

Regular Session, 2011

SENATE BILL NO. 52

BY SENATORS ALARIO AND THOMPSON

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 the TOPS program. (See Act)

AN ACT

To amend and reenact R.S. 39:98.1(A)(3), (B), (C), and (D) and 98.3(A), 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; to provide for the uses of monies in the 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 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 Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of

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

11 \* \* \*

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

19 \* \* \*

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

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

29 C.**(1)** The Education Excellence Fund shall be established in the state treasury

1 as a special fund within the Millennium Trust. The treasurer shall credit to the  
2 Education Excellence Fund one-third of the Settlement Agreement proceeds  
3 deposited into the Millennium Trust and one-third of all dividend and interest  
4 income and all realized capital gains on investment of monies in the Millennium  
5 Trust.

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

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

15 **(2) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the**  
16 **treasurer shall credit to the TOPS Fund one hundred percent of the Settlement**  
17 **Agreement proceeds deposited into the Millennium Trust and one-third of all**  
18 **dividend and interest income and all realized capital gains on investment of**  
19 **monies in the Millennium Trust.**

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

24 \* \* \*

25 §98.3. Appropriations from the Health Excellence Fund, the Education Excellence  
26 Fund, and the TOPS Fund

27 A.**(1)** Appropriations from the Health Excellence Fund; **and** the Education  
28 Excellence Fund, ~~and the TOPS Fund~~ shall be limited to an annual amount not to  
29 exceed the estimated aggregate annual earnings from interest, dividends, and realized

capital gains on investment of the Millennium Trust **allocated to each fund as provided by R.S. 39:98.1(B) and (C)** 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 estimated aggregate investment earnings available for appropriation shall be determined by subtracting the product of the inflation factor multiplied by the amount of aggregate investment earnings for the previous fiscal year from the amount of such estimated aggregate investment earnings. The amount of realized capital gains on investment which may be included in the aggregate earnings available for appropriation from the Millennium Trust in any fiscal year shall not exceed the aggregate of earnings from interest and dividends for that year.

**(2)(a) For Fiscal Year 2011-2012, appropriations from the TOPS Fund shall be limited to the amount of Settlement Agreement proceeds credited to and deposited into the TOPS Fund as provided by R.S. 39:98.1(D)(2) and (3), 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 by R.S. 39:98.1(D)(2) and as recognized by the Revenue Estimating Conference.**

**(b) 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 as provided in R.S. 39:98.1(D)(2), 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 R.S. 39:98.1(D)(2) and as recognized 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 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.**

(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.

\* \* \*

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. 53 of this 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.

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

Alario (SB 52)

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 - 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 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 TOPS 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 Health Excellence 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 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 law 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.

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. 53 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))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the original bill.

1. Technical amendments.