

2020 Regular Session

HOUSE BILL NO. 536

BY REPRESENTATIVES SCHEXNAYDER, DUBUISSON, FRIEMAN, STEFANSKI,
AND WRIGHT

FUNDS/FUNDING: Dedication of unclaimed property funds and creation of Louisiana
Unclaimed Property Permanent Trust Fund

1 AN ACT

2 To amend and reenact R.S. 9:165(C)(3) and to enact Subpart U of Part II-A of Chapter 1 of
3 Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of
4 R.S. 39:100.161, relative to unclaimed property; to provide for the dedication and
5 credit of unclaimed property monies; to provide for the creation of a special fund;
6 to provide for the investment and administration of the money in the special fund;
7 to provide for the use of money in the special fund; to provide for reporting
8 requirements; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:165(C)(3) is hereby amended and reenacted to read as follows:

11 §165. Deposit of funds

12 * * *

13 C.

14 * * *

15 (3) All unexpended and unencumbered monies in the Unclaimed Property
16 Leverage Fund, the I-49 North Account, and the I-49 South Account at the end of the
17 fiscal year shall ~~remain in the Unclaimed Property Leverage Fund, the I-49 North~~
18 ~~Account, and the I-49 South Account and interest earned on the investment of these~~
19 ~~monies shall be credited to the Unclaimed Property Leverage Fund, the I-49 North~~

1 ~~Account, and the I-49 South Account~~ be credited into the Louisiana Unclaimed
2 Property Permanent Trust Fund by the state treasurer.

3 Section 2. Subpart U of Part II-A of Chapter 1 of Subtitle I of Title 39 of the
4 Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.161 is hereby enacted to read
5 as follows:

6 SUBPART U. LOUISIANA UNCLAIMED PROPERTY PERMANENT TRUST FUND

7 §100.161. Louisiana Unclaimed Property Permanent Trust Fund

8 A. There shall be established in the state treasury as a special permanent trust
9 fund, the Louisiana Unclaimed Property Permanent Trust Fund, referred to as the
10 "UCP Permanent Trust Fund". No appropriation shall be made from the UCP
11 Permanent Trust Fund.

12 (1) The purpose of the UCP Permanent Trust Fund is to ensure a source of
13 payment for claims made by owners of unclaimed property. The monies in the fund
14 are exempted from the requirements of Article VII, Section 9(B) of the Constitution
15 of Louisiana requiring the allocation of money received by the state to the Bond
16 Security and Redemption Fund. The treasurer shall at least annually deposit in and
17 credit to the UCP Permanent Trust Fund the net amount of all monies received as a
18 result of the Uniform Unclaimed Property Act of 1997 or its successors.

19 (2) Realized capital gains, dividend income, and interest income, earned on
20 the investments in the UCP Permanent Trust Fund, net of trust fund investment and
21 administrative expenses, shall be deposited into the State General Fund.

22 (3) All monies shall be credited to the fund as provided in Paragraph (1) of
23 this Subsection until the balance in the UCP Permanent Trust Fund equals the
24 amount of the state's potential liability to unclaimed property claimants as reported
25 in the previous fiscal year pursuant to Subsection C of this Section. All money
26 received above the state's potential liability to unclaimed property claimants as
27 reported by the state treasurer shall be deposited into the State General Fund.

28 B.(1) The money credited to the UCP Permanent Trust Fund pursuant to
29 Subsection A of this Section shall be permanently credited to the UCP Permanent

1 Trust Fund and shall be invested by the treasurer. Notwithstanding any provision of
2 law to the contrary, a portion of money in the UCP Permanent Trust Fund, not to
3 exceed fifty percent of the money in the fund, may be invested in equities.
4 Investment earnings shall be available for appropriation to pay expenses incurred in
5 the investment and management of the UCP Permanent Trust Fund.

6 (2) The monies deposited in and permanently credited to the UCP Permanent
7 Trust Fund pursuant to Subsection A of this Section shall be invested by the state
8 treasurer.

9 (3) Subject to the limitations provided in this Subsection, the state treasurer
10 may invest the monies deposited in and credited to the UCP Permanent Trust Fund
11 in the same manner as authorized for the Louisiana Education Quality Trust Fund as
12 set forth in R.S. 17:3803.

13 (4) Subject to the approval of the State Bond Commission, the state treasurer
14 may contract for the management of UCP Permanent Trust Fund investments.
15 Expenses of the fund, including but not limited to expenses incurred for outside
16 investment managers for the investment and management of the fund assets and for
17 other custody, investment, and disbursement costs directly attributable to the fund
18 may be paid from fund investment earnings.

19 (5) Expenses attributable to the state treasurer exercising responsibility for
20 the custody, investment, and disbursement of the monies in the fund are
21 administrative costs that shall be paid by appropriation from fund investment
22 earnings. For the purposes of this Paragraph, the term "administrative costs"
23 includes but is not limited to those costs attributable to fees charged by any financial
24 institution for providing custodial services, which shall not exceed two percent of the
25 amount managed, and costs incurred for outside investment managers for the
26 investment and management of the fund, which shall not exceed two percent of the
27 amount managed.

1 C.(1) Not less than sixty days prior to the beginning of each regular session
2 of the legislature, the state treasurer shall submit to the legislature and the governor
3 a report of the following:

4 (a) The balance of the UCP Permanent Trust Fund as of the close of the prior
5 fiscal year.

6 (b) The state's potential liability to unclaimed property claimants as of the
7 close of the prior fiscal year.

8 (2) If unclaimed property claims exceed receipts, the state treasurer shall
9 certify the amount needed to pay received claims and shall allocate sufficient funds
10 from the UCP Permanent Trust Fund to pay that amount. The state treasurer shall
11 also immediately notify the legislature and governor of the amount transferred from
12 the UCP Permanent Trust Fund and amount remaining in the UCP Permanent Trust
13 Fund.

14 D. Property received by the state pursuant to the Uniform Unclaimed
15 Property Act of 1997 as established in R.S. 9:151 et seq., and deposited into the UCP
16 Permanent Trust Fund is private property held in trust until a claim is made for it by
17 the owner.

18 Section 3. Notwithstanding any provision of this Act to the contrary, the first report
19 due pursuant to R.S. 39:100.147(C) shall be submitted to the legislature and the governor
20 not less than sixty days prior to the beginning of the first regular session of the legislature
21 after this Act becomes effective and shall contain the following: The balance of the UCP
22 Permanent Trust Fund as of January 1, 2022, and the state's potential liability to unclaimed
23 property claimants as of the close of the prior fiscal year.

24 Section 4. This Act shall take effect and become operative on July 1, 2021 if the
25 proposed amendment enacting Article VII, Section 28 of the Constitution of Louisiana
26 contained in the Act which originated as House Bill No. 445 of this 2020 Regular Session
27 of the Legislature is adopted at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 536 Engrossed

2020 Regular Session

Schexnayder

Abstract: Creates the La. Unclaimed Property Permanent Trust Fund (UCP Permanent Trust Fund) to fund claims made by owners of unclaimed property.

Among other uses of unclaimed property funds provided for in present law (R.S. 9:165) the treasurer is directed to credit \$15 million each year from unclaimed property funds to the Unclaimed Property Leverage Fund. This sum is to pay the principal, premium, and interest on bonds issued to complete Interstate 49 infrastructure projects.

Present law provides that all unexpended and unencumbered money in the Unclaimed Property Leverage Fund at the end of each fiscal year remains in the fund. Proposed law provides that all unexpended and unencumbered money in the fund at the end of the fiscal year is credited to the UCP Permanent Trust Fund, established in proposed law.

Proposed law creates the UCP Permanent Trust Fund to be used solely for the payment of claims made by owners. Further, prohibits appropriation from the fund.

Proposed law requires the net amount of monies received pursuant to present law (Uniform Unclaimed Property Act, R.S. 9:151 et seq and the Unclaimed Property Leverage Fund, R.S. 9:165) to be credited to the UCP Permanent Trust Fund. Further requires realized capital gains, dividend income, and interest income, earned on the investments in the fund, net of trust fund investment and administrative expenses, to be deposited into the State General Fund.

Proposed law requires the state treasurer to annually report the fund balance and the state's potential liability for unclaimed property claims to the legislature and the governor. Further authorizes money to be deposited into the UCP Permanent Trust Fund until the balance in that fund equals the state's reported potential liability for all unclaimed property. Once this threshold is reached in the UCP Permanent Trust Fund, proposed law requires any additional money to be deposited into the State General Fund.

Proposed law authorizes the state treasurer to invest up to 50% of the balance in the UCP Permanent Trust Fund in the same manner as authorized in present law (R.S. 17:3803) for the La. Education Quality Trust Fund. Further authorizes the treasurer to contract for the management of the investments and to pay expenses of the fund from investment earnings. Also authorizes payment of administrative expenses attributable to the custody, investment and disbursement of fund monies from investment earnings.

Proposed law authorizes the treasurer to transfer money from the UCP Permanent Trust Fund if claims for unclaimed property exceed receipts. Requires the treasurer to certify the amount needed to pay claims received and immediately notify the legislature and the governor of the new fund balance once he has transferred the money.

Effective July 1, 2021, if the proposed amendment of Article VII, Section 28 of the Constitution of La. contained in the Act which originated as House Bill No. 445 of this 2020 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 9:165(C)(3); Adds R.S. 39:100.161)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Make technical corrections.