

SENATE BILL NO. 52

BY SENATORS ALARIO, AMEDEE AND THOMPSON AND REPRESENTATIVE  
JANE SMITH

1 AN ACT

2 To amend and reenact R.S. 39:98.1(A)(3), (B), (C), and (D) and 98.3(A), all relative to the  
3 dedication of certain tobacco proceeds; to provide relative to the Millennium Trust,  
4 the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund;  
5 to provide for the deposit of certain tobacco proceeds into the Health Excellence  
6 Fund; to provide for the use of monies in the Health Excellence Fund; to provide for  
7 the allocation of interest to the Health Excellence Fund, the Education Excellence  
8 Fund, and the TOPS Fund; to provide for the dedication of certain proceeds from the  
9 Settlement Agreement to the TOPS Fund; to provide for the deposit, transfer, or  
10 credit of certain Settlement Agreement proceeds received by the state to the TOPS  
11 Fund; to provide for the uses of monies in the fund; and to provide for related  
12 matters.

13 Be it enacted by the Legislature of Louisiana:

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

16 SUBPART E. TOBACCO SETTLEMENT PROCEEDS

17 §98.1. Creation of Funds

18 A. There shall be established in the state treasury as a special permanent trust  
19 fund the Millennium Trust. After allocation of money to the Bond Security and  
20 Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of  
21 Louisiana, the treasurer shall deposit in and credit to the Millennium Trust certain  
22 monies received as a result of the Master Settlement Agreement, hereinafter the  
23 "Settlement Agreement", executed November 23, 1998, and approved by Consent  
24 Decree and Final Judgment entered in the case "Richard P. Ieyoub, Attorney  
25 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 monies in the Millennium Trust. The treasurer shall deposit in and credit to the Millennium Trust the following amounts of monies received as a result of the Settlement Agreement:

\* \* \*

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

\* \* \*

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

(3) 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 of Louisiana, the treasurer shall deposit in and credit to the Health Excellence Fund the revenues derived from the tax imposed by R.S. 47:841(B)(3).

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 hundred percent 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.**

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

\* \* \*

§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 exceed the estimated aggregate annual earnings from interest, dividends, and realized capital gains on investment of the Millennium Trust **allocated as provided by R.S.**

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

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

18        **(b) For Fiscal Year 2012-2013, and each fiscal year thereafter,**  
19        **appropriations from the Health Excellence Fund shall be limited to an annual**  
20        **amount not to exceed the estimated aggregate annual earnings from interest,**  
21        **dividends, and realized capital gains on investment of the trust and credited to**  
22        **the Health Excellence Fund as provided by R.S. 39:98.1(B)(2) and as recognized**  
23        **by the Revenue Estimating Conference and the amount of proceeds credited to**  
24        **and deposited into the Health Excellence Fund as provided by R.S.**  
25        **39:98.1(B)(3).**

26        **(3)(a) For Fiscal Year 2011-2012, appropriations from the TOPS Fund**  
27        **shall be limited to the amount of Settlement Agreement proceeds credited to**  
28        **and deposited into the TOPS Fund as provided by R.S. 39:98.1(D)(2) and (3),**  
29        **and an annual amount not to exceed the estimated aggregate annual earnings**  
30        **from interest, dividends, and realized capital gains on investment of the trust**

1 and credited to the TOPS Fund as provided by R.S. 39:98.1(D)(2) and as  
2 recognized by the Revenue Estimating Conference.

3 (b) For Fiscal Year 2012-2013, and each fiscal year thereafter,  
4 appropriations from the TOPS Fund shall be limited to the amount of annual  
5 Settlement Agreement proceeds credited to and deposited into the TOPS Fund  
6 as provided in R.S. 39:98.1(D)(2), and an annual amount not to exceed the  
7 estimated aggregate annual earnings from interest, dividends, and realized  
8 capital gains on investment of the trust and credited to the TOPS Fund as  
9 provided in R.S. 39:98.1(D)(2) and as recognized by the Revenue Estimating  
10 Conference.

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

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

24 \* \* \*

25 Section 2. Section 1 of this Act shall take effect and become operative if the  
26 amendment of Article VII, Section 10.8 and the addition of Article VII, Section 4.1 of the  
27 Constitution of Louisiana contained in the Act which originated as Senate Bill No. 53 of this  
28 2011 Regular Session of the Legislature are adopted at the statewide election to be held on  
29 October 22, 2011 and at the same time as such proposed amendment and addition become  
30 effective.

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

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_