

Regular Session, 2011

SENATE BILL NO. 151

BY SENATOR JACKSON

FUNDS/FUNDING. Provides 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. (See Act)

AN ACT

To amend and reenact R.S. 39:98.1(A)(3), (B), (C), and (D) and 98.3(A) and to enact R.S. 39:98.3(B)(4), 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 Tobacco 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; to provide for the uses of monies in the Health Excellence Fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:98.1(A)(3), (B), (C), and (D) and 98.3(A) are hereby amended and reenacted and R.S. 39:98.3(B)(4) is hereby enacted to read as follows:

SUBPART E. TOBACCO SETTLEMENT PROCEEDS

§98.1. Creation of Funds

A. There shall be established in the state treasury as a special permanent trust fund the Millennium Trust. After allocation of money to the Bond Security and

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

12 \* \* \*

13 (3) Fiscal Year 2002-2003 and each fiscal year thereafter, seventy-five  
14 percent of the total monies received that year. **However, beginning in Fiscal Year**  
15 **2011-2012 after the balance in the Millennium Trust reaches a total of one**  
16 **billion three hundred eighty million dollars, the monies received by the state as**  
17 **a result of the Settlement Agreement shall be allocated to the various funds**  
18 **within the Millennium Trust as provided in Subsections (B), (C), and (D) of this**  
19 **Section.**

20 \* \* \*

21 B.**(1)** The Health Excellence Fund shall be established as a special fund  
22 within the Millennium Trust. The treasurer shall credit to the Health Excellence Fund  
23 one-third of the Settlement Agreement proceeds deposited each year into the  
24 Millennium Trust and one-third of all dividend and interest income and all realized  
25 capital gains on investment of monies in the Millennium Trust.

26 **(2) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the**  
27 **treasurer shall credit to the Health Excellence Fund one hundred percent of the**  
28 **Settlement Agreement proceeds deposited into the Millennium Trust and one-**  
29 **third of all dividend and interest income and all realized capital gains on**

**investment of monies in the Millennium Trust.**

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

C.**(1)** The Education Excellence Fund shall be established in the state treasury 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 into the Millennium Trust and one-third of all dividend and interest income and all realized capital gains on investment of monies in the Millennium Trust.

**(2) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the treasurer shall credit to the Education Excellence Fund one-third of all dividend and interest income and all realized capital gains on investment of monies in the Millennium Trust.**

D.**(1)** The TOPS Fund shall be established in the state treasury as a special fund within the Millennium Trust. The treasurer shall credit to the TOPS Fund one-third of the Settlement Agreement proceeds deposited into the Millennium Trust and one-third of all dividend and interest income and all realized capital gains on investment of monies in the Millennium Trust.

**(2) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the treasurer shall credit to the TOPS Fund one-third of all dividend and interest income and all realized capital gains on investment of monies in the Millennium Trust.**

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§98.3. Appropriations from the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund

A.**(1)** Appropriations from ~~the Health Excellence Fund~~, the Education Excellence Fund; and the TOPS Fund shall be limited to an annual amount not to

1 exceed the estimated aggregate annual earnings from interest, dividends, and realized  
2 capital gains on investment of the Millennium Trust **allocated to each fund as**  
3 **provided by R.S. 39:98.1(C) and (D)** as recognized by the Revenue Estimating  
4 Conference. Amounts determined to be available for appropriation shall be those  
5 aggregate investment earnings which are in excess of an inflation factor as  
6 determined by the Revenue Estimating Conference. The amount of estimated  
7 aggregate investment earnings available for appropriation shall be determined by  
8 subtracting the product of the inflation factor multiplied by the amount of aggregate  
9 investment earnings for the previous fiscal year from the amount of such estimated  
10 aggregate investment earnings. The amount of realized capital gains on investment  
11 which may be included in the aggregate earnings available for appropriation from the  
12 Millennium Trust in any fiscal year shall not exceed the aggregate of earnings from  
13 interest and dividends for that year.

14 **(2)(a) For Fiscal Year 2011-2012, appropriations from the Health**  
15 **Excellence Fund shall be limited to the amount of Settlement Agreement**  
16 **proceeds credited to and deposited into the Health Excellence Fund as provided**  
17 **by R.S. 39:98.1(B)(2) and (3), and an annual amount not to exceed the estimated**  
18 **aggregate annual earnings from interest, dividends, and realized capital gains**  
19 **on investment of the trust and credited to the Health Excellence Fund as**  
20 **provided by R.S. 39:98.1(B)(2) and as recognized by the Revenue Estimating**  
21 **Conference.**

22 **(b) For Fiscal Year 2012-2013, and each fiscal year thereafter,**  
23 **appropriations from the Health Excellence Fund shall be limited to the amount**  
24 **of annual Settlement Agreement proceeds credited to and deposited into the**  
25 **Health Excellence Fund as provided in R.S. 39:98.1(B)(2), and an annual**  
26 **amount not to exceed the estimated aggregate annual earnings from interest,**  
27 **dividends, and realized capital gains on investment of the trust and credited to**  
28 **the Health Excellence Fund as provided in R.S. 39:98.1(B)(2) and as recognized**  
29 **by the Revenue Estimating Conference.**

**(c) For Fiscal Year 2011-2012, and each fiscal year thereafter, amounts determined to be available for appropriation from the Health Excellence Fund from interest earnings 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.**

**(3)** Actual earnings from interest, dividends, and capital gains during the fiscal year in excess of the amounts estimated as available for appropriation shall be credited to the appropriate fund and available for appropriation in subsequent years. Appropriations from the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund shall include performance expectations to ensure accountability in the expenditure of such monies.

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

\* \* \*

**(4) Beginning Fiscal Year 2011-2012 and each fiscal year thereafter, the annual Settlement Agreement proceeds credited to and deposited into the Health Excellence Fund as provided in R.S. 39:98.1(B) shall be used exclusively for initiatives to ensure the provision of health care services to the citizens of the state of Louisiana, including services provided by the hospitals operated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College. 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.**

\* \* \*

Section 2. Section 1 of this Act shall take effect and become operative if the amendment of Article VII, Section 10.8 of the Constitution of Louisiana contained in the Act which originated as Senate Bill No. \_\_\_\_ of this 2011 Regular Session of the Legislature is

1 adopted at the statewide election to be held on October 22, 2011 and at the same time as  
2 such proposed amendment becomes effective.

3 Section 3. Sections 2 and 3 of this Act shall become effective on July 1, 2011; if  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on July 1, 2011, or on the day following such approval by the legislature,  
6 whichever is later.

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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 law 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 law 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 law 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 Agreement proceeds 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 law 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 law 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 law retains present law 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 law 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 law 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 law 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, school-based health clinics, and early childhood intervention programs, among others.
2. Initiatives to benefit citizens relative to health care through the pursuit of innovation in advanced health care sciences.
3. Provision of comprehensive, chronic disease management services.

Proposed law retains present law 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 of Louisiana, 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.

Section 1 of the Act takes effect and becomes operative if the amendment of Article VII, Section 10.8 of the Constitution of Louisiana contained in the Act which originated as Senate Bill No. \_\_ of the 2011 Regular Session of the Legislature is adopted at the statewide election to be held on October 22, 2011, and at the same time as such proposed amendment becomes effective. Sections 2 and 3 of the Act, which are the effective date provisions, become effective on July 1, 2011.

(Amends R.S. 39:98.1(A)(3), (B), (C), and (D) and 98.3(A) and adds R.S. 39:98.3(B)(4))