

**CONFERENCE COMMITTEE REPORT**  
**Senate Bill No. 53 By Senator Alario**

June 23, 2011

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 53 by Senator Alario, recommend the following concerning the Reengrossed bill:

1. That the House Committee Amendments Nos. 1 and 2 proposed by the House Committee on Appropriations and adopted by the House on June 16, 2011 be adopted.
2. That House Floor Amendments Nos. 1 and 2 proposed by Representative Simon and adopted by the House on June 20, 2011 be rejected.
3. That House Floor Amendments Nos. 1, 2, 3, and 4 proposed by Representative Tim Burns and adopted by the House on June 20, 2011 be rejected.
4. That House Floor Amendments Nos. 1, 2, 3, 4, and 5 proposed by Representative Ritchie and adopted by the House on June 20, 2011 be rejected.
5. That the following amendments to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "and (4)," delete the remainder of the line, delete line 3, and insert the following:

"and (C)(1) and to add Article VII, Section 4.1 of the Constitution of Louisiana, all relative to the dedication of certain tobacco proceeds; to provide relative to the Millennium Trust, the Health Excellence"

AMENDMENT NO. 2

On page 1, at the end of line 4, insert "deposit of certain tobacco proceeds into the Health Excellence Fund; to provide relative to the rate of tax levied on certain tobacco products which revenues generated therefrom are dedicated to the Health Excellence Fund; to provide for the use of monies in the Health Excellence Fund; to provide for the"

AMENDMENT NO. 3

On page 1, line 14, after "(C)(1)" and before "of the" insert "and to add Article VII, Section 4.1"

AMENDMENT NO. 4

On page 1, between lines 15 and 16, insert the following:

"ARTICLE VII. REVENUE AND FINANCE  
PART I. GENERAL PROVISIONS

\* \* \*

**§4.1. Cigarette Tax Rates**

**Section 4.1. To ensure revenue for the dedication provided for in Article VII, Section 10.8(C)(2)(c) of this Constitution, the rate of the tax levied pursuant to R.S. 47:841(B)(3) shall not be less than the rate set forth in that provision as it exists on January 1, 2012.**

\* \* \*

**AMENDMENT NO. 5**

On page 3, between lines 7 and 8, insert the following:

**"(c) Beginning on July 1, 2012, after allocation of money to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of this Constitution, the state treasurer shall deposit in and credit to the Health Excellence Fund an amount equal to the revenues derived from the tax levied pursuant to R.S. 47:841(B)(3)."**

**AMENDMENT NO. 6**

On page 4, delete lines 11 and 12, and insert the following:

**"(C) Appropriations. (1)(a) Appropriations from the Health Excellence Fund, Education Excellence Fund, and TOPS Fund shall be limited to an annual"**

**AMENDMENT NO. 7**

On page 4, line 14, after "**allocated**" delete the remainder of the line

**AMENDMENT NO. 8**

On page 4, at the beginning of line 15, delete "**fund**"

**AMENDMENT NO. 9**

On page 4, between lines 21 and 22, insert the following:

**"(b)(i) For Fiscal Year 2011-2012, appropriations from the Health Excellence 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 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, appropriations from the Health Excellence 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 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 and the amount of proceeds credited to and deposited into the Health Excellence Fund as provided by Subsubparagraph (A)(2)(c) of this Section."**

**AMENDMENT NO. 10**

On page 4, line 22, change "**(b)**" to "**(c)**"

**AMENDMENT NO. 11**

On page 5, delete lines 24, and insert the following:

"To dedicate funds for the TOPS program relative to the portion of the monies deposited in and credited to"

AMENDMENT NO. 12

On page 5, line 25, change "Settlement" to "Settlement, to provide"

AMENDMENT NO. 13

On page 6, line 1, change "institutions;" to "institutions; to provide relative to the rate of tax on certain tobacco products and beginning July 1, 2012, to dedicate such tobacco revenues to the Health Excellence Fund to be used for the purposes of the fund, including providing for the optimal development of Louisiana's children through the provision of appropriate health care and providing health care initiatives through innovation in advanced health care sciences;"

AMENDMENT NO. 14

On page 6, line 2, after "to" delete the remainder of the line and insert "the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund."

AMENDMENT NO. 15

On page 6, at the end of line 3, change "(C)(1))" to "(C)(1) and adds Article VII, Section 4.1)"

Respectfully submitted,

Senators:

Representatives:

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Senator Joel T. Chaisson II

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Representative Jim Tucker

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Senator John A. Alario, Jr.

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Representative Jane H. Smith

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Senator Lydia P. Jackson

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Representative Harold L. Ritchie

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

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## CONFERENCE COMMITTEE REPORT DIGEST

Senate Bill No. 53 by Senator Alario

### **Keyword and summary of the bill as proposed by the Conference Committee**

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 and to dedicate certain tobacco proceeds to the Health Excellence Fund. (2/3 - CA13s1(A))

### **Report adopts House amendments to:**

1. Make technical changes.

### **Report rejects House amendments which would have:**

1. Provided the dedication of tobacco revenues from R.S. 47:841(B)(3) to the Health Excellence Fund.
2. Added statutory provisions deleting the sunset (June 30, 2012) of the tax levied on four-twentieths of one cent per cigarette as provided by Section 4 of Act No. 32 of the 2000 Regular Session of the Legislature, and as amended and reenacted by Act No. 21 of the 2002 Regular Session of the Legislature.
3. Modified the ballot language.

### **Report amends the bill to:**

1. Add Article VII, Section 4.1 which provides that the rate of tax levied pursuant to R.S. 47:841(B)(3) shall not be less than the rate set for that provision on January 1, 2012.
2. Provide for depositing and crediting the revenues derived from the tobacco tax levied in R.S. 47:841(B)(3) into the Health Excellence Fund beginning July 1, 2012.
3. Provide that, for Fiscal Year 2011-2012 and each year thereafter, appropriations from the Health Excellence Fund shall be limited to the annual earnings from interest, dividends, and realized capital gains on investment of the trust as recognized by the Revenue Estimating Conference and the proceeds credited to and deposited into the Health Excellence Fund from the tax on tobacco in R.S. 47:841(B)(3).
4. Revise ballot language.

### **Digest of the bill as proposed by the Conference Committee**

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 adds a dedication to the Health Excellence Fund of the rate of the tax on certain tobacco products levied pursuant to R.S. 47:841(B)(3) on January 1, 2012.

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 deposited in and credited to the Millennium Trust 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 beginning July 1, 2012, after allocation of money to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution, the state treasurer shall deposit in and credit to the Health Excellence Fund an amount equal to the revenues derived from four-twentieths of one cent of tax per cigarette.

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 deposited in and credited to the Millennium Trust received by the state between April 1, 2011 and the effective date of the amendment to the TOPS Fund.

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 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.

Proposed constitution provides that for Fiscal Year 2011-2012, appropriations from the Health Excellence 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 and as recognized by the Revenue Estimating Conference.

Proposed constitution provides that for Fiscal Year 2012-2013, and each fiscal year thereafter, appropriations from the Health Excellence 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 and as recognized by the Revenue Estimating Conference and the amount of proceeds credited to and deposited into the Health Excellence Fund from the tobacco tax proceeds.

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 4.1)