

2020 Regular Session

HOUSE BILL NO. 536

BY REPRESENTATIVES SCHEXNAYDER, AMEDEE, BACALA, BAGLEY, BEAULLIEU, BISHOP, BOURRIAQUE, BUTLER, CARRIER, WILFORD CARTER, COUSSAN, DAVIS, DESHOTEL, DEVILLIER, DUBUISSON, EDMONDS, EMERSON, FARNUM, FIRMENT, FONTENOT, FREIBERG, FRIEMAN, GADBERRY, GAROFALO, GOUDEAU, HARRIS, HILFERTY, HORTON, HUVAL, ILLG, MIKE JOHNSON, MAGEE, MCCORMICK, MCFARLAND, MCKNIGHT, MCMAHEN, MIGUEZ, GREGORY MILLER, MINCEY, CHARLES OWEN, ROBERT OWEN, RISER, ROMERO, SCHAMERHORN, STAGNI, STEFANSKI, THOMAS, WHEAT, WRIGHT, AND ZERINGUE

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

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

9 Be it enacted by the Legislature of Louisiana:

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

13 SUBPART U. LOUISIANA UNCLAIMED PROPERTY PERMANENT TRUST FUND

14 §100.161. Louisiana Unclaimed Property Permanent Trust Fund

15 A. There shall be established in the state treasury as a special permanent trust
16 fund, the Louisiana Unclaimed Property Permanent Trust Fund, referred to as the

1 "UCP Permanent Trust Fund". No appropriation shall be made from the UCP
2 Permanent Trust Fund.

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

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

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

19 B.(1) The money credited to the UCP Permanent Trust Fund pursuant to
20 Subsection A of this Section shall be permanently credited to the UCP Permanent
21 Trust Fund and shall be invested by the treasurer. Notwithstanding any provision of
22 law to the contrary, a portion of money in the UCP Permanent Trust Fund, not to
23 exceed fifty percent of the money in the fund, may be invested in equities.
24 Investment earnings shall be available for appropriation to pay expenses incurred in
25 the investment and management of the UCP Permanent Trust Fund.

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

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

5 (4) Subject to the approval of the State Bond Commission, the state treasurer
6 may contract for the management of UCP Permanent Trust Fund investments.
7 Expenses of the fund, including but not limited to expenses incurred for outside
8 investment managers for the investment and management of the fund assets and for
9 other custody, investment, and disbursement costs directly attributable to the fund
10 may be paid from fund investment earnings.

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

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

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

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

27 (2) If unclaimed property claims exceed receipts, the state treasurer shall
28 certify the amount needed to pay received claims and shall allocate sufficient funds
29 from the UCP Permanent Trust Fund to pay that amount. The state treasurer shall

1 also immediately notify the legislature and governor of the amount transferred from
 2 the UCP Permanent Trust Fund and amount remaining in the UCP Permanent Trust
 3 Fund.

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

8 Section 2. Notwithstanding any provision of this Act to the contrary, the first report
 9 due pursuant to R.S. 39:100.161(C) shall be submitted to the legislature and the governor
 10 not less than sixty days prior to the beginning of the first regular session of the legislature
 11 after this Act becomes effective and shall contain the following: The balance of the UCP
 12 Permanent Trust Fund as of January 1, 2022, and the state's potential liability to unclaimed
 13 property claimants as of the close of the prior fiscal year.

14 Section 3. This Act shall take effect and become operative on July 1, 2021 if the
 15 proposed amendment enacting Article VII, Section 28 of the Constitution of Louisiana
 16 contained in the Act which originated as House Bill No. 445 of this 2020 Regular Session
 17 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 Reengrossed

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.

Present law (R.S. 9:151 et seq.) establishes requirements and procedures for transfer to the state treasury of property that remains unclaimed for a certain period of time. Proposed law retains present 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.) 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.

(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.

The House Floor Amendments to the engrossed bill:

1. Remove the Unclaimed Property Leverage Fund in present law from the bill.
2. Make technical corrections.