

118TH CONGRESS  
2D SESSION

# S. 3930

To provide downpayment assistance to first-generation homebuyers to address multigenerational inequities in access to homeownership and to narrow and ultimately close the racial homeownership gap in the United States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 12, 2024

Mr. WARNOCK (for himself, Ms. BUTLER, Mr. BROWN, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide downpayment assistance to first-generation homebuyers to address multigenerational inequities in access to homeownership and to narrow and ultimately close the racial homeownership gap in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Downpayment Toward  
5 Equity Act of 2024”.

6 **SEC. 2. DEFINITIONS.**

7 In this section:

1           (1) AFFIRMATIVELY FURTHER FAIR HOUS-  
2           ING.—The term “affirmatively further fair housing”  
3           has the same meaning as defined by the Secretary  
4           to implement section 808(e)(5) of the Fair Housing  
5           Act (42 U.S.C. 3608(e)(5)).

6           (2) ELIGIBLE ENTITY.—The term “eligible enti-  
7           ty” means—

8                   (A) a minority depository institution, as  
9                   defined in section 308 of the Financial Institu-  
10                  tions Reform, Recovery, and Enforcement Act  
11                  of 1989 (12 U.S.C. 1463 note);

12                  (B) a community development financial in-  
13                  stitution, as defined in section 103 of the Riegle  
14                  Community Development and Regulatory Im-  
15                  provement Act of 1994 (12 U.S.C. 4702), that  
16                  is certified by the Secretary of the Treasury  
17                  and targets services to minority and low-income  
18                  populations or provides services in neighbor-  
19                  hoods having high concentrations of minority  
20                  and low-income populations;

21                  (C) any other nonprofit, mission-driven en-  
22                  tity that the Secretary finds has a track record  
23                  of providing assistance to homeowners, targets  
24                  services to minority and low-income popu-  
25                  lations, or provides services in neighborhoods

1           having high concentrations of minority and low-  
2           income populations; and

3           (D) a unit of general local government, as  
4           defined in section 102 of the Housing and Com-  
5           munity Development Act of 1974 (42 U.S.C.  
6           5302).

7           (3) ELIGIBLE HOME.—The term “eligible  
8           home” means a residential dwelling, including a unit  
9           in a condominium or cooperative project or a manu-  
10          factured housing unit, that meets the requirements  
11          of section 5.

12          (4) ELIGIBLE MORTGAGE LOAN.—The term “el-  
13          igible mortgage loan” means a residential mortgage  
14          loan that meets the requirements of section 6.

15          (5) FIRST-GENERATION HOMEBUYER.—The  
16          term “first-generation homebuyer” means a home-  
17          buyer that is—

18                 (A) an individual—

19                         (i) whose parents or legal guardians  
20                         do not, or did not at the time of their  
21                         death, to the best of the individual’s knowl-  
22                         edge, have any present ownership interest  
23                         in a residence in any State, excluding own-  
24                         ership of heir property or ownership of  
25                         chattel; and

1           (ii) whose spouse or domestic partner  
2           has not, during the 3-year period ending  
3           upon acquisition of the eligible home to be  
4           acquired using such assistance, had any  
5           present ownership interest in a residence  
6           in any State, excluding ownership of heir  
7           property or ownership of chattel, whether  
8           the individual is a co-borrower on the loan  
9           or not; or

10          (B) an individual who has at any time  
11          been placed in foster care or institutional care  
12          whose spouse or domestic partner has not, dur-  
13          ing the 3-year period ending upon acquisition of  
14          the eligible home to be acquired using such as-  
15          sistance, had any ownership interest in a resi-  
16          dence in any State, excluding ownership of heir  
17          property or ownership of chattel, whether such  
18          individuals are co-borrowers on the loan or not.

19          (6) HEIR PROPERTY.—The term “heir prop-  
20          erty” means residential property for which title  
21          passed by operation of law through intestacy and is  
22          held by 2 or more heirs as tenants in common.

23          (7) OWNERSHIP INTEREST.—The term “owner-  
24          ship interest” means any ownership, excluding any  
25          interest in heir property, in—

1 (A) real estate in fee simple;

2 (B) a leasehold on real estate under a lease  
3 for not less than 99 years which is renewable;  
4 or

5 (C) a fee interest in, or long-term leasehold  
6 interest in, real estate consisting of a 1-family  
7 unit in a multifamily project, including a  
8 project in which the dwelling units are attached,  
9 or are manufactured housing units, semi-de-  
10 tached, or detached, and an undivided interest  
11 in the common areas and facilities which serve  
12 the project.

13 (8) QUALIFIED HOMEBUYER.—The term  
14 “qualified homebuyer”—

15 (A) means a homebuyer who meets the re-  
16 quirements of section 4; and

17 (B) includes homebuyers consisting of mul-  
18 tiple individuals, co-purchasers, and multi-mem-  
19 ber households.

20 (9) SECRETARY.—The term “Secretary” means  
21 the Secretary of Housing and Urban Development.

22 (10) SHARED EQUITY HOMEOWNERSHIP PRO-  
23 GRAM.—The term “shared equity homeownership  
24 program” means affordable homeownership preser-  
25 vation through a resale restriction program adminis-

1       tered by a community land trust, other nonprofit or-  
2       ganization, or State or local government or instru-  
3       mentalities.

4               (11) SOCIALLY AND ECONOMICALLY DISADVAN-  
5       TAGED INDIVIDUAL.—The term “socially and eco-  
6       nomically disadvantaged individual” means an indi-  
7       vidual who meets the following requirements:

8               (A) SOCIAL DISADVANTAGE.—

9               (i) IN GENERAL.—The individual is a  
10       member of a socially disadvantaged group,  
11       whose members have historically been sub-  
12       jected to racial or ethnic discrimination  
13       within the United States because of their  
14       identity as members of such group without  
15       regard to their individual qualities.

16              (ii) PRESUMPTION; REBUTTAL.—An  
17       individual identifying as Black, Hispanic,  
18       Native American, or Asian American, or  
19       any combination thereof, shall be presumed  
20       to be socially disadvantaged for purposes  
21       of clause (i). Such presumption may be re-  
22       butted with credible evidence to the con-  
23       trary.

24              (iii) BURDEN OF PROOF.—An indi-  
25       vidual who does not identify as described

1 in clause (ii) shall be required to establish  
2 individual social disadvantage for purposes  
3 of clause (i) by a preponderance of the evi-  
4 dence.

5 (iv) RULES.—The Secretary may  
6 issue regulations as necessary to establish  
7 procedures for complying with this sub-  
8 paragraph.

9 (B) ECONOMIC DISADVANTAGE.—The indi-  
10 vidual has an income that meets the require-  
11 ments under section 4(a).

12 (12) STATE.—The term “State” means any  
13 State of the United States, the District of Columbia,  
14 the Commonwealth of Puerto Rico, the United  
15 States Virgin Islands, Guam, the Commonwealth of  
16 the Northern Mariana Islands, American Samoa,  
17 and the tribal government of any Indian tribe, as de-  
18 fined in section 4 of the Native American Housing  
19 Assistance and Self-Determination Act of 1996 (25  
20 U.S.C. 4103).

21 **SEC. 3. FIRST-GENERATION DOWNPAYMENT ASSISTANCE**  
22 **PROGRAM.**

23 (a) ESTABLISHMENT.—The Secretary shall carry out  
24 a program under this Act to provide grants to States and  
25 eligible entities to provide financial assistance under this

1 section to first-generation homebuyers to assist them with  
2 acquiring owner-occupied primary residences.

3 (b) ALLOCATION.—After reserving amounts as re-  
4 quired under sections 7(d) and 9(b), any remaining  
5 amounts made available to carry out this Act shall be allo-  
6 cated as follows:

7 (1) STATES.—75 percent of such amounts shall  
8 be allocated among States in accordance with a for-  
9 mula established by the Secretary, which shall—

10 (A) take into consideration the best avail-  
11 able data to provide more funding to States  
12 with a higher approximate number of potential  
13 qualified homebuyers; and

14 (B) be adjusted to reflect median area  
15 home prices.

16 (2) ELIGIBLE ENTITIES.—25 percent of such  
17 amounts shall be made available only to eligible enti-  
18 ties on a competitive basis.

19 (c) ASSISTANCE.—Amounts from a grant under this  
20 Act shall be used only to provide assistance—

21 (1) on behalf of a qualified homebuyer; and

22 (2) for—

23 (A) costs in connection with the acquisi-  
24 tion, involving an eligible mortgage loan, of an  
25 eligible home, including downpayment costs,



1 closing costs, and costs to reduce the rates of  
2 interest on eligible mortgage loans;

3 (B) subsidies to make shared equity homes  
4 affordable to homebuyers by discounting the  
5 price for which the home will be sold and to  
6 preserve the affordability of the home for subse-  
7 quent homebuyers; and

8 (C) pre-occupancy home modifications re-  
9 quired to accommodate qualified homebuyers or  
10 members of their household with disabilities.

11 (d) AMOUNT.—A grant of assistance under this  
12 Act—

13 (1) may be provided on behalf of any qualified  
14 homebuyer only once; and

15 (2) may not exceed the greater of \$20,000 or  
16 10 percent of the purchase price in the case of a  
17 qualified homebuyer, not to include assistance re-  
18 ceived under subsection (e)(2)(C) for disability re-  
19 lated home modifications, except that the Secretary  
20 may increase such maximum limitation amounts—

21 (A) for qualified homebuyers who are so-  
22 cially and economically disadvantaged; or

23 (B) in the case of qualified homebuyers ac-  
24 quiring residences located in high-cost areas, as  
25 determined based on median home prices or

1 prices of residences under a shared equity  
2 homeownership program.

3 (e) LAYERING OF ASSISTANCE.—Assistance from  
4 grant amounts under this Act may be provided on behalf  
5 of a qualified homebuyer who is receiving assistance from  
6 other sources, including other State, Federal, local, pri-  
7 vate, public, and nonprofit sources, for acquisition of an  
8 eligible home.

9 (f) STATE ADMINISTRATION.—

10 (1) IN GENERAL.—The Secretary shall require  
11 that each State receiving grant amounts under this  
12 Act administer the program to provide assistance  
13 with such amounts through the State housing fi-  
14 nance agency for the State or such other housing  
15 agency of the State as the Secretary finds appro-  
16 priate, except that any such agency may, at the op-  
17 tion of the agency, contract with a nonprofit entity,  
18 including a housing counseling agency approved by  
19 the Secretary, to administer such assistance.

20 (2) AFFIRMATIVELY FURTHERING FAIR HOUS-  
21 ING.—For a State to be eligible for a grant under  
22 this Act, the State shall be in compliance with the  
23 Secretary's regulations implementing the require-  
24 ment to affirmatively further fair housing.

1           (3) PROHIBITION OF PRIORITY OR  
2 RECOUPMENT OF FUNDS.—In selecting qualified  
3 homebuyers for assistance with grant amounts under  
4 this Act, a State or eligible entity may not—

5           (A) provide any priority or preference for  
6 homebuyers who are acquiring eligible homes  
7 with a mortgage loan made, insured, guaran-  
8 teed, or otherwise assisted by the State housing  
9 finance agency for the State, any other housing  
10 agency of the State, or an eligible entity when  
11 applicable; or

12           (B) seek to recoup any funds associated  
13 with the provision of downpayment assistance  
14 to the qualified homebuyer, whether through  
15 premium pricing or otherwise, except as pro-  
16 vided in subsection (g) or otherwise authorized  
17 by the Secretary.

18           (g) RECAPTURE AND REALLOCATION.—The Sec-  
19 retary shall require changes in a grantee’s policy or dis-  
20 tribution of funds or recapture any amounts remaining  
21 available to a grantee, and reallocate such funds among  
22 other States and eligible entities, if the Secretary deter-  
23 mines in his or her sole discretion that—

24           (1) a State or eligible entity—

1 (A) has not demonstrated the capacity to  
 2 expend grant funds in a timely manner that  
 3 furthers the purposes under this Act; or

4 (B) is distributing or plans to distribute  
 5 grant funds in a manner that results or will  
 6 predictably result in qualified homebuyers from  
 7 racial or ethnic groups that have faced historic  
 8 obstacles to homeownership failing to receive  
 9 the benefits of such funds in proportion to their  
 10 population among qualified homebuyers in the  
 11 relevant area; or

12 (2) there is insufficient demand among qualified  
 13 eligible entities to distribute funds.

14 (h) UNIFORMITY AND PROGRAM STANDARDIZA-  
 15 TION.—The Secretary shall establish a uniform set of re-  
 16 quirements to which each State and eligible entity receiv-  
 17 ing grant amounts under this Act shall comply.

18 **SEC. 4. QUALIFIED HOMEBUYERS.**

19 (a) REQUIREMENTS.—Assistance from grant  
 20 amounts under this Act may be provided only on behalf  
 21 of a homebuyer who meets all of the following require-  
 22 ments:

23 (1) INCOME.—The household of the homebuyer  
 24 has an income that does not exceed—

1 (A) 120 percent of median income for the  
2 area (as determined by the Secretary) within  
3 which—

4 (i) the eligible home to be acquired  
5 using such assistance is located; or

6 (ii) the place of residence of the home-  
7 buyer is located; or

8 (B) in the case of a homebuyer acquiring  
9 an eligible home that is located in a high-cost  
10 area, as determined by the Secretary, 140 per-  
11 cent of the median income for the area within  
12 which the eligible home to be acquired using  
13 such assistance is located.

14 (2) FIRST-TIME HOMEBUYER.—The homebuyer,  
15 as self-attested by the homebuyer, is a first-time  
16 homebuyer, as defined in section 104 of the Cran-  
17 ston Gonzalez National Affordable Housing Act (42  
18 U.S.C. 12704), except that—

19 (A) for the purposes of this Act the ref-  
20 erence in such section 104 to title II shall be  
21 considered to refer to this Act; and

22 (B) ownership of heir property shall not be  
23 treated as owning a home for purposes of deter-  
24 mining whether a borrower qualifies as a first-  
25 time homebuyer.

1           (3) FIRST-GENERATION HOMEBUYER.—The  
2           homebuyer, as self-attested by the homebuyer, is a  
3           first-generation homebuyer.

4           (b) RELIANCE ON BORROWER ATTESTATIONS.—No  
5           additional documentation beyond the borrower’s attesta-  
6           tion shall be required to demonstrate eligibility under  
7           paragraphs (2) and (3) of subsection (a), and no creditor  
8           shall be subject to liability, including monetary penalties  
9           or requirements to indemnify a Federal agency or repur-  
10          chase a loan that has been sold or securitized, for the pro-  
11          vision of downpayment assistance under this Act to a bor-  
12          rower who does not meet the eligibility requirements if the  
13          creditor does so in good faith reliance on borrower attesta-  
14          tions of eligibility required by this Act or regulation.

15 **SEC. 5. ELIGIBLE HOMES.**

16          (a) IN GENERAL.—Assistance from grant amounts  
17          under this Act may be provided only in connection with  
18          the acquisition by a qualified homebuyer of a residential  
19          property that—

20                (1) consists of 1 to 4 dwelling units; and

21                (2) will be occupied by the qualified homebuyer,  
22          in accordance with such assurances and commit-  
23          ments as the Secretary shall require, as the primary  
24          residence of the homebuyer, subject to section 4.

25          (b) REPAYMENT OF ASSISTANCE.—

1           (1) REQUIREMENT.—The Secretary shall re-  
2           quire that, if a homebuyer to or on behalf of whom  
3           assistance is provided from grant amounts under  
4           this Act fails or ceases to occupy the property ac-  
5           quired using such assistance as the primary resi-  
6           dence of the homebuyer, except in the case of assist-  
7           ance provided in connection with the purchase of a  
8           principal residence through a shared equity home-  
9           ownership program, the homebuyer shall repay to  
10          the State or eligible entity, as applicable, in a pro-  
11          portional amount of the assistance the homebuyer  
12          receives based on the number of years they have oc-  
13          cupied the eligible home up to 5 years, except that  
14          no assistance shall be repaid if the qualified home-  
15          buyer occupies the eligible home as a primary resi-  
16          dence for 5 years or more.

17          (2) LIMITATION.—Notwithstanding subpara-  
18          graph (A), a homebuyer to or on behalf of whom as-  
19          sistance is provided from grant amounts under this  
20          Act shall not be liable to the State or eligible entity  
21          for the repayment of the amount of such shortage  
22          if the homebuyer fails or ceases to occupy the prop-  
23          erty acquired using such assistance as the principal  
24          residence of the homebuyer at least in part because  
25          of a hardship, or sells the property acquired with

1 such assistance before the expiration of the 60-  
2 month period beginning on such date of acquisition  
3 and the capital gains from such sale to a bona fide  
4 purchaser in an arm's length transaction are less  
5 than the amount the homebuyer is required to repay  
6 the State or eligible entity under subparagraph (A).

7 **SEC. 6. ELIGIBLE MORTGAGE LOANS.**

8 Assistance from grant amounts under this Act may  
9 be provided only in connection with the acquisition of an  
10 eligible home involving a residential mortgage loan that—

11 (1) meets the underwriting requirements and  
12 dollar amount limitations for acquisition by the Fed-  
13 eral National Mortgage Association or the Federal  
14 Home Loan Mortgage Corporation;

15 (2) is made, insured, or guaranteed under any  
16 program administered by the Secretary;

17 (3) is made, insured, or guaranteed by the De-  
18 partment of Agriculture;

19 (4) is a qualified mortgage, as defined in sec-  
20 tion 129C(b)(2) of the Truth in Lending Act (15  
21 U.S.C. 1639c(b)(2)); or

22 (5) is guaranteed for the benefit of a veteran.

23 **SEC. 7. HOUSING COUNSELING REQUIREMENT.**

24 (a) IN GENERAL.—Except as provided pursuant to  
25 section 4, assistance with grant amounts under this Act



1 may not be provided on behalf of qualified homebuyer un-  
2 less such homebuyer has completed a program of coun-  
3 seling with respect to the responsibilities and financial  
4 management involved in homeownership before entering  
5 into a sales purchase agreement or loan application, except  
6 as provided under subsection (c), as the Secretary shall  
7 require, provided through a counseling agency approved  
8 by the Secretary. Such program may be delivered in-per-  
9 son, virtually, by telephone, or any other method the Sec-  
10 retary determines acceptable and shall include providing  
11 information on fair housing rights and on the availability  
12 of post-purchase housing counseling opportunities and in-  
13 struction on how to file a fair housing complaint.

14 (b) ALTERNATIVE REQUIREMENT.—The Secretary  
15 shall provide that if a qualified homebuyer is unable to  
16 complete the requirement under subsection (a) within 30  
17 days due to housing counseling agency capacity issues, a  
18 State or eligible entity may allow such qualified home-  
19 buyer to complete alternative homebuyer education to ful-  
20 fill the requirement under subsection (a), including home-  
21 buyer education that is provided through an online plat-  
22 form, and such qualified homebuyer shall be made aware  
23 of the availability of post-purchase housing counseling op-  
24 portunities.

1           (c) REFERRAL UPON MORTGAGE DENIAL.—The Sec-  
2 retary shall require that any qualified homebuyer who has  
3 completed a counseling program referred to in subsection  
4 (a) or alternative requirement pursuant to subsection (b),  
5 who receives a commitment for assistance with grant  
6 amounts under this Act and who applies for an eligible  
7 mortgage loan for acquisition of an eligible home and is  
8 denied such mortgage loan, shall be referred to a coun-  
9 seling agency described in subsection (a) for counseling  
10 relating to such denial and for re-qualification. An eligible  
11 homebuyer may be re-qualified at least 1 additional time  
12 in a calendar year, or more as determined by the Sec-  
13 retary.

14           (d) FUNDING.—Of any amounts appropriated to  
15 carry out this Act, the Secretary shall use not less than  
16 5 percent for costs of providing counseling referred to in  
17 subsection (a).

18 **SEC. 8. ADMINISTRATIVE COSTS.**

19           States and eligible entities receiving grant amounts  
20 under this Act may use a portion of such amounts for  
21 administrative costs up to the limit specified by the Sec-  
22 retary.

23 **SEC. 9. REPORTS.**

24           (a) ANNUAL REPORT.—

1           (1) IN GENERAL.—For each fiscal year during  
2           which the Secretary makes grants under this Act,  
3           the Secretary shall submit to Congress, and make  
4           publicly available online in an easily accessible loca-  
5           tion on the website of the Department of Housing  
6           and Urban Development, a report that shall in-  
7           clude—

8                   (A) demographic information regarding ap-  
9                   plicants for and recipients of assistance pro-  
10                  vided pursuant to this Act, including race, eth-  
11                  nicity, and gender;

12                  (B) information regarding the types and  
13                  amount of assistance provided, including down-  
14                  payment assistance, assistance with closing  
15                  costs, and assistance to reduce mortgage loan  
16                  interest rates; and

17                  (C) information regarding properties ac-  
18                  quired using such assistance, including location,  
19                  property value, property type, and first mort-  
20                  gage type and investor.

21           (2) DISAGGREGATION.—All data included in an  
22           report required under paragraph (1) shall be  
23           disaggregated by ZIP Code or census tract level,  
24           whichever is most feasible, and demographic infor-  
25           mation, including race, ethnicity, and gender, and

1 any other data points the Secretary deems appro-  
2 priate especially to observe equitable outcomes to en-  
3 sure the grant program is affirmatively furthering  
4 fair housing.

5 (b) CAPACITY BUILDING.—

6 (1) IN GENERAL.—Of any amounts appro-  
7 priated to carry out this Act, the Secretary shall use  
8 not more than 1 percent to assist States and eligible  
9 entities to develop capacity to meet the reporting re-  
10 quirements under subsection (a).

11 (2) CONSULTATION.—The Secretary shall en-  
12 courage States and eligible entities to consult with  
13 community-based and nonprofit organizations that  
14 have as their mission to advance fair housing and  
15 fair lending.

16 (c) PRIVACY REQUIREMENTS.—

17 (1) IN GENERAL.—Each State and eligible enti-  
18 ty that receives a grant under this Act shall estab-  
19 lish data privacy and security requirements for the  
20 information described in subsection (a) that—

21 (A) include appropriate measures to ensure  
22 that the privacy of the individuals and house-  
23 holds is protected;

24 (B) provide that the information, including  
25 any personally identifiable information, is col-

1 lected and used only for the purpose of submit-  
2 ting reports under subsection (a); and

3 (C) provide confidentiality protections for  
4 data collected about any individuals who are  
5 survivors of intimate partner violence, sexual  
6 assault, or stalking.

7 (2) STATISTICAL RESEARCH.—

8 (A) IN GENERAL.—The Secretary—

9 (i) may provide full and unredacted  
10 information provided under subsection (a),  
11 including personally identifiable informa-  
12 tion, for statistical research purposes in ac-  
13 cordance with existing law; and

14 (ii) may collect and make available for  
15 statistical research, at the census tract  
16 level, information collected under para-  
17 graph (1).

18 (B) APPLICATION OF PRIVACY REQUIRE-  
19 MENTS.—A recipient of information under sub-  
20 paragraph (A) shall establish for such informa-  
21 tion the data privacy and security requirements  
22 described in paragraph (1).

23 **SEC. 10. COMPELLING INTEREST STUDY.**

24 (a) IN GENERAL.—The Secretary, in consultation  
25 with the Attorney General, shall survey and compile evi-

1 dence to determine whether or not there is a sufficient  
2 history of discrimination in housing and, if so, the appro-  
3 priate remedy to redress such historic discrimination.

4 (b) **RECOMMENDATIONS.**—The Secretary shall make  
5 conclusions and recommendations based on the evidence  
6 compiled under subsection (a) and provide States and eli-  
7 gible entities granted awards under this Act an oppor-  
8 tunity to modify their programs for assistance under this  
9 Act according to such recommendations.

10 **SEC. 11. IMPLEMENTATION.**

11 The Secretary shall have the authority to establish  
12 by notice or mortgagee letter any requirements that the  
13 Secretary determines are necessary for timely and effec-  
14 tive implementation of the grant program under this Act  
15 and the expenditure of funds appropriated, which require-  
16 ments shall take effect upon issuance.

17 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

18 There is authorized to be appropriated for grants  
19 under this Act \$100,000,000,000, and any amounts ap-  
20 propriated pursuant to this section shall remain available  
21 until expended.

○