

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, KENNY, 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, AND WOOTON AND SENATORS EWING AND HAINKEL

FUNDS/FUNDING: (Constitutional Amendment) To create the TOPS Trust Fund, the Health 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, the Health 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

1 manner provided by law, a proposal to add Article VII, Section 10.8 of the
2 Constitution of Louisiana, to read as follows:

3 §10.8. TOPS Trust Fund; Health Trust Fund; Louisiana Fund

4 Section 10.8. TOPS Trust Fund, Health Trust Fund, and
5 Louisiana Fund

6 (A) Creation

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

23 (a) Fiscal Year 2000-2001, fifteen percent of the total monies
24 received that year.

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

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

3 (2) There shall be established in the state treasury as a special
4 permanent trust fund the Health Trust Fund, hereinafter referred to as
5 the "Health Trust". After allocation of money to the Bond Security and
6 Redemption Fund as provided in Article VII, Section 9(B) of the
7 constitution, the treasurer shall deposit in and credit to the Health Trust
8 the following amounts of monies received as a result of the Settlement
9 Agreement:

10 (a) Fiscal Year 2000-2001, fifteen percent of the total monies
11 received that year.

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

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

16 (3) There shall be established in the state treasury as a special
17 fund the Louisiana Fund. After allocation of money to the Bond
18 Security and Redemption Fund as provided in Article VII, Section 9(B)
19 of this constitution, the treasurer shall deposit in and credit to the
20 Louisiana Fund all remaining monies received as a result of the
21 Settlement Agreement after deposits into the TOPS Trust and Health
22 Trust as provided in Subparagraphs (1) and (2) of this Paragraph, and
23 all interest income on the investment of monies in the Louisiana Fund.

24 (4) The amount of Settlement Agreement revenues deposited in
25 the TOPS Trust may be increased and the amount of such revenues
26 deposited into the Louisiana Fund may be decreased by a specific

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 legislative instrument which receives a favorable vote of two-thirds of
2 the elected members of each house of the legislature.

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

12 (C) Appropriations

13 (1) Appropriations from the TOPS Trust and Health Trust shall
14 be limited to an annual amount not to exceed the estimated aggregate
15 annual earnings from interest, dividends, and realized capital gains on
16 investment of each fund as recognized by the Revenue Estimating
17 Conference. The amount of realized capital gains on investment which
18 may be included in the aggregate earnings available for appropriation
19 in any year shall not exceed the aggregate of earnings from interest and
20 dividends for that year.

21 (2) Appropriations from the TOPS Trust shall be restricted to
22 support of the state's program for financial assistance for students
23 attending Louisiana institutions of postsecondary education.

24 (3) Appropriations from the Health Trust shall be restricted to
25 the following purposes:

1 (a) Initiatives to ensure the optimal development of Louisiana's
2 children through the provision of appropriate health care.

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

7 (4) Appropriations from the Louisiana Fund shall be restricted
8 to the following purposes, with no annual appropriation for any one of
9 such purposes as enumerated in Subsubparagraphs (a) through (d) of
10 this Subparagraph to exceed fifty percent of the total amount of monies
11 appropriated from the Louisiana Fund in any fiscal year:

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

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

19 (ii) Support of the state's program for children's health
20 insurance.

21 (iii) School-based health clinics, rural health clinics, and
22 primary care clinics.

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

1 services, and expenditures for capital improvements for state health
2 care facilities.

3 (c) Provision of direct health care services for tobacco-related
4 illnesses. Appropriations for the purpose enumerated in this
5 Subsubparagraph shall be limited as follows:

6 (i) For Fiscal Year 2001-2002, the appropriation may not
7 exceed thirty percent of the total amount of monies appropriated from
8 the Fund in that fiscal year.

9 (ii) For Fiscal Year 2002-2003, and for all fiscal years
10 thereafter, the appropriation may not exceed twenty percent of the total
11 amount of monies appropriated from the Louisiana Fund in each fiscal
12 year.

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

17 (e) Expenses related to investment of the TOPS Trust and the
18 Health Trust.

19 (5) Each appropriation from the TOPS Trust, the Health Trust,
20 and the Louisiana Fund shall include performance expectations to
21 ensure accountability in the expenditure of such monies. Any
22 unexpended and unencumbered monies in each fund at the end of a
23 fiscal year shall remain in the respective fund.

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

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

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

8 To establish the TOPS Trust Fund, hereinafter "TOPS Trust",
9 the Health Trust Fund, hereinafter "Health Trust", and the
10 Louisiana Fund in the state treasury; to provide that the source
11 of monies deposited into these funds shall be monies received
12 under the Master Settlement Agreement approved by Consent
13 Decree in the case "Richard P. Ieyoub v. Philip Morris,
14 Incorporated, et al." (Tobacco Settlement); to provide that such
15 settlement proceeds shall be deposited into both the TOPS Trust
16 and the Health Trust as follows: in Fiscal Year 2000-2001,
17 fifteen percent of the total proceeds into each fund, in Fiscal
18 Year 2001-2002, twenty percent of the total proceeds into each
19 fund, and in Fiscal Year 2002-2003 and every fiscal year
20 thereafter, twenty-five percent of the total proceeds into each
21 fund; with the remaining settlement proceeds being deposited
22 into the Louisiana Fund; to allow the increase of the amount
23 deposited in the TOPS Trust by specific legislative instrument
24 enacted by a two-thirds vote of the legislature; to provide for
25 investment of monies in the funds and to authorize investment
26 of no more than fifty percent of the TOPS Trust as the Health

1 Trust in stock; to require deposit of all dividends, interest
2 earnings, and realized capital gains from investment of the
3 TOPS Trust or the Health Trust into respective trust funds; to
4 authorize appropriation of monies from the TOPS Trust not to
5 exceed the annual earnings on the investment for students of
6 Louisiana institutions of postsecondary education; to authorize
7 appropriation of monies from the Health Trust not to exceed the
8 annual earnings on the investment of the trust for the purpose of
9 initiatives for health care for children, innovations in health care
10 sciences, and disease management services; to authorize
11 appropriation of monies from the Louisiana Fund, subject to a
12 fifty percent cap per purpose, for initiatives for education and
13 health care for children, for health care research, disease
14 management services, and capital improvements of state health
15 care facilities, for reduction of tobacco-related injury and death,
16 and for expenses related to the investment of the TOPS Trust
17 and Health Trust; to limit amounts which may be appropriated
18 for direct health care; and to require reporting of performance
19 expectations associated with expenditure of monies appropriated
20 from the TOPS Trust, the Health Trust, and the Louisiana Fund.
21 (Effective July 1, 2000) (Adds Article VII, Section 10.8)

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 (TOPS Trust) and the Health Trust Fund (Health Trust), as special permanent trust funds in the state treasury, and the Louisiana Fund (the La. 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 and the Health Trust the following amounts:

- (1) FY 2000-2001 - 15% of such settlement proceeds into each fund
- (2) FY 2001-2002 - 20% of such settlement proceeds into each fund
- (3) FY 2002-2003 and thereafter - 25% of such settlement proceeds into each fund

The remaining settlement proceeds shall be deposited in and credited to the La. Fund.

The amount of such monies to be deposited in the TOPS Trust and Health Trust may only be increased, and the amount of such monies to be deposited in the La. 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 Health Trust shall be deposited in and credited to the respective trusts. The state treasurer is required to invest the monies in the trusts, up to 50% of which may be invested in stock.

Proposed constitutional amendment provides that the La. Fund shall be invested in the same manner as the state general fund, and interest earnings shall accrue to the La. Fund. Procedures for investment of the funds may be provided by law.

Proposed constitutional amendment authorizes appropriation from the TOPS Trust exclusively for support of the state's program for financial assistance for students attending Louisiana institutions of postsecondary education.

Proposed constitutional amendment authorizes appropriation from the Health Trust for health-related purposes, including initiatives for optimal development of Louisiana's children health care, initiatives in health care through advanced health care sciences, and management of chronic diseases.

Appropriations from the TOPS Trust and the Health Trust shall not exceed the amount of estimated annual earnings on investment as recognized by the Revenue Estimating Conference.

Proposed constitutional amendment authorizes appropriation from the La. Fund for the following purposes:

- (1) Initiatives to ensure optimal development of Louisiana's children through enhancements in education and health care, including early childhood intervention programs, the children's health insurance program, school-based health clinics, and rural and primary care clinics.
- (2) Initiatives in health care through innovation in advanced health care sciences, management of chronic diseases, and capital outlay for the state's health care facilities.
- (3) Provision of direct health care services for tobacco-related illnesses.
- (4) Initiatives to diminish tobacco-related injury and death through educational efforts, cessation assistance services, promotion of a tobacco-free lifestyle, and enforcement activities of the attorney general relative to the settlement agreement.
- (5) Expenses related to the investment of the TOPS Trust and Health Trust.

Proposed constitutional amendment limits the appropriation from the La. Fund for any of the above-referenced purposes to no more than 50% of the total annual appropriation from the fund, except limits appropriations for direct health care to 30% in FY 2001-2002 and 20% in FY 2002-2003 and thereafter.

Proposed constitutional amendment requires that appropriations from the TOPS Trust, Health Trust, or the La. 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.

House Floor Amendments to the reengrossed bill.

1. Creates the Health Trust Fund and provides for deposit of a portion of settlement proceeds into the fund and provides the purposes for which a portion of earnings on investment of monies in the fund may be appropriated.
2. Provides for 50% of settlement proceeds to be deposited in the TOPS Trust and Health Trust (25% in each trust) which is phased in over a three-year period.
3. Reduces the amount of settlement proceeds deposited in the La. Fund to coincide with the phase in for deposit in the trust funds.
4. Modifies purposes for which appropriations can be made from the La. Fund and changes limitation on appropriations for direct health care.