

SENATE BILL NO. 85

INTRODUCED BY KEATING, JERGSON, COBB, KADAS  
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

JANUARY 6, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION.  FIRST READING.
JANUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 20, 1993	PRINTING REPORT.  SECOND READING, DO PASS.
JANUARY 21, 1993	ENGROSSING REPORT.  THIRD READING, PASSED. AYES, 46; NOES, 2.  TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION.  FIRST READING.
FEBRUARY 6, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 9, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 13, 1993	THIRD READING, CONCURRED IN. AYES, 92; NOES, 5.
FEBRUARY 15, 1993	RETURNED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1993	RECEIVED FROM HOUSE.  SENT TO ENROLLING.  REPORTED CORRECTLY ENROLLED.
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SENATE BILL NO. 85  
INTRODUCED BY Senator Ferguson  
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT RECLASSIFYING THE STATE HAIL INSURANCE PROGRAM EXPENDABLE TRUST FUND AS AN ENTERPRISE FUND FOR ACCOUNTING PURPOSES; AMENDING SECTIONS 80-2-222, 80-2-228, AND 80-2-232, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 80-2-222, MCA, is amended to read:

"80-2-222. Board to establish amount of levy -- disposition of funds. (1) The board of hail insurance may, when it considers it advisable, establish as many districts as it considers advisable and may maintain maximum rates in various parts of the state, which rates ~~shall~~ must be commensurate with the risk incurred as nearly as it can determine from past experiences or from any records available.

(2) Notice of the various rates established for any year ~~shall~~ must be plainly printed on the application for hail insurance, and the rates for the year ~~shall~~ must be determined and levied by the board of hail insurance for each of the various districts as established, in such

proportions as will in its judgment be fair and equitable.

(3) In making the levy provided in this section and 80-2-223, the board of hail insurance shall provide for:

(a) the payment of all expenses of administration, together with all interest owed or to be owing on registered warrants;

(b) that portion of the losses incurred during the current year ~~which~~ that are not paid from funds drawn from the reserve;

(c) the maintenance of the reserve, a part or all of which may be used in any one year for the purpose of paying the costs of administration, interest on the warrants, and losses as ~~the same shall be~~ settled and adjusted by the board, including the losses sustained in any prior year or years under the hail insurance law that have not been paid.

(4) If at the end of any hail insurance season the board determines ~~and finds~~ that more funds are accumulating from the current year's levies than were estimated when the levy was made and are in excess of the need for the payment of losses and expenses and maintenance of the reserve, the board may, at its discretion, refund the excess to the farmers insured for the year, on a pro rata or percentage basis.

(5) The board of hail insurance may direct the board of investments to invest funds from the ~~expendable--trust~~

enterprise fund pursuant to the provisions of the unified investment program for state funds. The income from ~~such the~~ investments ~~shall~~ must be credited to the board of hail insurance account in the expendable-trust enterprise fund."

**Section 2.** Section 80-2-228, MCA, is amended to read:

"80-2-228. Reserve fund. (1) Each year when the hail board makes its annual levy for the payment of current losses, expenses of administration, and for an addition to the reserve if conditions permit, it may not increase the levy enough in any year so that ~~such the~~ addition to the reserve will exceed 5% of the maximum risk written for that year.

(2) The board may engage the services of a qualified actuary to conduct an actuarial valuation of the reserve. This valuation shall include the actuary's determination of the amount of reserve necessary to absorb all reasonably anticipated catastrophic losses. This amount ~~shall-be~~ is the maximum permissible reserve fund for the next year.

(3) The reserve ~~shall~~ must be deposited in an expendable-trust enterprise fund.

(4) The board may not draw on the reserve for any purpose unless the amount required for the payment of losses for the current year, including interest on warrants and costs of administration, exceeds the amount of the estimate made by the board for the current year pursuant to

80-2-221."

**Section 3.** Section 80-2-232, MCA, is amended to read:

"80-2-232. State treasurer's duty -- warrants -- transfers to county and state general fund. (1) The state treasurer shall receive all moneys money paid to--him under this part and shall place ~~same the money in trust for the~~ hail insurance program to the credit of the expendable-trust enterprise fund. All moneys money collected by the board ~~shall~~ must be deposited in the expendable-trust enterprise fund, and all losses ~~shall~~ must be paid from that fund. All other costs are administrative expenses and ~~shall~~ must be paid from the board's expendable-trust enterprise fund. If registered warrants be are presented and there be is no money to pay the ~~same warrants, such the~~ warrants ~~shall~~ must be registered and thereafter bear interest at the rate of 4% per annum until called for payment by the state treasurer.

(2) Upon warrants drawn by order of the board, the state treasurer shall pay out of the board's expendable trust enterprise fund to the county treasurer of each county where state hail insurance coverage is in force 2% of the gross annual levies made and collected in ~~such that~~ county under this part for the use of the county as the board of county commissioners may determine.

(3) Upon authorization from the board of hail insurance, the state treasurer shall transfer out of the

1 board's ~~expendable-trust~~ enterprise fund to the general fund  
2 of the state of Montana 1.5% of the gross annual levies made  
3 and collected in the state of Montana."

4 NEW SECTION. **Section 4.** Effective date. [This act] is  
5 effective on passage and approval.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0085, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act reclassifying the State Hail Insurance program expendable trust fund as an enterprise fund for accounting purposes effective on passage and approval.

ASSUMPTIONS:

1. There is no change in program operations, expenditures or revenue.
2. For accounting purposes, the fund type is changed from expendable trust to an enterprise fund.

FISCAL IMPACT:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	\$168,803	\$168,803	-0-	\$169,336	\$169,336	\$ -0-
Operating	46,110	46,110	-0-	43,865	43,865	-0-
Local Assistance	50,880	50,880	-0-	50,880	50,880	-0-
1.5% to General Fund	38,160	38,160	-0-	38,160	38,160	-0-
Hail Insurance Losses	<u>2,075,535</u>	<u>2,075,535</u>	<u>-0-</u>	<u>2,075,535</u>	<u>2,075,535</u>	<u>-0-</u>
	\$2,379,488	\$2,379,488	-0-	\$2,377,776	\$2,377,776	-0-
<u>Funding:</u>						
Expendable Trust	\$2,379,488	\$ -0-	(\$2,379,488)	\$2,377,776	\$ -0-	(\$2,377,776)
Enterprise Fund	-0-	2,379,488	2,379,488	-0-	2,377,776	\$2,377,776
<u>Revenues:</u>						
Premium Collections	\$2,629,836	\$2,629,836	-0-	\$2,629,836	\$2,629,836	\$ -0-
Investment Earnings	<u>200,000</u>	<u>200,000</u>	<u>-0-</u>	<u>200,000</u>	<u>200,000</u>	<u>-0-</u>
	\$2,829,836	\$2,829,836	-0-	\$2,829,836	\$2,829,836	\$ -0-

TECHNICAL NOTES:

The bill needs to include statutory appropriation authority to provide for continuation of program operations.

*David Lewis* 1-22-93  
 DAVID LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

*Thomas F. Keating* 1/23/93  
 THOMAS F. KEATING, PRIMARY SPONSOR DATE  
 Fiscal Note for SB0085, as introduced  
**SB 85**

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

SENATE BILL NO. 85

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BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

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ENTERPRISE FUND FOR ACCOUNTING PURPOSES; STATUTORILY  
APPROPRIATING PROGRAM FUNDS TO THE BOARD OF HAIL INSURANCE  
AND GRANTING AUTHORITY FOR THE BOARD TO EXPEND THE FUNDS FOR  
PROGRAM PURPOSES; AMENDING SECTIONS 17-7-502, 80-2-222,  
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EFFECTIVE DATE."

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disposition of funds. (1) The board of hail insurance may,  
when it considers it advisable, establish as many districts  
as it considers advisable and may maintain maximum rates in  
various parts of the state, which rates shall must be  
commensurate with the risk incurred as nearly as it can  
determine from past experiences or from any records  
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(2) Notice of the various rates established for any  
year shall must be plainly printed on the application for

hail insurance, and the rates for the year shall must be  
determined and levied by the board of hail insurance for  
each of the various districts as established, in such  
proportions as will in its judgment be fair and equitable.

(3) THE BOARD OF HAIL INSURANCE HAS AUTHORITY TO ACCEPT  
AND EXPEND ALL FUNDS RECEIVED BY IT, INCLUDING AMOUNTS  
REPAID AS PRINCIPAL AND INTEREST ON INVESTMENTS. THE FUNDS  
ARE STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO  
THE BOARD OF HAIL INSURANCE FOR THE PURPOSES OF THIS  
CHAPTER. EXPENDITURES FOR ACTUAL AND NECESSARY EXPENSES  
REQUIRED FOR THE EFFICIENT ADMINISTRATION OF THIS PART MUST  
BE MADE FROM TEMPORARY APPROPRIATIONS, AS DESCRIBED IN  
17-7-501(1) OR (2), MADE FOR THAT PURPOSE.

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together with all interest owed or to be owing on registered  
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(b) that portion of the losses incurred during the  
current year which that are not paid from funds drawn from  
the reserve;

(c) the maintenance of the reserve, a part or all of  
which may be used in any one year for the purpose of paying  
the costs of administration, interest on the warrants, and  
losses as ~~the same shall be~~ settled and adjusted by the

board, including the losses sustained in any prior year or years under the hail insurance law that have not been paid.

~~{4}~~(5) If at the end of any hail insurance season the board determines ~~and finds~~ that more funds are accumulating from the current year's levies than were estimated when the levy was made and are in excess of the need for the payment of losses and expenses and maintenance of the reserve, the board may, at its discretion, refund the excess to the farmers insured for the year, on a pro rata or percentage basis.

~~{5}~~(6) The board of hail insurance may direct the board of investments to invest funds from the ~~expendable-trust enterprise~~ fund pursuant to the provisions of the unified investment program for state funds. The income from ~~such the~~ investments ~~shall~~ must be credited to the board of hail insurance account in the ~~expendable-trust enterprise~~ fund."

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(2) The board may engage the services of a qualified

actuary to conduct an actuarial valuation of the reserve. This valuation shall include the actuary's determination of the amount of reserve necessary to absorb all reasonably anticipated catastrophic losses. This amount ~~shall be~~ is the maximum permissible reserve fund for the next year.

(3) The reserve ~~shall~~ must be deposited in an ~~expendable-trust enterprise~~ fund.

(4) The board may not draw on the reserve for any purpose unless the amount required for the payment of losses for the current year, including interest on warrants and costs of administration, exceeds the amount of the estimate made by the board for the current year pursuant to 80-2-221."

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"80-2-232. State treasurer's duty -- warrants -- transfers to county and state general fund. (1) The state treasurer shall receive all ~~moneys money~~ paid to him under this part and shall place ~~same the money in trust for the hail insurance program~~ to the credit of the ~~expendable-trust enterprise~~ fund. All ~~moneys money~~ collected by the board ~~shall must~~ be deposited in the ~~expendable--trust enterprise~~ fund, and all losses ~~shall must~~ be paid from that fund. All other costs are administrative expenses and ~~shall must~~ be paid from the board's ~~expendable-trust enterprise~~ fund. If registered warrants ~~be are~~ presented and there ~~be is~~ no

money to pay the same warrants, such the warrants shall must be registered and thereafter bear interest at the rate of 4% per annum until called for payment by the state treasurer.

(2) Upon warrants drawn by order of the board, the state treasurer shall pay out of the board's expendable trust enterprise fund to the county treasurer of each county where state hail insurance coverage is in force 2% of the gross annual levies made and collected in such that county under this part for the use of the county as the board of county commissioners may determine.

(3) Upon authorization from the board of hail insurance, the state treasurer shall transfer out of the board's expendable-trust enterprise fund to the general fund of the state of Montana 1.5% of the gross annual levies made and collected in the state of Montana."

**SECTION 4. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be

listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of

1 Montana. Agencies that have entered into agreements  
2 authorized by the laws of Montana to pay the state  
3 treasurer, for deposit in accordance with 17-2-101 through  
4 17-2-107, as determined by the state treasurer, an amount  
5 sufficient to pay the principal and interest as due on the  
6 bonds or notes have statutory appropriation authority for  
7 the payments. (In subsection (3): pursuant to sec. 7, Ch.  
8 567, L. 1991, the inclusion of 19-6-709 terminates upon  
9 death of last recipient eligible for supplemental benefit;  
10 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of  
11 22-3-811 terminates June 30, 1993.)"

12 NEW SECTION. **Section 5. Effective date.** [This act] is  
13 effective on passage and approval.

-End-

## SENATE BILL NO. 85

INTRODUCED BY KEATING, JERGESON, COBB, KADAS  
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2 determined and levied by the board of hail insurance for  
3 each of the various districts as established, in such  
4 proportions as will in its judgment be fair and equitable.

5 (3) THE BOARD OF HAIL INSURANCE HAS AUTHORITY TO ACCEPT  
6 AND EXPEND ALL FUNDS RECEIVED BY IT, INCLUDING AMOUNTS  
7 REPAID AS PRINCIPAL AND INTEREST ON INVESTMENTS. THE FUNDS  
8 ARE STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO  
9 THE BOARD OF HAIL INSURANCE FOR THE PURPOSES OF THIS  
10 CHAPTER. EXPENDITURES FOR ACTUAL AND NECESSARY EXPENSES  
11 REQUIRED FOR THE EFFICIENT ADMINISTRATION OF THIS PART MUST  
12 BE MADE FROM TEMPORARY APPROPRIATIONS, AS DESCRIBED IN  
13 17-7-501(1) OR (2), MADE FOR THAT PURPOSE.

14 ~~(3)~~ (4) In making the levy provided in this section and  
15 80-2-223, the board of hail insurance shall provide for:

16 (a) the payment of all expenses of administration,  
17 together with all interest owed or to be owing on registered  
18 warrants;

19 (b) that portion of the losses incurred during the  
20 current year which that are not paid from funds drawn from  
21 the reserve;

22 (c) the maintenance of the reserve, a part or all of  
23 which may be used in any one year for the purpose of paying  
24 the costs of administration, interest on the warrants, and  
25 losses as the same shall be settled and adjusted by the

board, including the losses sustained in any prior year or years under the hail insurance law that have not been paid.

~~(4)~~(5) If at the end of any hail insurance season the board determines ~~and finds~~ that more funds are accumulating from the current year's levies than were estimated when the levy was made and are in excess of the need for the payment of losses and expenses and maintenance of the reserve, the board may, at its discretion, refund the excess to the farmers insured for the year, on a pro rata or percentage basis.

~~(5)~~(6) The board of hail insurance may direct the board of investments to invest funds from the expendable-trust enterprise fund pursuant to the provisions of the unified investment program for state funds. The income from such the investments ~~shall~~ must be credited to the board of hail insurance account in the expendable-trust enterprise fund."

**Section 2.** Section 80-2-228, MCA, is amended to read:

"80-2-228. Reserve fund. (1) Each year when the hail board makes its annual levy for the payment of current losses, expenses of administration, and for an addition to the reserve if conditions permit, it may not increase the levy enough in any year so that such the addition to the reserve will exceed 5% of the maximum risk written for that year.

(2) The board may engage the services of a qualified

actuary to conduct an actuarial valuation of the reserve. This valuation shall include the actuary's determination of the amount of reserve necessary to absorb all reasonably anticipated catastrophic losses. This amount ~~shall be~~ is the maximum permissible reserve fund for the next year.

(3) The reserve ~~shall~~ must be deposited in an expendable-trust enterprise fund.

(4) The board may not draw on the reserve for any purpose unless the amount required for the payment of losses for the current year, including interest on warrants and costs of administration, exceeds the amount of the estimate made by the board for the current year pursuant to 80-2-221."

**Section 3.** Section 80-2-232, MCA, is amended to read:

"80-2-232. State treasurer's duty -- warrants -- transfers to county and state general fund. (1) The state treasurer shall receive all moneys money paid to him under this part and shall place ~~same~~ the money in trust for the hail insurance program to the credit of the expendable-trust enterprise fund. All moneys money collected by the board ~~shall~~ must be deposited in the expendable--trust enterprise fund, and all losses ~~shall~~ must be paid from that fund. All other costs are administrative expenses and ~~shall~~ must be paid from the board's expendable-trust enterprise fund. If registered warrants ~~be~~ are presented and there ~~be~~ is no

1 money to pay the same warrants, such the warrants shall must  
 2 be registered and thereafter bear interest at the rate of 4%  
 3 per annum until called for payment by the state treasurer.

4 (2) Upon warrants drawn by order of the board, the  
 5 state treasurer shall pay out of the board's expendable  
 6 trust enterprise fund to the county treasurer of each county  
 7 where state hail insurance coverage is in force 2% of the  
 8 gross annual levies made and collected in such that county  
 9 under this part for the use of the county as the board of  
 10 county commissioners may determine.

11 (3) Upon authorization from the board of hail  
 12 insurance, the state treasurer shall transfer out of the  
 13 board's expendable-trust enterprise fund to the general fund  
 14 of the state of Montana 1.5% of the gross annual levies made  
 15 and collected in the state of Montana."

16 **SECTION 4. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

17 "17-7-502. Statutory appropriations -- definition --  
 18 requisites for validity. (1) A statutory appropriation is an  
 19 appropriation made by permanent law that authorizes spending  
 20 by a state agency without the need for a biennial  
 21 legislative appropriation or budget amendment.

22 (2) Except as provided in subsection (4), to be  
 23 effective, a statutory appropriation must comply with both  
 24 of the following provisions:

25 (a) The law containing the statutory authority must be

1 listed in subsection (3).

2 (b) The law or portion of the law making a statutory  
 3 appropriation must specifically state that a statutory  
 4 appropriation is made as provided in this section.

5 (3) The following laws are the only laws containing  
 6 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 7 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
 8 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;  
 9 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
 10 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409;  
 11 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007;  
 12 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
 13 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109;  
 14 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811;  
 15 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631;  
 16 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501;  
 17 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206;  
 18 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108;  
 19 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;  
 20 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301;  
 21 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

22 (4) There is a statutory appropriation to pay the  
 23 principal, interest, premiums, and costs of issuing, paying,  
 24 and securing all bonds, notes, or other obligations, as due,  
 25 that have been authorized and issued pursuant to the laws of

1 Montana. Agencies that have entered into agreements  
 2 authorized by the laws of Montana to pay the state  
 3 treasurer, for deposit in accordance with 17-2-101 through  
 4 17-2-107, as determined by the state treasurer, an amount  
 5 sufficient to pay the principal and interest as due on the  
 6 bonds or notes have statutory appropriation authority for  
 7 the payments. (In subsection (3): pursuant to sec. 7, Ch.  
 8 567, L. 1991, the inclusion of 19-6-709 terminates upon  
 9 death of last recipient eligible for supplemental benefit;  
 10 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of  
 11 22-3-811 terminates June 30, 1993.)"

12 NEW SECTION. Section 5. Effective date. [This act] is  
 13 effective on passage and approval.

-End-