

Regular Session, 2011

SENATE BILL NO. 53

BY SENATORS ALARIO AND THOMPSON

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 the TOPS program. (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) 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 TOPS Fund; to provide for the deposit, transfer, or credit of certain Settlement Agreement proceeds received by the state to the TOPS 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) and to add Article VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), and (C)(1) of the Constitution of Louisiana, to read as follows:

§10.8. Millennium Trust

Section 10.8. Millennium Trust.

1 (A) Creation.

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

15 \* \* \*

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

23 \* \* \*

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

1 Fund.

2 (b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the  
3 treasurer shall credit to the Health Excellence Fund one-third of all investment  
4 earnings on the investment of the Millennium Trust. The treasurer shall report  
5 annually to the legislature as to the amount of Millennium Trust investment  
6 earnings credited to the Health Excellence Fund.

7 (3)(a) The Education Excellence Fund shall be established as a special fund  
8 within the Millennium Trust. The treasurer shall credit to the Education Excellence  
9 Fund one-third of the Settlement Agreement proceeds deposited each year into the  
10 Millennium Trust, and one-third of all investment earnings on the investment of the  
11 Millennium Trust. The treasurer shall report annually to the legislature and the state  
12 superintendent of education as to the amount of Millennium Trust investment  
13 earnings credited to the Education Excellence Fund.

14 (b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the  
15 treasurer shall credit to the Education Excellence Fund one-third of all  
16 investment earnings on the investment of the Millennium Trust. The treasurer  
17 shall report annually to the legislature and the state superintendent of education  
18 as to the amount of Millennium Trust investment earnings credited to the  
19 Education Excellence Fund.

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

26 (b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the  
27 treasurer shall credit to the TOPS Fund one hundred percent of the Settlement  
28 Agreement proceeds deposited into the Millennium Trust, and one-third of all  
29 investment earnings on the investment of the Millennium Trust. The treasurer

1 shall report annually to the legislature as to the amount of Millennium Trust  
2 Settlement Agreement proceeds and investment earnings credited to the TOPS  
3 Fund.

4 (c) Upon the effective date of this Subsubparagraph, the state treasurer  
5 shall deposit, transfer, or otherwise credit funds in an amount equal to such  
6 Settlement Agreement proceeds received by the state between April 1, 2011 and  
7 the effective date of this Subsubparagraph to the TOPS Fund.

8 \* \* \*

9 (C) Appropriations. (1)(a) Appropriations from the Health Excellence Fund;  
10 and Education Excellence Fund, ~~and TOPS Fund~~ shall be limited to an annual  
11 amount not to exceed the estimated aggregate annual earnings from interest,  
12 dividends, and realized capital gains on investment of the trust allocated to each  
13 fund as provided by Paragraph (A) of this Section and as recognized by the  
14 Revenue Estimating Conference. Amounts determined to be available for  
15 appropriation shall be those aggregate investment earnings which are in excess of an  
16 inflation factor as determined by the Revenue Estimating Conference. The amount  
17 of realized capital gains on investment which may be included in the aggregate  
18 earnings available for appropriation in any year shall not exceed the aggregate of  
19 earnings from interest and dividends for that year.

20 (b)(i) For Fiscal Year 2011-2012, appropriations from the TOPS Fund  
21 shall be limited to the amount of Settlement Agreement proceeds credited to  
22 and deposited into the TOPS Fund as provided by Subsubparagraphs (A)(4)(b)  
23 and (c) of this Section, and an annual amount not to exceed the estimated  
24 aggregate annual earnings from interest, dividends, and realized capital gains  
25 on investment of the trust and credited to the TOPS Fund as provided by  
26 Subsubparagraph (A)(4)(b) of this Section and as recognized by the Revenue  
27 Estimating Conference.

28 (ii) For Fiscal Year 2012-2013, and each fiscal year thereafter,  
29 appropriations from the TOPS Fund shall be limited to the amount of annual

Settlement Agreement proceeds credited to and deposited into the TOPS Fund as provided in Subsubparagraph (A)(4)(b) 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 TOPS Fund as provided in Subsubparagraph (A)(4)(b) of this Section and as recognized by the Revenue Estimating Conference.

(iii) Further, for Fiscal Year 2011-2012, and each fiscal year thereafter, amounts determined to be available for appropriation from the TOPS 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.

\* \* \*

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

Section 3. 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 provide relative to the portion of the monies deposited in and credited to the Millennium Trust each year from the Tobacco Master Settlement that once the balance in the Millennium Trust reaches a total of one billion three hundred eighty million dollars, one hundred percent of the annual Settlement Proceeds shall be allocated to the TOPS Fund to support state programs of financial assistance for students attending Louisiana postsecondary education institutions; to provide for the deposit, transfer, or credit of certain monies in the Millennium Trust to the TOPS Fund for such purpose.

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(Amends Article VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), and (C)(1))

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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

Alario (SB 53)

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. Provides for the investment of 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 - 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 - 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.

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 TOPS 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 Health Excellence 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 TOPS 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 TOPS Fund shall be limited to the amount of annual Settlement Agreement proceeds credited to and deposited into the TOPS 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.

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))