

Regular Session, 1999

HOUSE BILL NO. 640

BY REPRESENTATIVES DOWNER, LEBLANC, LONG, ALARIO, COPELIN, GUILLORY, HOPKINS, MCMAINS, RIDDLE, STELLY, ANSARDI, BARTON, BAUDOIN, BRUCE, BRUNEAU, CARTER, CLARKSON, CRANE, CURTIS, DAMICO, DANIEL, DIEZ, DOERGE, DUPRE, DURAND, FAUCHEUX, FLAVIN, FONTENOT, FRITH, FRUGE, GAUTREAUX, HEBERT, HILL, HUDSON, HUNTER, ILES, JOHNS, KENNARD, KENNEY, LANCASTER, MARIONNEAUX, MARTINY, MCCAIN, MCCALLUM, MCDONALD, MICHOT, MONTGOMERY, MORRISH, NEVERS, ODINET, PIERRE, POWELL, PRATT, QUEZAIRE, SCALISE, SCHWEGMANN, SHAW, JACK SMITH, SNEED, THOMPSON, TOOMY, TRICHE, WADDELL, WALSWORTH, WARNER, WELCH, WIGGINS, WILLARD, WINSTON, WOOTON, ALEXANDER, DEWITT, FARVE, GLOVER, HEATON, HOLDEN, JETSON, LANDRIEU, MITCHELL, PINAC, SCHNEIDER, JOHN SMITH, TRAVIS, AND WESTON AND SENATORS EWING, HAINKEL, BAJOIE, BARHAM, BEAN, BOISSIERE, CAIN, CAMPBELL, COX, CRAVINS, DARDENNE, DYESS, ELLINGTON, C. FIELDS, W. FIELDS, HEITMEIER, HINES, HOLLIS, IRONS, JONES, LANDRY, ROBICHAUX, ROMERO, SMITH, TARVER, THEUNISSEN, THOMAS, AND ULLO

A JOINT RESOLUTION

Proposing to add Article VII, Sections 10.8, 10.9, and 10.10 of the Constitution of Louisiana, relative to state funds; to create the Millennium Trust and the Louisiana Fund in the state treasury; to create the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund within the Millennium Trust; to provide for deposit of monies into the Millennium Trust and the credit of monies to the funds within the trust; to provide for deposit and credit of monies in the Louisiana Fund; to provide for investment and uses of monies in the Trust and in the funds; to create the Millennium Leverage Fund in the

state treasury, and to provide for deposit, use, and investment of monies in the fund; to provide for the issuance of revenue bonds and the security for the payment of such bonds; to provide for the expenditure of the proceeds of such bonds; to authorize use of certain funds for security for such bonds; 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, Sections 10.8, 10.9, 10.10 of the Constitution of Louisiana, to read as follows:

§10.8. Millennium Trust

Section 10.8. Millennium Trust

(A) Creation

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

credit to the Millennium Trust the following amounts of monies received as a result of the Settlement Agreement:

(a) Fiscal Year 2000-2001, forty-five percent of the total monies received that year.

(b) Fiscal Year 2001-2002, sixty percent of the total monies received that year.

(c) Fiscal Year 2002-2003 and each fiscal year thereafter, seventy-five percent of the total monies received that year.

(d) For Fiscal Year 2000-2001, Fiscal Year 2001-2002, and Fiscal Year 2002-2003, ten percent of the total monies received in each of those years for credit to the Education Excellence Fund which, notwithstanding the provisions of Subparagraph (C)(1) of this Section, shall be appropriated for the purposes provided in Subsubparagraph (d) of Subparagraph (3) of Paragraph (C) of this Section.

(2) The Health Excellence Fund shall be established as a special fund within the Millennium Trust. The treasurer shall credit to the Health Excellence Fund one-third of the Settlement Agreement proceeds deposited each year into the Millennium Trust, and one-third of all investment earnings on the investment of the Millennium Trust. The treasurer shall report annually to the legislature as to the amount of Millennium Trust investment earnings credited to the Health Excellence Fund.

(3) The Education Excellence Fund shall be established as a special fund within the Millennium Trust. The treasurer shall credit to the Education Excellence Fund one-third of the Settlement Agreement proceeds deposited each year into the Millennium Trust, and one-third of all investment earnings on the investment of the Millennium Trust.

The treasurer shall report annually to the legislature and the state superintendent of education as to the amount of Millennium Trust investment earnings credited to the Education Excellence Fund.

(4) The TOPS Fund shall be established as a special fund within the Millennium Trust. The treasurer shall deposit in and credit to the TOPS Fund one-third of the Settlement Agreement proceeds deposited into the Millennium Trust, and one-third of all investment earnings on the investment of the Millennium Trust. The treasurer shall report annually to the legislature as to the amount of Millennium Trust investment earnings credited to the TOPS Fund.

(5) The amount of Settlement Agreement revenues deposited in the Millennium Trust and credited to the respective funds may be increased and the amount of such revenues deposited into the Louisiana Fund may be decreased by a specific legislative instrument which receives a favorable vote of two-thirds of the elected members of each house of the legislature.

(B) Investment. Monies credited to the Millennium Trust pursuant to Paragraph (A) of this Section shall be invested by the treasurer with the same authority and subject to the same restrictions as the Louisiana Education Quality Trust Fund. However, the portion of monies in the Millennium Trust which may be invested in stock may be increased to no more than fifty percent by a specific legislative instrument which receives a favorable vote of two-thirds of the elected members of each house of the legislature. The legislature shall provide for procedures for the investment of such monies by law. The treasurer may contract, subject to the approval of the State Bond Commission, for the management of such investments and, if a contract is entered

into, amounts necessary to pay the costs of the contract shall be appropriated from the Millennium Trust.

(C) Appropriations. (1) Appropriations from the Health Excellence Fund, Education Excellence Fund, and TOPS Fund shall be limited to an annual amount not to exceed the estimated aggregate annual earnings from interest, dividends, and realized capital gains on investment of the trust as recognized by the Revenue Estimating Conference. Amounts determined to be available for appropriation shall be those aggregate investment earnings which are in excess of an inflation factor as determined by the Revenue Estimating Conference. The amount of realized capital gains on investment which may be included in the aggregate earnings available for appropriation in any year shall not exceed the aggregate of earnings from interest and dividends for that year.

(2) Appropriations from the Health Excellence Fund shall be restricted to the following purposes:

(a) Initiatives to ensure the optimal development of Louisiana's children through the provision of appropriate health care, including children's health insurance, services provided by school-based health clinics, rural health clinics, and primary care clinics, and early childhood intervention programs targeting children from birth through age four including programs to reduce infant mortality.

(b) Initiatives to benefit the citizens of Louisiana with respect to health care through pursuit of innovation in advanced health care sciences, and the provision of comprehensive chronic disease management services.

(c) Each appropriation from the Health Excellence Fund shall include performance expectations to ensure accountability in the expenditure of such monies.

(3) Appropriations from the Education Excellence Fund shall be limited as follows:

(a) Fifteen percent of monies available for appropriation in any fiscal year from the Education Excellence Fund shall be appropriated to the state superintendent of education for distribution on behalf of all children attending private elementary and secondary schools that have been approved by the State Board of Elementary and Secondary Education, both academically and as required for such school to receive money from the state.

(b) Appropriations shall be made each year to the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, the Louisiana Special Education Center in Alexandria, the Louisiana School for Math, Science and the Arts, the New Orleans Center for Creative Arts and the Louis Armstrong High School for the Arts, after such schools are operational, to provide for a payment to each school of seventy-five thousand dollars plus an allocation for each pupil equal to the average statewide per pupil amount provided each city, parish, and local school system pursuant to Subsubparagraphs (d) and (e) of this Subparagraph.

(c) Appropriations may be made for independent public schools which have been approved by the State Board of Elementary and Secondary Education or any city, parish, or other local school system and for alternative schools and programs which are authorized and approved by the State Board of Elementary and Secondary Education

but are not subject to the jurisdiction and management of any city, parish, or local school system, to provide for an allocation for each pupil, which shall be the average statewide per pupil amount provided in each city, parish, or local school system pursuant to Subsubparagraphs (d) and (e) of this Subparagraph.

(d) Beginning Fiscal Year 2000-2001 and for each fiscal year through the end of Fiscal Year 2006-2007, of the monies available for appropriation after providing for the purposes enumerated in Subsubparagraphs (a), (b), and (c) of this Subparagraph, the following appropriations shall be made to the state superintendent of education for distribution as follows:

(i) Thirty percent of the funds available to be divided equally among each city, parish, and other local school system.

(ii) Seventy percent of the funds available to be divided among each city, parish, and other local school system in amounts which are proportionate to each school's share of the total state share of the Minimum Foundation Program appropriation as contained in the most recent Minimum Foundation Program budget letter approved by the State Board of Elementary and Secondary Education.

(e) Beginning Fiscal Year 2007-2008 and for each fiscal year thereafter, of the monies available for appropriation after providing for the purposes enumerated in Subsubparagraphs (a), (b), and (c) of this Subparagraph, one hundred percent of the monies available for appropriation in any fiscal year shall be appropriated for each city, parish, and other local school system on a pro rata basis which is based on the ratio of the student population of that school or school system

to that of the total state student population as contained in the most recent Minimum Foundation Program.

(f) Monies appropriated pursuant to this Subparagraph shall be restricted to expenditure for pre-kindergarten through twelfth grade instructional enhancement for students, including early childhood education programs focused on enhancing the preparation of at-risk children for school, remedial instruction, and assistance to children who fail to achieve the required scores on any tests passage of which are required pursuant to state law or rule for advancement to a succeeding grade or other educational programs approved by the legislature. Expenditures for maintenance or renovation of buildings, capital improvements, and increases in employee salaries are prohibited. The state superintendent of education shall be responsible for allocating all money due private schools.

(g) Each recipient school or school system shall annually prepare and submit to the state Department of Education, hereinafter the "department", a prioritized plan for expenditure of funds it expects to receive in the coming year from the Education Excellence Fund. The plan shall include performance expectations to ensure accountability in the expenditure of such monies. The department shall review such plans for compliance with the requirements of this Subparagraph and to assure that the expenditure plans will support excellence in educational practice. No funds may be distributed to any school or school system until its plan has received both legislative and departmental approval as provided by law.

(h) No amount appropriated as required in this Paragraph shall displace, replace, or supplant appropriations from the general fund for

elementary and secondary education, including implementing the Minimum Foundation Program. This Subsubparagraph shall mean that no appropriation for any fiscal year from the Education Excellence Fund shall be made for any purpose for which a general fund appropriation was made in the previous year unless the total appropriations for the fiscal year from the state general fund for such purpose exceed general fund appropriations of the previous year. Nor shall any money allocated to a city or parish school board pursuant to this Paragraph displace, replace, or supplant locally generated revenue, which means that no allocation to any city or parish school board from the investment earnings attributable to the Education Excellence Fund shall be expended for any purpose for which a local revenue source was expended for that purpose for the previous year unless the total of the local revenue amount expended that fiscal year exceeds the total of such local revenue amounts for the previous fiscal year.

(i) The treasurer shall maintain within the state treasury a record of the amounts appropriated and credited for each entity through appropriations authorized in this Subparagraph and which remain in the state treasury. Notwithstanding any other provisions of this constitution to the contrary, such amounts, and investment earnings attributable to such amounts, shall remain to the credit of each recipient entity at the close of each fiscal year.

(4) Appropriations from the TOPS Fund shall be restricted to support of state programs for financial assistance for students attending Louisiana institutions of postsecondary education.

§10.9. Louisiana Fund

Section 10.9. Louisiana Fund

A. The Louisiana Fund is established in the state treasury as a special fund. After allocation of money to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of this constitution, the treasurer shall deposit in and credit to the Louisiana Fund all remaining monies received as a result of the Settlement Agreement after deposits into the Millennium Trust as provided in Section 10.8 of this Article, and all interest income on the investment of monies in the Louisiana Fund. Monies in the Louisiana Fund shall be invested by the treasurer in the same manner as the state general fund.

B. Appropriations from the Louisiana Fund shall be restricted to the following purposes:

(1) Initiatives to ensure the optimal development of Louisiana's children through enhancement of educational opportunities and the provision of appropriate health care, which shall include but not be limited to:

(a) Early childhood intervention programs targeting children from birth through age four, including programs to reduce infant mortality.

(b) Support of state programs for children's health insurance.

(c) School-based health clinics, rural health clinics, and primary care clinics.

(2) Initiatives to benefit the citizens of Louisiana with respect to health care through pursuit of innovation in advanced health care sciences, provision of comprehensive chronic disease management services, and expenditures for capital improvements for state health care facilities.

(3) Provision of direct health care services for tobacco-related illnesses.

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

C. Each appropriation from the Louisiana Fund shall include performance expectations to ensure accountability in the expenditure of such monies. Any unexpended and unencumbered monies in each fund at the end of a fiscal year shall remain in the respective fund.

§10.10. Millennium Leverage Fund

A. Millennium Leverage Fund. Notwithstanding the provisions of Article VII, Sections 10.8 and 10.9 of this constitution, the legislature may provide, by passage of a specific legislative instrument by a favorable vote of two-thirds of the elected members of each house of the legislature, for the deposit of all or a portion of monies received by the state as a result of the Master Settlement Agreement, hereinafter the "Settlement Agreement", executed November 23, 1998, and approved by Consent Decree and Final Judgment entered in the case "Richard P. Ieyoub, Attorney General, ex rel. State of Louisiana v. Philip Morris, Incorporated, et al.", bearing Number 98-6473 on the docket of the Fourteenth Judicial District for the parish of Calcasieu, state of Louisiana; after satisfying the requirements of Article VII, Section 9(B) of this constitution, into the Millennium Leverage Fund which is hereby established as a special permanent trust fund in the state treasury. The Millennium Leverage Fund shall hereinafter be referred to as the "Leverage Fund".

B. Investment. Monies deposited in the Leverage Fund shall be invested and administered by the treasurer. Notwithstanding any provision of this constitution to the contrary, a portion of the monies in the Leverage Fund, not to exceed fifty percent, may be invested in stock. The legislature shall provide for the procedure for the investment of such monies by law. The treasurer shall contract, subject to approval of the State Bond Commission, for the management of such investments. The monies in the Leverage Fund shall be available for appropriation to pay expenses incurred in the investment and management of monies in the fund.

C. Revenue Bonds. The State Bond Commission, or its successor, may issue and sell bonds, notes, or other obligations, hereinafter the "bonds" secured by a pledge of a portion of the monies received by the state as a result of the Settlement Agreement which are otherwise to be deposited in the Leverage Fund as provided in this Section. Such bonds may be issued only in amounts authorized by the legislature by two-thirds of the elected members of each house of the legislature. If settlement revenues are pledged to secure any revenue bonds issued pursuant to this Section, any portion thereof needed to pay principal, interest, or premium, if any, and other obligations incident to the issuance, security, prepayment, defeasance, and payment in respect thereof may be expended by the treasurer without the need for an appropriation, provided that the prepayment or defeasance has been approved by the legislature. Bonds so issued may also be further secured by a collateralization of all or a portion of monies in the Leverage Fund. If bonds are issued subject to such a collateralization, the treasurer may pay from the Leverage Fund any principal, interest,

or premium, if any, and other obligations incident to the issuance, security, prepayment, defeasance, and payment in respect thereof without the need for an appropriation, provided that the prepayment or defeasance has been approved by the legislature. The net proceeds of any bonds issued pursuant to this Section shall be deposited in and credited to the Leverage Fund. Any revenue bonds issued under authority of this Section shall not be general obligation bonds secured by the full faith and credit of the state.

D. Appropriations. (1) The legislature may annually appropriate the bond proceeds credited to the Leverage Fund and all earnings, income, and realized capital gains on investment of monies in the Leverage Fund as recognized as available for appropriation in the official forecast of the Revenue Estimating Conference. The Revenue Estimating Conference shall include in its forecast of monies available for appropriation only that amount of earnings, income, and realized capital gains which are in excess of inflation as determined by the conference.

(2) Appropriations may be made only for the following purposes:

(a) Twenty-five percent shall be available for appropriation for the purposes as provided in the TOPS Fund.

(b) Twenty-five percent shall be available for appropriation for the purposes as provided in the Health Excellence Fund.

(c) Twenty-five percent shall be available for appropriation as provided in the Education Excellence Fund.

(d) Twenty-five percent shall be available for appropriation as provided in the Louisiana Fund.

(e) The amounts available for appropriation for each of the purposes contained in Subparagraphs (a) through (c) of this Paragraph may be increased, and the amount available for appropriation for the purposes of Subsubparagraph (d) may be decreased by a specific legislative instrument which receives a favorable vote of two-thirds of the elected members of each house of the legislature.

E. Termination. The legislature may, by passage of a specific legislative instrument by a favorable vote of two-thirds of the elected members of each house of the legislature, provide for the termination of deposits to the Leverage Fund. Any such termination shall be made in such a manner so as to not impair the obligation, validity, or security of any bonds issued under the authority of this Section. Upon termination, the amount of any settlement revenues over and above the amount pledged for security of any bonds issued pursuant to the authority granted in this Section, shall be deposited in and credited as provided in Article VII, Sections 10.8 and 10.9 of this Constitution.

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

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

Section 4. Be it further resolved that on the official ballot to be used at said election there shall be printed a proposition, upon which the electors of the state shall be permitted to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall read as follows:

To establish the Millennium Trust and the Louisiana Fund in the state treasury; to provide that the source of monies deposited

into the Millennium Trust and the Louisiana Fund shall be monies received under the Master Settlement Agreement approved by Consent Decree in the case "Richard P. Ieyoub v. Philip Morris, Incorporated, et al." (Tobacco Settlement); to provide that such settlement proceeds shall be deposited into the Millennium Trust as follows: in Fiscal Year 2000-2001, forty-five percent of the total proceeds, in Fiscal Year 2001-2002, sixty percent of the total proceeds, in Fiscal Year 2002-2003 and thereafter, seventy-five percent of the total proceeds, in Fiscal Years 2000-2001 through 2002-2003; to provide that an additional ten percent of each year's total proceeds shall be deposited for credit to the Education Excellence Fund for appropriation to public elementary and secondary schools; to provide for deposit of the remaining settlement proceeds into the Louisiana Fund; to allow for increase of the amount deposited in the Millennium Trust by specific legislative instrument enacted by a two-thirds vote of the legislature; to establish the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund as special funds within the Millennium Trust; to provide for investment of monies in the Millennium Trust and to authorize investment of no more than thirty-five percent of such monies in stock, provided such authorization may be increased to no more than fifty percent if authorized by a two-thirds vote of each house of the legislature; to provide that all dividends, interest earnings, and realized capital gains from investment of the Millennium Trust be credited one-third each to the Health Excellence Fund, the Education Excellence Fund,

and the TOPS Fund; to authorize appropriation of monies from the Millennium Trust for expenses related to investment of the Trust; to authorize appropriation of monies from the Health Excellence Fund, not to exceed one-third of the annual earnings on investment of the Millennium Trust, for the purpose of initiatives for health care for children, innovations in health care sciences, and provision of disease management services; to authorize appropriation of monies from the Education Excellence Fund, not to exceed one-third of the annual earnings on investment of the Millennium Trust, for support of public and private elementary and secondary schools, particularly for activities which ensure educational excellence; to limit appropriations to such schools for the purposes of pre-kindergarten through twelfth grade instructional activities; to require each recipient school or school system to develop a plan for expenditure of such monies to include performance expectations, which plan shall require both legislative approval and approval by the Department of Education, and to allow retention of unspent balances in the treasury of certain recipient entities; to authorize appropriation of monies from the TOPS Fund, not to exceed one-third of the annual earnings on investment of the Millennium Trust, for state programs for tuition assistance to students of Louisiana institutions of postsecondary education; to authorize appropriation of monies from the Louisiana Fund for initiatives for education and health care for children, for health care services research, disease management services, health care for tobacco-related illness,

capital improvements of state health care facilities, and for activities associated with reduction of tobacco-related injury and death; to require reporting of performance expectations associated with expenditure of monies appropriated from the Louisiana Fund; to create the Millennium Leverage Fund (Leverage Fund) in the state treasury; to authorize, pursuant to a two-thirds vote by each house of the legislature on a specific legislative instrument, the deposit of all or a portion of the settlement revenues into the Leverage Fund; to provide for investment of monies in the Leverage Fund, including up to 50% in stocks; to provide for the issuance of revenue bonds secured by monies in the Leverage Fund in amounts authorized by two-thirds vote of each house of the legislature; to prohibit issuing from the Leverage Fund general obligation bonds pledging the full faith and credit of the state; to authorize appropriation of such bond proceeds and any investment earnings recognized in the official forecast as in excess of inflation for the following purposes: 25% for the purposes of the TOPS Fund, 25% for purposes of the Health Excellence Fund, 25% for the purposes of the Education Excellence Fund, and 25% for the purposes of the Louisiana Fund; to authorize increasing the appropriations to the TOPS, Health Excellence, and Education Excellence Funds and decreasing the appropriation for the purposes of the Louisiana Fund, but only pursuant to a two-thirds vote of each house of the legislature on a specific legislative instrument; to provide for terminating the deposit of settlement monies into the Leverage Fund only

pursuant to a two-thirds vote of each house of the legislature on a specific legislative instrument; and to provide that any such termination be performed in such a manner as not to impair the validity or security of such bonds issued from the Leverage Fund. (Effective July 1, 2000) (Adds Article VII, Sections 10.8, 10.9, and 10.10)

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE