

2019 Regular Session

HOUSE BILL NO. 578

BY REPRESENTATIVES MAGEE, ABRAHAM, AMEDEE, BAGLEY, BAGNERIS, BARRAS, BERTHELOT, BILLIOT, BISHOP, BOURRIAQUE, CHAD BROWN, CARMODY, CARPENTER, STEVE CARTER, CONNICK, COUSSAN, COX, CREWS, DAVIS, DEVILLIER, DUBUISSON, EDMONDS, EMERSON, FOIL, GAINES, GISCLAIR, HILFERTY, HOLLIS, HORTON, IVEY, JACKSON, JAMES, JEFFERSON, JENKINS, ROBERT JOHNSON, JONES, JORDAN, LACOMBE, NANCY LANDRY, LARVADAIN, LEBAS, LYONS, MARCELLE, MARINO, MIGUEZ, NORTON, PEARSON, PIERRE, RICHARD, SCHEXNAYDER, SEABAUGH, STAGNI, STEFANSKI, STOKES, THOMAS, WHITE, AND ZERINGUE AND SENATORS CHABERT, CORTEZ, LAMBERT, WARD, AND WHITE

AN ACT

To amend and reenact R.S. 39:91(B)(2), (3), and (4) and (C), to enact R.S. 39:91(B)(5) through (8), (E) through (T), and 1367(E)(2)(b)(vii), and to repeal R.S. 39:91(E), R.S. 46:2691(A)(1)(b), and 2731(B)(2), relative to the Deepwater Horizon Economic Damages Collection Fund; to dedicate payments from the litigation to the Construction Subfund of the Transportation Trust Fund for transportation projects; to authorize the proceeds from the Deepwater Horizon litigation to fund certain transportation projects; to authorize the State Bond Commission to securitize the state's allocation of the economic damage settlement of the Deepwater Horizon oil spill litigation in order to fund certain transportation projects; to provide for the issuance of bonds; to provide for certain requirements and limitations on the issuance of bonds; to provide for a procedure to contest the validity of the issuance of the bonds; to provide for the rights of bondholders; to authorize the issuance of refunding bonds; to provide relative to payments to the Budget Stabilization Fund; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 39:91(B)(2), (3), and (4) and (C) are hereby amended and reenacted  
2 and R.S. 39:91(B)(5) through (8), (E) through (T), and 1367(E)(2)(b)(vii) are hereby enacted  
3 to read as follows:

4 §91. Deepwater Horizon Economic Damages Collection Fund

5 \* \* \*

6 B. All economic damages proceeds from the DWH litigation in excess of the  
7 first two hundred million dollars deposited in the Fiscal Year 2015-2016 Deficit  
8 Elimination Fund shall be deposited by the treasurer as follows:

9 \* \* \*

10 (2) For Fiscal Year 2019-2020, forty-five ~~Forty-five~~ percent of each such  
11 receipt of economic damages proceeds to the Budget Stabilization Fund until that  
12 fund reaches the amount statutorily mandated by R.S. 39:94.

13 (3) For Fiscal Year 2019-2020, forty-five ~~Forty-five~~ percent of each such  
14 receipt of economic damages proceeds to the Medicaid Trust Fund for the Elderly  
15 provided for in R.S. 46:2691 until an amount not to exceed seven hundred million  
16 dollars has been deposited into such fund.

17 (4) For Fiscal Year 2019-2020, ten ~~Ten~~ percent of each such receipt of  
18 economic damages proceeds to the Health Trust Fund provided for in R.S. 46:2731  
19 until an amount not to exceed thirty million dollars has been deposited into such  
20 fund.

21 (5) Beginning July 1, 2020, and each fiscal year thereafter through and  
22 including Fiscal Year 2034, in such amounts as remain after payment of amounts due  
23 on bonds and related expenses as provided in the documents pursuant to which bonds  
24 were issued under the provisions of this Section, the state treasurer shall immediately  
25 transfer the annual payments of fifty-three million three hundred thirty-three  
26 thousand three hundred thirty-three dollars to the Construction Subfund of the  
27 Transportation Trust Fund. The economic damage proceeds shall be used, and the  
28 bonds issued by the State Bond Commission pursuant to this Section shall be issued,  
29 after paying the costs associated with the issuance of the bonds, solely and  
30 exclusively for the following projects and in the following amounts:

- 1                   (a)     For Fiscal Years 2021-2026, \$25,000,000
- 2                                   per year for Phase Two of the LA 1 Improvement
- 3                                   Project between Golden Meadow, La. and
- 4                                   Leeville, La.                                   \$150,000,000
- 5                   (b)     LA 415 Bridge at the Intracoastal Canal                                   \$125,000,000
- 6                   (c)     I-49 South   \$150,000,000
- 7                   (d)     LA. Highway 3241 from I-12 to Bush, La.                                   \$50,000,000
- 8                   (e)     I-49 North Inter-City Connector in Caddo Parish                                   \$100,000,000
- 9                   (f)     Acquisition of a New Cameron Parish Ferry                                   \$20,000,000
- 10                   (g)     On-System Bridge Program for the
- 11                                   replacement and rehabilitation program
- 12                                   for highway bridges on any federal-aid
- 13                                   system over waterways, other topographical
- 14                                   barriers, other highways, and railroads and
- 15                                   for replacement and rehabilitation of highway
- 16                                   bridges on state highways that are ineligible
- 17                                   for federal highway funding assistance                                   \$40,000,000
- 18                   (h)     Sugarhouse Road Extension/Eddie Williams
- 19                                   Boulevard to LA 43 Highway 1, Phase I and II                                   \$19,000,000
- 20                   (i)     Acquisition of Two Cranes for the Port of
- 21                                   New Orleans   \$20,000,000
- 22                   (j)     Hooper Road Widening from LA 3034 to LA 37                                   \$15,000,000
- 23                   (6) The dollar value listed, plus an amount equal to ten percent, together with
- 24                                   other requirements including but not limited to costs of issuance, capitalized interest,
- 25                                   if any, credit enhancement and related costs, is the maximum amount that may be
- 26                                   financed for each of the following projects.
- 27                                   (7) The economic damage payments shall not be used by the Department of
- 28                                   Transportation and Development for any project that is to be funded through Grant
- 29                                   Anticipation Revenue Vehicle (GARVEE) bonds.
- 30                   (8) Projects contained in this Section shall not be required to be included in

1 the annual comprehensive capital budget nor obtain legislative approval as provided  
2 in R.S. 39:112(G).

3 C. ~~(1) All unexpended and unencumbered monies in the Deepwater Horizon~~  
4 ~~Economic Damages Collection Fund at the end of the fiscal year shall remain in the~~  
5 ~~fund. The monies in the fund shall be invested by the state treasurer in the same~~  
6 ~~manner as monies in the state general fund, and interest earned on the investment of~~  
7 ~~monies shall be credited to the fund.~~

8 ~~(2)(a) Appropriations from the Deepwater Horizon Economic Damages~~  
9 ~~Collection Fund shall be limited to an annual amount not to exceed the estimated~~  
10 ~~aggregate annual earnings from interest earned on the investment of monies in the~~  
11 ~~fund and shall be made to the Board of Regents to be equitably allocated to public~~  
12 ~~postsecondary education institutions in the state in accordance with Article VIII,~~  
13 ~~Section 5(D)(4) of the Constitution of Louisiana. The board may also distribute such~~  
14 ~~appropriations to independent institutions for higher learning in accordance with R.S.~~  
15 ~~17:2053.~~

16 ~~(b) The monies appropriated by the legislature and disbursed from the~~  
17 ~~Deepwater Horizon Economic Damages Collection Fund shall not displace, replace,~~  
18 ~~or supplant funding for higher education. This Subparagraph shall mean that no~~  
19 ~~appropriation for any fiscal year from the Deepwater Horizon Economic Damages~~  
20 ~~Collection Fund shall be made for any purpose for which a general fund~~  
21 ~~appropriation was made in the previous year unless the total appropriations for that~~  
22 ~~fiscal year from the state general fund for such purpose exceed general fund~~  
23 ~~appropriations for the previous year. This Subparagraph shall in no way limit~~  
24 ~~general fund appropriations in excess of the minimum amounts herein established.~~

25 Notwithstanding any provision of law to the contrary, and as a grant of power  
26 in addition to any other general or special law, the State Bond Commission,  
27 hereinafter referred to as the "commission", on behalf of the Department of  
28 Transportation and Development, hereinafter referred to as the "department", may  
29 issue bonds, notes, certificates, or other evidences of indebtedness, hereinafter  
30 collectively referred to as the "bonds", for the purpose of funding the projects listed

1 in R.S. 39:91(B)(5), and may pledge the economic proceeds received by the state  
 2 from the Deepwater Horizon oil spill litigation for the payment of the principal and  
 3 interest of such bonds. The commission is further authorized, in its discretion, to  
 4 pledge all or any part of any gift, grant, donation, or other sum of money, aid, or  
 5 assistance from the United States, the state, or any political subdivision thereof,  
 6 unless otherwise restricted by the terms thereof, all or any part of the proceeds of  
 7 bonds, credit agreements, instruments, or any other money of the commission, from  
 8 whatever source derived, for the further securing of the payment of the principal and  
 9 interest of the bonds. Any bonds issued pursuant to the provisions hereof shall  
 10 constitute revenue bonds under Article VII, Section 6 of the Constitution of  
 11 Louisiana, and such bonds shall be payable solely from an irrevocable pledge and  
 12 dedication of the economic damage proceeds received by the state from the  
 13 Deepwater Horizon oil spill damages beginning in Fiscal Year 2021 and through  
 14 Fiscal Year 2034, or other fees, rates, rentals, charges, grants, or other receipts or  
 15 income derived by or in connection with an undertaking, facility, project, or any  
 16 combination thereof, without a pledge of the full faith and credit of the state,  
 17 hereinafter referred to as "revenues".

18 \* \* \*

19 E. In accordance with the provisions of Article VII, Section 9(A)(6) of the  
 20 Constitution of Louisiana, there is hereby established a special fund for the purpose  
 21 of providing for the securitization of any bonds which may be issued pursuant to the  
 22 provisions of this Section which shall include requirements for reserves and credit  
 23 enhancement devices, all as may be provided in any resolution, trust agreement,  
 24 indenture, or other instrument pursuant to which such bonds were issued. The fund  
 25 shall be administered by a trustee as designated by the State Bond Commission. The  
 26 source of monies for the fund shall be the economic damage proceeds received by  
 27 the state from the Deepwater Horizon oil spill damages beginning in Fiscal Year  
 28 2021 and through Fiscal Year 2034, pursuant to R.S. 39:91. All revenues received  
 29 from the economic damages as are necessary to provide for all requirements  
 30 associated with the bonds as provided in this Section shall be classified and set aside

1 in a separately identifiable fund or account outside of the state treasury but  
2 maintained by the state treasury and such revenues shall be assigned and pledged to  
3 the trustee under the documents pursuant to which the bonds were issued for the  
4 benefit of the holders of the bonds. Only after satisfaction of all requirements of this  
5 Section shall any monies received by the state from the Deepwater Horizon  
6 economic damages be available for any other purposes, and specifically for the  
7 purposes provided for in this Section.

8 F. Bonds issued under the provisions of this Section shall not be deemed to  
9 constitute a pledge of the full faith and credit of the state or of any governmental unit  
10 thereof. All such bonds shall contain a statement on their face substantially to the  
11 effect that neither the full faith and credit of the state nor the full faith and credit of  
12 any public entity of the state are pledged to the payment of the principal of or the  
13 interest on such bonds. The issuance of bonds under the provisions of this Section  
14 shall not directly, indirectly, or contingently obligate the state or any governmental  
15 unit of the state to levy any taxes whatsoever therefor or to make any appropriation  
16 for their payment.

17 G. Bonds shall be authorized by a resolution of the commission and shall be  
18 of such series, bear such date or dates, mature at such time or times, bear interest at  
19 such rate or rates, including but not limited to fixed, variable, or zero rates, be  
20 payable at such time or times, be in such denominations, be in such form, carry such  
21 registration and exchangeability privilege, be payable in such medium of payment  
22 and at such place or places, be subject to such terms of redemption prior to maturity  
23 at such price or prices as determined by the commission, and be entitled to such  
24 priority on the revenues as such resolution or resolutions may provide.

25 H. Bonds shall be sold by the commission at public sale by competitive bid  
26 or negotiated private sale and at such price as the commission may determine to be  
27 in the best interest of the commission and the state.

28 I. Except for the provisions of R.S. 39:1367, the issuance of the bonds shall  
29 not be subject to any limitations, requirements, or conditions contained in any other  
30 law, and bonds may be issued without obtaining the consent of any political

1 subdivision of the state or of any agency, commission, or instrumentality of the state.

2 The bonds shall be issued in compliance with the provisions of this Section.

3 J. For a period of thirty days after the date of publication of a notice of intent  
4 to issue bonds in the official journal of the commission authorizing the issuance of  
5 bonds hereunder, any person in interest shall have the right to contest the legality of  
6 the resolution and the legality of the bond issue for any cause, but after that time no  
7 one shall have any cause or right of action to contest the legality of the resolution or  
8 of the bonds or the security therefor for any cause whatsoever. If no suit, action, or  
9 proceeding is begun contesting the validity of the resolution, the bonds or the  
10 security therefor within the thirty days herein prescribed, the authority to issue the  
11 bonds and to provide for the payment thereof, the legality thereof, and all of the  
12 provisions of the resolution authorizing the issuance of the bonds shall be  
13 conclusively presumed to be legal and shall be incontestable. Any notice of intent so  
14 published shall set forth in reasonable detail the purpose of the bonds, the security  
15 therefor, and the parameters of amount, duration, and interest rates. Any suit to  
16 determine the validity of bonds issued by the commission shall be brought only in  
17 accordance with the provisions of R.S. 13:5121 et seq.

18 K. All bonds issued pursuant to this Section shall have all the qualities of  
19 negotiable instruments under the commercial laws of the state.

20 L. Any pledge of the revenues or other monies made by the commission shall  
21 be valid and binding from the time when the pledge is made. The revenues or monies  
22 so pledged and thereafter received by the commission shall immediately be subject  
23 to the lien of such pledge without any physical delivery thereof or further act, and the  
24 lien of any such pledge shall be valid and binding as against all parties having claims  
25 of any kind in tort, contract, or otherwise against the commission irrespective of  
26 whether such parties have notice thereof. Any trust agreement or other instrument  
27 by which a pledge is created need not be filed or recorded except in the official  
28 records of the commission.

29 M. Neither the members of the commission nor any person executing the  
30 bonds shall be personally liable for the bonds or be subject to any personal liability

1           or accountability by reason of the issuance thereof.

2           N. Bonds of the commission, their transfer, and the income thereof shall at  
3           all times be exempt from all taxation by the state or any political subdivision thereof,  
4           and may or may not be exempt for federal income tax purposes. The bonds issued  
5           pursuant to this Section shall be and are hereby declared to be legal and authorized  
6           investments for banks, savings banks, trust companies, building and loan  
7           associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds  
8           shall be eligible to secure the deposit of any and all public funds of the state and any  
9           and all public funds of municipalities, parishes, school districts, or other political  
10          corporations or subdivisions of the state. Such bonds shall be lawful and sufficient  
11          security for said deposits to the extent of their value. When any bonds shall have  
12          been issued pursuant to this Section, neither the legislature, the state, nor any other  
13          entity may act to impair any obligation or contract for the benefit of the holders of  
14          the bonds or discontinue or decrease the fees, taxes, rates, or other revenues pledged  
15          to the payment of the bonds authorized hereunder or permit to be discontinued or  
16          decreased said revenues in anticipation of the collection of which such bonds have  
17          been issued, or in any way make any change in the allocation and dedication of any  
18          fee, rate, or other revenues which would diminish the amount of the revenues to be  
19          received by the commission, until all such bonds shall have been retired as to  
20          principal and interest, and there is hereby vested in the holders from time to time of  
21          such bonds a contract right in the provisions of this Section.

22          O. The commission may provide by resolution for the issuance of refunding  
23          bonds pursuant to R.S. 39:1444 et seq.

24          P. The holders of any bonds issued hereunder shall have such rights and  
25          remedies as may be provided in the resolution or trust agreement authorizing the  
26          issuance of the bonds, including but not by way of limitation, appointment of a  
27          trustee for the bondholders, and any other available civil action to compel  
28          compliance with the terms and provisions of the bonds and the resolution or trust  
29          agreement.

30          Q. Subject to the agreements with the holders of bonds, all proceeds of bonds



1 and all revenues pledged under a resolution or trust agreement authorizing or  
 2 securing such bonds shall be deposited and held in trust in a fund or funds separate  
 3 and apart from all other funds of the state treasury or of the department. Subject to  
 4 the resolution or trust agreement, the trustee shall hold the same for the benefit of the  
 5 holders of the bonds for the application and disposition thereof solely to the  
 6 respective uses and purposes provided in such resolution or trust agreement.

7 R. The commission is authorized to employ all professionals it deems  
 8 necessary in the issuance of the bonds.

9 S. The commission is authorized to enter into any and all agreements or  
 10 contracts, execute any and all instruments, and do and perform any and all acts  
 11 necessary, convenient, or desirable for the issuance of the bonds or to carry out any  
 12 power expressly given in this Section.

13 T. Any other provision of law to the contrary notwithstanding, any revenues  
 14 deposited in the bond fund that are pledged to the repayment of any bonds issued in  
 15 accordance with this Section may be collected and disbursed in accordance with the  
 16 documents pursuant to which such bonds were issued.

17 \* \* \*

18 §1367. State debt; limitations

19 \* \* \*

20 E. As used in this Section, the following terms shall have the following  
 21 meanings ascribed to them unless the context clearly indicates otherwise:

22 \* \* \*

23 (2)(a)

24 \* \* \*

25 (b) "Net state tax supported debt" shall not mean:

26 \* \* \*

27 (vii) Any bond, note, or other evidence of indebtedness issued for the purpose  
 28 of financing the projects set forth in R.S. 39:91 or any bonds issued to refund such  
 29 bonds, notes, or evidence of indebtedness.

30 Section 2. Each year the annual payments required by statutory law to the Budget

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Stabilization Fund shall be fulfilled first from surplus revenues from the prior fiscal year,  
2 secondly, after fulfilling the requirements of R.S. 39:100.61 from excess revenues of the  
3 current fiscal year, or by an appropriation from the state general fund.

4 Section 3. Notwithstanding Section 12 of Act No. 612 of the 2018 Regular Session  
5 of the Legislature, R.S. 39:91(B)(4) as amended by that Act, shall not become effective.

6 Section 4. R.S. 39:91(E) and R.S. 46:2691(A)(1)(b) and 2731(B)(2) are hereby  
7 repealed in their entirety.

8 Section 5. Sections 1, 2, 4, and 5 of this Act shall become effective upon signature  
9 by the governor or, if not signed by the governor, upon expiration of the time for bills to  
10 become law without signature by the governor, as provided by Article III, Section 18 of the  
11 Constitution of Louisiana. Section 3 of this Act shall become effective on July 1, 2020. If  
12 vetoed by the governor and subsequently approved by the legislature, Sections 1, 2, 4, and  
13 5 of this Act shall become effective on the day following such approval. If vetoed by the  
14 governor and subsequently approved by the legislature, Section 3 of this Act shall become  
15 effective on July 1, 2020.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_