

Regular Session, 1999

HOUSE BILL NO. 640

BY REPRESENTATIVES DOWNER, LEBLANC, AND LONG AND
SENATORS EWING, HAINKEL, ALARIO, COPELIN, GUILLORY,
HOPKINS, RIDDLE, AND STELLY

FUNDS/FUNDING: (Constitutional Amendment) To Create the TOPS Trust
Fund and Louisiana Fund

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A JOINT RESOLUTION

Proposing to add Article VII, Section 10.8 of the Constitution of Louisiana,
relative to state funds; to create the TOPS Trust Fund and the Louisiana
Fund in the state treasury; to provide for deposit of monies into the
funds; to provide for investment and uses of monies in the funds; to
provide for submission of the proposed amendment to the electors; and
to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of
the members elected to each house concurring, that there shall be submitted
to the electors of the state of Louisiana, for their approval or rejection in the
manner provided by law, a proposal to add Article VII, Section 10.8 of the
Constitution of Louisiana, to read as follows:

1 §10.8. TOPS Trust Fund; Louisiana Fund

2 Section 10.8. TOPS Trust Fund and Louisiana Fund

3 (A) Creation

4 (1) There shall be established in the state treasury as a special
5 permanent trust fund the Tobacco Settlement Trust Fund, hereinafter
6 referred to as "TOPS Trust". After allocation of money to the Bond
7 Security and Redemption Fund as provided in Article VII, Section 9(B)
8 of this constitution, the treasurer shall deposit in and credit to the TOPS
9 Trust thirty-three percent of all monies received as a result of the
10 Master Settlement Agreement, hereinafter the "Settlement Agreement",
11 executed November 23, 1998, and approved by Consent Decree and
12 Final Judgment entered in the case "Richard P. Ieyoub, Attorney
13 General, ex rel. State of Louisiana v. Philip Morris, Incorporated, et
14 al.", bearing Number 98-6473 on the docket of the Fourteenth Judicial
15 District for the parish of Calcasieu, state of Louisiana; and all dividend
16 and interest income on investment of and all realized capital gains on
17 investment monies in the TOPS Trust.

18 (2) There shall be established in the state treasury as a special
19 fund the Louisiana Fund; hereinafter referred to as the "Fund". After
20 allocation of money to the Bond Security and Redemption Fund as
21 provided in Article VII, Section 9(B) of this constitution, the treasurer
22 shall deposit in and credit to the Fund sixty-seven percent of all monies
23 received as a result of the Settlement Agreement, and all interest
24 income onto investment of monies in the Fund.

25 (3) The amount of Settlement Agreement revenues deposited in
26 the TOPS Trust may be increased and the amount of such revenues

1 deposited into the Louisiana Fund may be decreased by a specific
2 legislative instrument which receives a favorable vote of two-thirds of
3 the elected members of each house of the legislature.

4 (B) Investment. Monies credited to the TOPS Trust pursuant
5 to Paragraph (A) of this Section shall be invested by the treasurer.
6 Notwithstanding any provision of this constitution or law to the
7 contrary, a portion of monies in the TOPS Trust, not to exceed fifty
8 percent, may be invested in stock. Monies in the Louisiana Fund shall
9 be invested by the treasurer in the same manner as the state general
10 fund. The legislature may provide by law for the investment of monies,
11 in the TOPS Trust and the Louisiana Fund.

12 (C) Appropriations

13 (1) Appropriations from the TOPS Trust shall be limited to an
14 annual amount not to exceed the estimated aggregate annual earnings
15 from interest, dividends, and realized capital gains on investment of the
16 Trust as recognized by the Revenue Estimating Conference. The
17 amount of realized capital gains on investment which may be included
18 in the aggregate earnings available for appropriation in any year shall
19 not exceed the aggregate of earnings from interest and dividends for
20 that year. Appropriations from the TOPS Trust shall be restricted to
21 support of the state's program for tuition assistance grants for students
22 attending Louisiana institutions of postsecondary education.

23 (2) Appropriations from the Louisiana Fund shall be restricted
24 to the purposes provided herein, with no annual appropriation for any
25 one of such purposes as enumerated in Subsubparagraphs (a) through

1 (d) of this Subparagraph to exceed fifty percent of the total amount of
2 monies appropriated from the Fund in any fiscal year.

3 (a) Initiatives to ensure the optimal development of Louisiana's
4 children through enhancement of educational opportunities and the
5 provision of appropriate health care.

6 (b) Initiatives to benefit the citizens of Louisiana with respect
7 to health care, to include pursuit of innovation in advanced health care
8 sciences, provision of health care for tobacco-related illnesses and
9 comprehensive chronic disease management services, and expenditures
10 for capital improvements for state health care facilities.

11 (c) Initiatives to diminish tobacco-related injury and death to
12 Louisiana's citizens, to include educational efforts, cessation assistance
13 services, promotion of a tobacco-free lifestyle, and enforcement of the
14 requirements of the Settlement Agreement by the attorney general.

15 (d) Expenses related to investment of the TOPS Trust.

16 (3) Each appropriation from the TOPS Trust and the Louisiana
17 Fund shall include performance expectations to ensure accountability
18 in the expenditure of such monies.

19 Section 2. Be it further resolved that this proposed amendment shall be
20 effective July 1, 2000.

21 Section 3. Be it further resolved that this proposed amendment shall be
22 submitted to the electors of the state of Louisiana at the gubernatorial primary
23 election to be held in 1999.

24 Section 4. Be it further resolved that on the official ballot to be used
25 at said election there shall be printed a proposition, upon which the electors

1 of the state shall be permitted to vote FOR or AGAINST, to amend the
2 Constitution of Louisiana, which proposition shall read as follows:

3 To establish the TOPS Trust Fund, hereinafter "TOPS Trust",
4 and the Louisiana Fund, in the state treasury; to provide that the
5 source of monies deposited into these funds shall be monies
6 received under the Master Settlement Agreement approved by
7 Consent Decree in the case "Richard P. Ieyoub v. Philip Morris,
8 Incorporated, et al." (Tobacco Settlement); to provide that
9 thirty-three percent of such settlement proceeds shall be
10 deposited into the TOPS Trust, with the remaining sixty-seven
11 percent being deposited into the Louisiana Fund; to allow
12 change of this distribution of funds by specific legislative
13 instrument enacted by a two-thirds vote of the legislature; to
14 provide for investment of monies in the funds and to authorize
15 investment of fifty percent of the TOPS Trust in equities; to
16 require deposit of all dividends, interest earnings, and realized
17 capital gains from investment of the TOPS Trust into the TOPS
18 Trust; to authorize appropriation of monies not to exceed the
19 annual earnings on the investment of the TOPS Trust for the
20 purpose of tuition assistance grants for students of Louisiana
21 institutions of postsecondary education; to authorize
22 appropriation of monies from the Louisiana Fund for initiatives
23 for children, health care, and reduction of tobacco-related injury
24 and death; to require reporting of performance expectations
25 associated with expenditure of monies appropriated from the

- 1 TOPS Trust and the Louisiana Fund. (Effective July 1, 2000)
2 (Adds Article VII, Section 10.8)
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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Downer, et al.

HB No. 640

Proposed constitutional amendment provides for establishment of the TOPS Trust Fund, the "TOPS Trust", as a special permanent trust fund in the state treasury, and the Louisiana Fund, the "Fund", as a special fund in the state treasury.

Proposed constitutional amendment provides that the source of monies deposited into these funds shall be monies received by the state from the Master Settlement Agreement executed November 23, 1998, and approved by Consent Decree and Final Judgment entered in the case "Richard P. Ieyoub v. Philip Morris, Incorporated, et al.", No. 98-6473 on the docket of the 14th Judicial District for the parish of Calcasieu, state of Louisiana, (Settlement Agreement). Further provides that after allocation of monies received from the Settlement Agreement to the Bond Security and Redemption Fund, the treasurer shall deposit in and credit to the TOPS Trust 33% of such settlement proceeds, with the remaining 67% of settlement proceeds being deposited in and credited to the Fund. The amount of such monies to be deposited in the TOPS Trust may only be increased, and the amount of such monies to be deposited in the Fund may only be reduced, by a specific legislative instrument approved by a two-thirds vote of each house of the legislature.

Proposed constitutional amendment provides that dividend and interest earnings, and realized capital gains associated with investment of the TOPS Trust and the Louisiana Fund shall be deposited in and credited to the respective funds. The state treasurer is required to invest the monies in the Trust Fund, up to 50% of which may be invested in stock. The Fund shall be invested in the same manner as the state general fund. Procedures for investment of both funds may be provided by law.

Proposed constitutional amendment authorizes appropriation from the TOPS Trust exclusively for support of the state's program for tuition assistance grants for students attending Louisiana institutions of postsecondary education. Appropriations shall not exceed the amount of estimated annual earnings on investment of the Trust as recognized by the Revenue Estimating Conference.

Proposed constitutional amendment authorizes appropriation from the Fund for the following purposes for the benefit of the citizens of Louisiana:

1. Initiatives to ensure optimal development of Louisiana's children through enhancements in education and health care;

2. Initiatives in health care, including research in advance health care sciences, provision of care for tobacco-related illness, management of chronic diseases, and capital outlay for the state's health care facilities;
3. Initiatives to diminish tobacco-related injury and death, to include education, cessation assistance services, promotion of a tobacco-free lifestyle, and enforcement activities of the attorney general relative to the settlement agreement; and
4. Expenses related to the investment of the TOPS Trust.

Proposed constitutional amendment limits the appropriation from the Fund for any of the above-referenced purposes to no more than 50% of the total annual appropriation.

Proposed constitutional amendment requires that appropriations from either the TOPS Trust or the Fund include performance expectations to ensure accountability in expenditure of such monies.

Provides for submission of the proposed amendment to the voters at the gubernatorial primary election in 1999.

Effective July 1, 2000.

(Adds Const. Art. VII, §10.8)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Appropriations to the original bill.

1. Renames the trust fund the "TOPS Trust".
2. Changes distribution among the funds from 25% Trust and 75% Louisiana Fund to 33% Trust and 67% Louisiana Fund.
3. Authorizes appropriation from the TOPS Trust for the support of tuition assistance grants for students at Louisiana institutions of postsecondary education; appropriations may not exceed the estimated annual earnings on investment of the Trust.
4. Authorizes appropriation from the Louisiana Fund for the purposes of services for children, health care, diminution of tobacco-related injury and death and expenses related to investment of the TOPS Trust.
5. Provides for a July 1, 2000 effective date.