplemental funds except as set forth in this section.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Except as otherwise provided in subdivision (j), moneys shall be applied to obtain federal financial participation to the extent available in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracting program, and shall not affect provider rates paid under the selective provider contracting program.

(i) Subject to subdivision (j), all amounts that are in the fund shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for additional payments to distressed hospitals. These amounts shall be paid under contracts entered into by the department and negotiated by the California Medical Assistance Commission pursuant to Article 2.6 (commencing with Section 14081), provided that any amounts payable to a designated public hospital shall be paid in the form of a direct grant of state general funds pursuant to a contract negotiated by the California Medical Assistance Commission.

(j) After April 1, 2007, in the event that funding under this article is insufficient to make payments to hospitals under Section 14166.5, 14166.13, or 14166.18, funds under this section shall first be available for use under contracts negotiated by the California Medical Assistance Commission for hospitals contracting under the selective provider contracting program under Article 2.6 (commencing with Section 14081) that fall below their 2005-06 project year baseline to the extent funds are available.

(k) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

14166.24. (a) Any determination of the amount due a designated public hospital that is based in whole or in part on costs reported to or audited by a Medicare fiscal intermediary shall not be deemed final for purposes of this article unless the hospital has received a final determination of Medicare payment for the cost reporting for Medicare purposes. Designated public hospitals shall be entitled to pursue all administrative and judicial review available under the Medicare program and any final determination shall be incorporated into the department's final determination of payment due the hospital under this article.

(b) If as a result of an audit performed by the department or any state or federal agency, the department determines that any hospital participating in the demonstration project has been overpaid under the demonstration project, the department shall recoup the overpayment in accordance with Sections 14172.5 or 14115.5. The hospital may appeal the overpayment determinations and any related audit determination in accordance with the appeal procedures set forth in Sections 51016 to 51047, inclusive, of Title 22 of the California Code of Regulations. The hospital may seek judicial review of the final administrative decision as set forth in Section 14171.

(c) The department shall promptly consult with the affected governmental entity regarding a dispute between a designated public hospital and the department regarding the validity of the hospital's certified public expenditures. If the department determines that the hospital's certification is valid, the department shall submit the claim to obtain federal reimbursement for the certified expenditure in question.

(d) (1) Upon receipt of a notice of disallowance or deferral from the federal government related to the certified public expenditures or intergovernmental transfers of any governmental entity participating in the demonstration project, the department shall promptly notify the affected governmental entity. The governmental entity that certified the public expenditure shall be the entity responsible for the federal portion of that expenditure.

(2) The department and the affected governmental entity shall promptly consult regarding the proposed disallowance or deferral.

(3) After consulting with the governmental entity, the department shall determine whether the disallowance or response to a deferral should be filed with the federal government. If the department determines the appeal or response has merit, the department shall timely appeal. If necessary, the department may request an extension of the deadline to file an appeal or response to a deferral. The affected governmental entity may provide the department with the legal and factual basis for the appeal or response.

14166.25. Unless this article is repealed pursuant to subdivision (b) or (g) of Section 14166.2, this article shall become inoperative on the date that the director executes a declaration, which shall be retained by the director and provided to the fiscal and appropriate policy committees of the Legislature, stating that the federal demonstration project provided for in this article has been terminated by the federal Centers for Medicare and Medicaid Services, and shall, six months after the date the declaration is executed, be repealed.

SEC. 2. There is hereby appropriated the following amounts to the State Department of Health Services for expenditure for purposes of the Medi-Cal Hospital/Uninsured Care Demonstration Project created pursuant to Article 5.2 (commencing with Section 14166) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to fund State Department of Health Services staff positions to support activities related to ensuring the availability of adequate resources for implementation, monitoring, and continuous operation of the demonstration project,

including education, outreach, and enrollment, maintaining eligibility systems, compliance with cost sharing, and reporting on financial and other demonstration project components:

(a) One million seven hundred thousand (\$1,700,000) from the General Fund.

(b) One million seven hundred thousand (\$1,700,000) from the Federal Trust Fund.

SEC. 3. 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 make the necessary statutory changes to implement the Medi-Cal Hospital/Uninsured Care Demonstration Project, to preserve the financial viability of the state's safety net hospitals, as soon as possible, it is necessary that this act take effect immediately.