

Regular Session, 2011

SENATE BILL NO. 92

BY SENATOR JACKSON

FUNDS/FUNDING. Constitutional amendment to provide that once the balance in the Millennium Trust reaches \$1.38 billion, 100% of the annual Tobacco Settlement Proceeds shall be dedicated to Health Excellence Fund initiatives. (2/3 - CA13s1(A))

A JOINT RESOLUTION

Proposing to amend Article VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), and (C)(1) and to add Article VII, Section 10.8(C)(2)(d) of the Constitution of Louisiana, all relative to the Millennium Trust, the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund; to provide for the allocation of interest to the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund; to provide for the dedication of certain proceeds from the Settlement Agreement to the Health Excellence Fund; to provide for the deposit, transfer, or credit of certain Settlement Agreement proceeds received by the state to the Health Excellence Fund; and to specify an election for submission of the proposition to electors and provide a ballot proposition.

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, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), and (C)(1) and to add Article VII, Section 10.8(C)(2)(d) of the Constitution of Louisiana, to read as follows:

§10.8. Millennium Trust

1           Section 10.8. Millennium Trust.

2                   (A) Creation.

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

16                                   \*           \*           \*

17                   (c) Fiscal Year 2002-2003 and each fiscal year thereafter, seventy-five  
18 percent of the total monies received that year. **However, beginning in Fiscal Year**  
19 **2011-2012 after the balance in the Millennium Trust reaches a total of one**  
20 **billion three hundred eighty million dollars, the monies received as a result of**  
21 **the Settlement Agreement shall be allocated to the various funds within the**  
22 **Millennium Trust as provided in Subparagraphs (2), (3), and (4) of this**  
23 **Paragraph.**

24                                   \*           \*           \*

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

1 amount of Millennium Trust investment earnings credited to the Health Excellence  
2 Fund.

3 **(b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the**  
4 **treasurer shall credit to the Health Excellence Fund one hundred percent of the**  
5 **Settlement Agreement proceeds deposited into the Millennium Trust, and one-**  
6 **third of all investment earnings on the investment of the Millennium Trust. The**  
7 **treasurer shall report annually to the legislature as to the amount of Millennium**  
8 **Trust Settlement Agreement proceeds and investment earnings credited to the**  
9 **Health Excellence Fund.**

10 **(c) Upon the effective date of this Subsubparagraph, the state treasurer**  
11 **shall deposit, transfer, or otherwise credit funds in an amount equal to such**  
12 **Settlement Agreement proceeds received by the state between April 1, 2011 and**  
13 **the effective date of this Subsubparagraph to the Health Excellence Fund.**

14 (3)(a) The Education Excellence Fund shall be established as a special fund  
15 within the Millennium Trust. The treasurer shall credit to the Education Excellence  
16 Fund one-third of the Settlement Agreement proceeds deposited each year into the  
17 Millennium Trust, and one-third of all investment earnings on the investment of the  
18 Millennium Trust. The treasurer shall report annually to the legislature and the state  
19 superintendent of education as to the amount of Millennium Trust investment  
20 earnings credited to the Education Excellence Fund.

21 **(b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the**  
22 **treasurer shall credit to the Education Excellence Fund one-third of all**  
23 **investment earnings on the investment of the Millennium Trust. The treasurer**  
24 **shall report annually to the legislature and the state superintendent of education**  
25 **as to the amount of Millennium Trust investment earnings credited to the**  
26 **Education Excellence Fund.**

27 (4)(a) The TOPS Fund shall be established as a special fund within the  
28 Millennium Trust. The treasurer shall deposit in and credit to the TOPS Fund one-  
29 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.

**(b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the treasurer shall credit to the TOPS Fund 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.**

\* \* \*

(C) Appropriations. (1)~~(a)~~ 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 **allocated to each fund as provided by Paragraph (A) of this Section and** 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.

**(b)(i) For Fiscal Year 2011-2012, appropriations from the Health Excellence Fund shall be limited to the amount of Settlement Agreement proceeds credited to and deposited into the Health Excellence Fund as provided by Subsubparagraphs (A)(2)(b) and (c) of this Section, and an annual amount not to exceed the estimated aggregate annual earnings from interest, dividends, and realized capital gains on investment of the trust and credited to the Health Excellence Fund as provided by Subsubparagraph (A)(2)(b) of this Section and as recognized by the Revenue Estimating Conference.**

**(ii) For Fiscal Year 2012-2013, and each fiscal year thereafter,**

1        appropriations from the Health Excellence Fund shall be limited to the amount  
2        of annual Settlement Agreement proceeds credited to and deposited into the  
3        Health Excellence Fund as provided in Subsubparagraph (A)(2)(b) of this  
4        Section, and an annual amount not to exceed the estimated aggregate annual  
5        earnings from interest, dividends, and realized capital gains on investment of  
6        the trust and credited to the Health Excellence Fund as provided in  
7        Subsubparagraph (A)(2)(b) of this Section and as recognized by the Revenue  
8        Estimating Conference.

9                (iii) For Fiscal Year 2011-2012, and each fiscal year thereafter, amounts  
10        determined to be available for appropriation from interest earnings shall be  
11        those aggregate investment earnings which are in excess of an inflation factor  
12        as determined by the Revenue Estimating Conference. The amount of realized  
13        capital gains on investment which may be included in the aggregate earnings  
14        available for appropriation in any year shall not exceed the aggregate of  
15        earnings from interest and dividends for that year.

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

18                                \*           \*           \*

19                (d) Beginning Fiscal Year 2011-2012 and each fiscal year thereafter, the  
20        annual Settlement Agreement proceeds credited to and deposited into the  
21        Health Excellence Fund as provided by Subparagraph (A)(2) of this Section  
22        shall be used exclusively for initiatives to ensure the provision of health care  
23        services to the citizens of Louisiana, including services provided by the  
24        hospitals operated by the Board of Supervisors of Louisiana State University  
25        and Agricultural and Mechanical College. Further, such proceeds shall be  
26        appropriated for programs and services that allow, to the greatest extent  
27        possible, for federal financial participation under Title XIX of the U.S. Social  
28        Security Act.

29                                \*           \*           \*

1           Section 2. Be it further resolved that this proposed amendment shall be submitted  
2 to the electors of the state of Louisiana at the statewide election to be held on October 22,  
3 2011.

4           Section 3. Be it further resolved that on the official ballot to be used at said election  
5 there shall be printed a proposition, upon which the electors of the state shall be permitted  
6 to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall  
7 read as follows:

8           To provide relative to the portion of the monies deposited in and credited to  
9 the Millennium Trust each year from the Tobacco Master Settlement such  
10 that once the balance in the Millennium Trust reaches a total of one billion  
11 three hundred eighty million dollars, one hundred percent of the annual  
12 Tobacco Settlement Proceeds shall be allocated to the Health Excellence  
13 Fund to provide exclusively for health care services to the citizens of  
14 Louisiana through federal financial participation under Title XIX of the U.S.  
15 Social Security Act; to provide for the deposit, transfer, or credit of certain  
16 monies in the Millennium Trust to the Health Excellence Fund for such  
17 purpose.

18           (Amends Article VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), and (C)(1)  
19 and to add Article VII, Section 10.8(C)(2)(d))

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Jay R. Lueckel.

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#### DIGEST

Present constitution creates the Millennium Trust as a special permanent trust in the state treasury to receive certain monies as a result of the Tobacco Master 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.

Present constitution provides that beginning Fiscal Year 2002-2003, and each fiscal year thereafter, 75% percent of the total monies received that year shall be allocated as follows:

1. Heath Excellence Fund which is a special fund established within the Millennium Trust - the state treasurer shall credit to the Heath Excellence Fund one-third of the Settlement Proceeds deposited each year into the Millennium Trust and one-third of

all investment earnings on the investment of the Trust.

2. Education Excellence Fund which is a special fund established within the Millennium Trust - the state treasurer shall credit to the Education Excellence Fund one-third of the Settlement Proceeds deposited each year into the Millennium Trust and one-third of all investment earnings on the investment of the trust.
3. TOPS Fund which is a special fund established within the Millennium Trust - the state treasurer shall credit to the TOPS Fund one-third of the Settlement Proceeds deposited each year into the Millennium Trust and one-third of all investment earnings on the investment of the trust.

Proposed constitution provides that beginning Fiscal Year 2011-2012 after the balance in the Millennium Trust reaches a total of \$1.38 billion, the monies received from the Settlement Agreement shall be allocated as follows:

1. Heath Excellence Fund - 100% of the Settlement Proceeds deposited each year into the Millennium Trust and one-third of all investment earnings on the investment of the trust.
2. Education Excellence Fund - one-third of all investment earnings on the investment of the trust.
3. TOPS Fund - one-third of all investment earnings on the investment of the trust.

Proposed constitution provides that upon the effective date of the amendment, the state treasurer shall deposit, transfer, or otherwise credit funds in an amount equal to such Settlement Agreement proceeds to the Health Excellence Fund received by the state between April 1, 2011 and the effective date of the amendment.

Present constitution limits appropriations from the Health Excellence Fund, Education Excellence Fund, and the TOPS Fund to an annual amount not to exceed the estimated aggregate annual earnings from interest, dividends, and realized capital gains on investment of the trust, adjusted for inflation, and as recognized by the Revenue Estimating Conference.

Proposed constitution retains present constitution limitations on appropriations from the TOPS Fund and the Education Excellence Fund relative to interest, dividends, and realized capital gains on investment of the trust.

Proposed constitution provides that for Fiscal Year 2011-2012, appropriations from the Health Excellence Fund shall be limited to the annual Settlement Agreement proceeds plus an amount of Settlement Agreement proceeds equal to such proceeds received by the state between April 1, 2011 and the effective date of the Act, as well as the estimated aggregate annual earnings from interest, dividends, and realized capital gains on investment of the trust.

Proposed constitution further provides that for Fiscal Year 2012-2013, and each fiscal year thereafter, appropriations from the Health Excellence Fund shall be limited to the amount of annual Settlement Agreement proceeds credited to and deposited into the Health Excellence Fund and the estimated aggregate annual earnings from interest, dividends, and realized capital gains on investment of the trust, adjusted for inflation and as recognized by the Revenue Estimating Conference.

Present constitution provides for spending investment earnings from the Health Excellence Fund for the following purposes:

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

2. Initiatives to benefits citizens relative to health care through the pursuit of innovation in advanced health care sciences.

Proposed constitution retains present constitution and further provides that beginning Fiscal Year 2011-2012 and each fiscal year thereafter, the annual Settlement Agreement proceeds credited to and deposited into the Health Excellence Fund shall be used exclusively for initiatives to ensure the provision of health care services of the citizens, including services provided by the hospitals operated by LSU. Further, such proceeds shall be appropriated for programs and services that allow, to the greatest extent possible, for federal financial participation under Title XIX of the U.S. Social Security Act.

Specifies submission of the amendment to the voters at the statewide election to be held on October 22, 2011.

(Amends Const. Art. VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), and (C)(1) and adds Const. Art. VII, Section 10.8(C)(2)(d))