

Regular Session, 2011

HOUSE BILL NO. 370

BY REPRESENTATIVES JANE SMITH, BURFORD, HENRY BURNS, BURRELL, CARMODY, CHANDLER, DOERGE, MORRIS, NORTON, SEABAUGH, AND WILLIAMS AND SENATORS ALARIO, BROOME, CHEEK, JACKSON, LAFLEUR, LONG, MICHOT, NEVERS, SHAW, AND WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 9:165(C)(2)(introductory paragraph) and (a) and to enact R.S.  
3 9:165.1 and 165.2, relative to issuance of bonds; to authorize the State Bond  
4 Commission to issue bonds secured by monies deposited into the Unclaimed  
5 Property Leverage Fund for completion of I-49; to provide for the use of the  
6 proceeds of the bonds; to provide for certain requirements and limitations on the  
7 issuance of bonds; to provide for a procedure to contest the validity of issuance of  
8 the bonds; to provide for the rights of bondholders; to authorize the issuance of  
9 refunding bonds; to designate the first I-49 North Unclaimed Property Bond  
10 financed project; to provide for effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 9:165(C)(2)(introductory paragraph) and (a) are hereby amended and  
13 reenacted and R.S. 9:165.1 and 165.2 are hereby enacted to read as follows:

14 §165. Deposit of funds

15 A.

16 \* \* \*

17 C.(1)

18 \* \* \*

19 (2) Monies appropriated from the funds shall ~~only~~ be expended only in  
20 accordance with the provisions of this Paragraph:

21 (a) ~~For transfer to the Louisiana Transportation Authority, hereinafter~~  
22 ~~referred to as the "authority", to pay the principal and interest of unclaimed property~~

1           ~~bonds issued by the authority as the bonds become due and payable, and to fund such~~  
2           ~~reserve for contingencies, costs, and expenses as may be required by the resolution~~  
3           ~~authorizing the issuance of such bonds. These proceeds shall be expended, utilizing~~  
4           ~~any or all powers granted to the authority, including the funding or securitization of~~  
5           ~~revenue bonds, funds from the I-49 North Account exclusively to match federal~~  
6           ~~funds to be used for the costs for and associated with the construction of Interstate~~  
7           ~~49 North from Interstate 20 in the city of Shreveport to the Louisiana/Arkansas~~  
8           ~~border and funds from the I-49 South Account for Interstate 49 South from Interstate~~  
9           ~~10 in the city of Lafayette to the West Bank Expressway in the city of New Orleans.~~  
10           For transfer to the State Bond Commission, hereinafter referred to as the  
11           "commission", to pay the principal, premium, and interest of unclaimed property  
12           bonds issued by the commission pursuant to R.S. 9:165.1 as the bonds become due  
13           and payable and to fund such reserves for contingencies, costs, and expenses as may  
14           be required by the resolution authorizing the issuance of such bonds as well as pay  
15           amounts of ongoing expenses associated with the administration, maintenance, or  
16           evaluation of the bonds issued for Interstate 49 North and Interstate 49 South.  
17           Proceeds of the bonds, except monies needed to fund reserves and pay costs of  
18           issuance, and to the extent not needed to pay debt service or other amounts due under  
19           the resolution authorizing the bonds, shall be expended utilizing any or all powers  
20           granted to the commission including the funding or securitization of revenue bonds.  
21           Monies from the I-49 North Account shall be used exclusively to match federal  
22           funds to be used by the Department of Transportation and Development for the costs  
23           for and associated with the construction of Interstate 49 North from Interstate 20 in  
24           the city of Shreveport to the Louisiana/Arkansas border. Monies from the I-49  
25           South Account shall be used exclusively to match federal funds to be used by the  
26           Department of Transportation and Development for the costs for and associated with  
27           the construction of Interstate 49 South from Interstate 10 in the city of Lafayette to  
28           the West Bank Expressway in the city of New Orleans.

\* \* \*

1           §165.1. Bonds; Unclaimed Property Bonds; Completion of I-49

2                   A.(1) Without reference to any provision of the Constitution of Louisiana  
3           and the laws of Louisiana, and as a grant of power in addition to any other general  
4           or special law, the State Bond Commission, hereinafter "commission", is hereby  
5           authorized to issue unclaimed property bonds, hereinafter referred to as "unclaimed  
6           property bonds" or "bonds", for the I-49 Project and pledge for the payment of the  
7           principal and interest of the unclaimed property bonds monies deposited or to be  
8           deposited into the Unclaimed Property Leverage Fund, which pledge shall be subject  
9           to the appropriation of funds by the legislature. The commission is further  
10           authorized, in its discretion, to pledge all or any part of any gift, grant, donation, or  
11           other sum of money, aid, or assistance from the United States, the state, or any  
12           political subdivision, thereof, unless otherwise restricted by the terms thereof, all or  
13           any part of the proceeds of bonds, credit agreements, instruments, or other money of  
14           the commission, from whatever source derived, for the further securing of the  
15           payment of the principal and interest of the bonds, including any monies provided  
16           to the commission from the Department of Transportation and Development. Any  
17           bonds shall be payable solely from revenues and bond proceeds, pending their  
18           disbursement and investment income thereon.

19                   (2) The unclaimed property receipts which have been deposited into the  
20           Unclaimed Property Leverage Fund shall be applied to pay or provide for the  
21           payment of debt service and all related costs and expenses associated therewith on  
22           unclaimed property bonds issued by the commission. At no time shall bond  
23           payments securitized by unclaimed property receipts in the Unclaimed Property  
24           Leverage Fund exceed fifteen million dollars per year.

25                   (3) The resolution or resolutions under which unclaimed property bonds are  
26           authorized to be issued may contain any or all of the following:

27                   (a) Provisions respecting custody of the proceeds from the sale of the bonds,  
28           including any requirements that such proceeds be held separate from or not be  
29           commingled with other funds of the state.

1           (b) Provisions for the investment and reinvestment of unclaimed property  
2           bond proceeds until used to pay the costs of financing such unclaimed property  
3           bonds and for the disposition of any excess bond proceeds or investment earnings  
4           thereon.

5           (c) Provisions for the execution of reimbursement agreements or similar  
6           agreements in connection with credit facilities, including but not limited to letters of  
7           credit or policies of bond insurance, remarketing agreements, and credit  
8           enhancement devices, for the purpose of moderating interest rate fluctuations.

9           (d) Provisions for the collection, custody, investment, reinvestment, and use  
10          of the pledged revenues or other receipts, funds, or monies pledged therefor and  
11          deposited in the Unclaimed Property Leverage Fund.

12          (e) Provisions regarding the establishment and maintenance of reserves,  
13          sinking funds, and any other funds, and accounts as shall be approved by the  
14          commission in such amounts as may be established by the commission, and the  
15          regulation and disposition thereof, including requirements that any such funds and  
16          accounts be held separate from or not be commingled with other funds.

17          (f) Covenants for the establishment of pledged revenue coverage  
18          requirements for the unclaimed property bonds.

19          (g) Provisions for the issuance of additional unclaimed property bonds on a  
20          parity with unclaimed property bonds theretofore issued, including establishment of  
21          coverage requirements with respect thereto.

22          (h) Provisions or covenants of like or different character from the foregoing  
23          which are determined in such proceedings as necessary, convenient, or desirable in  
24          order to better secure the unclaimed property bonds, or will tend to make the  
25          unclaimed property bonds more marketable, and which are in the best interests of the  
26          commission.

27          B. Bonds issued under the provisions of this Section shall not be deemed to  
28          constitute a pledge of the full faith and credit of the state or of any governmental unit  
29          thereof. All such bonds shall contain a statement on their face substantially to the  
30          effect that neither the full faith and credit of the state nor the full faith and credit of

1           any public entity of the state are pledged to the payment of the principal of or the  
2           interest on such bonds. The issuance of bonds under the provisions of this Section  
3           shall not directly, indirectly, or contingently obligate the state or any governmental  
4           unit of the state to levy any taxes whatever therefor or to make any appropriation for  
5           their payment, other than obligations to make payments by the state or any public  
6           entity to the commission arising out of contracts, including without limitation the  
7           bonds, the bond resolution, and trust indentures authorized under this Section.

8           C. Bonds shall be authorized by a resolution of the commission and shall be  
9           of such series, bear such date or dates, mature at such time or times, bear interest at  
10          such rate or rates, including but not limited to fixed, variable, or zero rates, be  
11          payable at such time or times, be in such denominations, be in such form, carry such  
12          registration and exchangeability privilege, be payable in such medium of payment  
13          and at such place or places, be subject to such terms of redemption prior to maturity  
14          at such price or prices as determined by the commission, and be entitled to such  
15          priority on the revenues as such resolution or resolutions may provide.

16          D. Bonds shall be sold by the commission at public sale by competitive bid  
17          or negotiated by private sale and at such price as the commission may determine to  
18          be in the best interest of the commission.

19          E. The issuance of unclaimed property bonds shall not be subject to any  
20          limitations, requirements, or conditions contained in any other law, and bonds may  
21          be issued without obtaining the consent of the state or any political subdivision, or  
22          of any agency, commission, or instrumentality thereof, except that bonds issued  
23          hereunder shall be included in the calculation of "net state tax supported debt" as  
24          defined in R.S. 39:1367.

25          F. For a period of thirty days after the date of publication of a notice of intent  
26          to issue bonds in the official journal of the state authorizing the issuance of bonds  
27          hereunder, any person in interest shall have the right to contest the legality of the  
28          resolution and the legality of the bond issue for any cause, but after that time no one  
29          shall have any cause or right of action to contest the legality of the resolution or of  
30          the bonds or the security therefor for any cause whatsoever. If no suit, action, or

1 proceeding is begun contesting the validity of the resolution, the bonds or the  
2 security therefor within the thirty days herein prescribed, the commission to issue the  
3 bonds and to provide for the payment thereof, the legality thereof, and of all of the  
4 provisions of the resolution authorizing the issuance of the bonds shall be  
5 conclusively presumed to be legal and shall be incontestable. Any notice of intent  
6 so published shall set forth in reasonable detail the purpose of the bonds, the security  
7 therefor, and the parameters of amount, duration, and interest rates. The commission  
8 may designate any paper of general circulation in its geographical jurisdiction to  
9 publish the notice of intent or may utilize electronic media available to the general  
10 public. Any suit to determine the validity of bonds issued by the commission shall  
11 be brought only in accordance with the provisions of R.S. 13:5121 et seq.

12 G. All bonds issued pursuant to this Section shall have all the qualities of  
13 negotiable instruments under the commercial laws of the state.

14 H. Any pledge of revenues or other monies made by the commission shall  
15 be valid and binding from the time when the pledge is made. The revenues or  
16 monies so pledged and thereafter received by the commission shall immediately be  
17 subject to the lien of such pledge without any physical delivery thereof or further act,  
18 and the lien of any such pledge shall be valid and binding as against all parties  
19 having claims of any kind in tort, contract, or otherwise against the commission  
20 irrespective of whether such parties have notice thereof.

21 I. Neither the members of the commission nor any person executing the  
22 bonds shall be liable personally for the bonds or be subject to any personal liability  
23 or accountability by reason of the issuance thereof.

24 J. Bonds of the commission, their transfer, and the income therefrom shall  
25 at all times be exempt from all taxation by the state or any political subdivision  
26 thereof, and may or may not be exempt for federal income tax purposes. The bonds  
27 issued pursuant to this Section shall be and are hereby declared to be legal and  
28 authorized investments for banks, savings banks, trust companies, building and loan  
29 associations, insurance companies, fiduciaries, trustees, and guardians. Such bonds  
30 shall be eligible to secure the deposit of any and all public funds of the state and any

1           and all public funds of municipalities, parishes, school districts, or other political  
2           corporations or subdivisions of the state. Such bonds shall be lawful and sufficient  
3           security for the deposits to the extent of their value. When any bonds shall have  
4           been issued hereunder, neither the legislature, the commission, nor any other entity  
5           may discontinue or decrease the revenues pledged to the payment of the bonds  
6           authorized hereunder or permit to be discontinued or decreased the revenues in  
7           anticipation of the collection of which such bonds have been issued, or in any way  
8           make any change in the allocation and dedication of the revenues which would  
9           diminish the amount of the revenues to be received by the commission, until all of  
10           such bonds shall have been retired as to principal and interest, and there is hereby  
11           vested in the holders from time to time of such bonds a contract right in the  
12           provisions of this Section.

13           K. The commission may provide by resolution for the issuance of refunding  
14           bonds pursuant to R.S. 39:1444 et seq.

15           L. The holders of any bonds issued hereunder shall have such rights and  
16           remedies as may be provided in the resolution or trust agreement authorizing the  
17           issuance of the bonds, including but not by way of limitation appointment of a  
18           trustee for the bondholders and any other available civil action to compel compliance  
19           with the terms and provisions of the bonds and the resolution or trust agreement.

20           M. Subject to the agreements with the holders of bonds, all proceeds of  
21           bonds and all revenues pledged under a resolution or trust agreement authorizing or  
22           securing such bonds shall be deposited and held in trust in a fund or funds separate  
23           and apart from all other funds of the state. Subject to the resolution or trust  
24           agreement, the trustee shall hold the same for the benefit of the holders of the bonds  
25           for the application and disposition thereof solely to the respective uses and purposes  
26           provided in such resolution or trust agreement.

27           N. The commission is authorized to employ all professionals it deems  
28           necessary in the issuance of its bonds.

29           O. The commission shall be deemed to be a public entity for purposes of  
30           Chapters 13, 13-A, 14, 14-A, 14-B, and 15-A of Title 39 of the Louisiana Revised

1           Statutes of 1950, as amended, which statutes shall apply to bonds of the commission,  
2           provided that in the event of a conflict with the provisions of this Section, the  
3           provisions of this Section shall control.

4                   P.(1) The provisions of this Section shall become null, void, and of no effect  
5                   on the date that all bonds issued by the commission are paid or deemed paid in full  
6                   and are no longer considered outstanding or the Interstate 49 project is deemed  
7                   completed by the Department of Transportation and Development, whichever is  
8                   later.

9                   (2) If bonds for this project are not sold by December 31, 2013, the  
10                  provisions of this Section shall become, null, void, and of no effect on January 1,  
11                  2014.

12           §165.2. Designates first I-49 Unclaimed Property Bond project; "Alvin B. Kessler  
13                   Memorial Highway"

14                   The first project on I-49 North constructed utilizing financing with  
15                   Unclaimed Property Bonds shall be named and designated as the "Alvin B. Kessler  
16                   Memorial Highway". The Department of Transportation and Development shall erect  
17                   appropriate signage indicating this designation.

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

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

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

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