

SENATE BILL NO. 53

BY SENATORS ALARIO, AMEDEE AND THOMPSON AND REPRESENTATIVES
ARNOLD, AUBERT, AUSTIN BADON, BOBBY BADON, BILLIOT,
BROSSETT, HENRY BURNS, CARMODY, CARTER, CHANEY,
DIXON, DOVE, DOWNS, ELLINGTON, FOIL, GUILLORY, GUINN,
HARDY, HENDERSON, HINES, HOFFMANN, HONORE, HOWARD,
HUTTER, SAM JONES, KATZ, LEGER, LIGI, LOPINTO, MORENO,
NOWLIN, RITCHIE, JANE SMITH, PATRICIA SMITH, ST.
GERMAIN, THIBAUT, TUCKER, WILLIAMS AND WILLMOTT

A JOINT RESOLUTION

Proposing to amend Article VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), 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 Fund, the Education Excellence Fund, and the TOPS Fund;
to provide for the 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
allocation of interest to the Health Excellence Fund, the Education Excellence Fund,
and 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 deposit, transfer, or credit of a portion of the state tax on cigarettes to the
Health Excellence 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), (A)(2), (3), (4), and (C)(1) and to add Article VII, Section 4.1 of the
Constitution of Louisiana, to read as follows:

ARTICLE VII. REVENUE AND FINANCE

PART I. GENERAL PROVISIONS

* * *

1 **§4.1. Cigarette Tax Rates**

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

6 * * *

7 §10.8. Millennium Trust

8 Section 10.8. Millennium Trust.

9 (A) Creation.

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

23 * * *

24 (c) Fiscal Year 2002-2003 and each fiscal year thereafter, seventy-five
25 percent of the total monies received that year. **However, beginning in Fiscal Year**
26 **2011-2012 after the balance in the Millennium Trust reaches a total of one**
27 **billion three hundred eighty million dollars, the monies deposited in and**
28 **credited to the Millennium Trust, received as a result of the Settlement**
29 **Agreement, shall be allocated to the various funds within the Millennium Trust**
30 **as provided in Subsubparagraphs (2)(b), (3)(b), and (4)(b) and (c) of this**

1 **Paragraph.**

2 * * *

3 (2)(a) The Health Excellence Fund shall be established as a special fund
4 within the Millennium Trust. The treasurer shall credit to the Health Excellence Fund
5 one-third of the Settlement Agreement proceeds deposited each year into the
6 Millennium Trust, and one-third of all investment earnings on the investment of the
7 Millennium Trust. The treasurer shall report annually to the legislature as to the
8 amount of Millennium Trust investment earnings credited to the Health Excellence
9 Fund.

10 **(b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the**
11 **treasurer shall credit to the Health Excellence Fund one-third of all investment**
12 **earnings on the investment of the Millennium Trust. The treasurer shall report**
13 **annually to the legislature as to the amount of Millennium Trust investment**
14 **earnings credited to the Health Excellence Fund.**

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

20 (3)(a) The Education Excellence Fund shall be established as a special fund
21 within the Millennium Trust. The treasurer shall credit to the Education Excellence
22 Fund one-third of the Settlement Agreement proceeds deposited each year into the
23 Millennium Trust, and one-third of all investment earnings on the investment of the
24 Millennium Trust. The treasurer shall report annually to the legislature and the state
25 superintendent of education as to the amount of Millennium Trust investment
26 earnings credited to the Education Excellence Fund.

27 **(b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the**
28 **treasurer shall credit to the Education Excellence Fund one-third of all**
29 **investment earnings on the investment of the Millennium Trust. The treasurer**
30 **shall report annually to the legislature and the state superintendent of education**

1 as to the amount of Millennium Trust investment earnings credited to the
2 Education Excellence Fund.

3 (4)(a) The TOPS Fund shall be established as a special fund within the
4 Millennium Trust. The treasurer shall deposit in and credit to the TOPS Fund one-
5 third of the Settlement Agreement proceeds deposited into the Millennium Trust, and
6 one-third of all investment earnings on the investment of the Millennium Trust. The
7 treasurer shall report annually to the legislature as to the amount of Millennium Trust
8 investment earnings credited to the TOPS Fund.

9 (b) Beginning Fiscal Year 2011-2012, and each fiscal year thereafter, the
10 treasurer shall credit to the TOPS Fund one hundred percent of the Settlement
11 Agreement proceeds deposited into the Millennium Trust, and one-third of all
12 investment earnings on the investment of the Millennium Trust. The treasurer
13 shall report annually to the legislature as to the amount of Millennium Trust
14 Settlement Agreement proceeds and investment earnings credited to the TOPS
15 Fund.

16 (c) Upon the effective date of this Subsubparagraph, the state treasurer
17 shall deposit, transfer, or otherwise credit funds in an amount equal to such
18 Settlement Agreement proceeds deposited in and credited to the Millennium
19 Trust received by the state between April 1, 2011 and the effective date of this
20 Subsubparagraph to the TOPS Fund.

21 * * *

22 (C) Appropriations. (1)(a) Appropriations from the ~~Health Excellence Fund,~~
23 ~~Education Excellence Fund, and TOPS Fund~~ shall be limited to an annual amount
24 not to exceed the estimated aggregate annual earnings from interest, dividends, and
25 realized capital gains on investment of the trust allocated as provided by
26 Paragraph (A) of this Section and as recognized by the Revenue Estimating
27 Conference. Amounts determined to be available for appropriation shall be those
28 aggregate investment earnings which are in excess of an inflation factor as
29 determined by the Revenue Estimating Conference. The amount of realized capital
30 gains on investment which may be included in the aggregate earnings available for

1 appropriation in any year shall not exceed the aggregate of earnings from interest and
2 dividends for that year.

3 (b)(i) For Fiscal Year 2011-2012, appropriations from the Health
4 Excellence Fund shall be limited to an annual amount not to exceed the
5 estimated aggregate annual earnings from interest, dividends, and realized
6 capital gains on investment of the trust and credited to the Health Excellence
7 Fund as provided by Subsubparagraph (A)(2)(b) of this Section and as
8 recognized by the Revenue Estimating Conference.

9 (ii) For Fiscal Year 2012-2013, and each fiscal year thereafter,
10 appropriations from the Health Excellence 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 and credited to
13 the Health Excellence Fund as provided by Subsubparagraph (A)(2)(b) of this
14 Section and as recognized by the Revenue Estimating Conference and the
15 amount of proceeds credited to and deposited into the Health Excellence Fund
16 as provided by Subsubparagraph (A)(2)(c) of this Section.

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

25 (ii) For Fiscal Year 2012-2013, and each fiscal year thereafter,
26 appropriations from the TOPS Fund shall be limited to the amount of annual
27 Settlement Agreement proceeds credited to and deposited into the TOPS Fund
28 as provided in Subsubparagraph (A)(4)(b) of this Section, and an annual
29 amount not to exceed the estimated aggregate annual earnings from interest,
30 dividends, and realized capital gains on investment of the trust and credited to

1 the TOPS Fund as provided in Subsubparagraph (A)(4)(b) of this Section and
2 as recognized by the Revenue Estimating Conference.

3 (iii) Further, for Fiscal Year 2011-2012, and each fiscal year thereafter,
4 amounts determined to be available for appropriation from the TOPS Fund
5 from interest earnings shall be those aggregate investment earnings which are
6 in excess of an inflation factor as determined by the Revenue Estimating
7 Conference. The amount of realized capital gains on investment which may be
8 included in the aggregate earnings available for appropriation in any year shall
9 not exceed the aggregate of earnings from interest and dividends for that year.

10 * * *

11 Section 2. Be it further resolved that this proposed amendment shall be submitted
12 to the electors of the state of Louisiana at the statewide election to be held on October 22,
13 2011.

14 Section 3. Be it further resolved that on the official ballot to be used at said election
15 there shall be printed a proposition, upon which the electors of the state shall be permitted
16 to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall
17 read as follows:

18 To dedicate funds for the TOPS program relative to the portion of the monies
19 deposited in and credited to the Millennium Trust each year from the
20 Tobacco Master Settlement, to provide that once the balance in the
21 Millennium Trust reaches a total of one billion three hundred eighty million
22 dollars, one hundred percent of the annual Settlement Proceeds shall be
23 allocated to the TOPS Fund to support state programs of financial assistance
24 for students attending Louisiana postsecondary education institutions; to
25 provide relative to the rate of tax on certain tobacco products and beginning
26 July 1, 2012, to dedicate such tobacco revenues to the Health Excellence
27 Fund to be used for the purposes of the fund, including providing for the
28 optimal development of Louisiana's children through the provision of
29 appropriate health care and providing health care initiatives through
30 innovation in advanced health care sciences; to provide for the deposit,

1 transfer, or credit of certain monies in the Millennium Trust to the Health
2 Excellence Fund, the Education Excellence Fund, and the TOPS Fund.
3 (Amends Article VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), and (C)(1)
4 and adds Article VII, Section 4.1)

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES