



Proposal to raid tobacco settlement fund benefits the well-to-do at the expense of Louisiana's working families

By Tim Mathis

Louisianans on October 22 will be asked to approve an amendment to the state constitution that would make it hard for the state to constrain costs of the Taylor Opportunity Program for Students (TOPS) college scholarship program. TOPS is an increasingly expensive higher education assistance program that largely benefits students from wealthier families, at the expense of health care and education support for low-income and working families across Louisiana.

Amendment 1 is unsound fiscal policy; it would redirect money the state receives every year from a settlement with tobacco companies. Instead of going into the Millennium Trust Fund, where it is currently used to support health care and education for future generations, most of the money would instead be used for TOPS scholarships that go disproportionately to wealthier families that arguably do not need help paying for college. This amounts to a raid on the Millennium Trust Fund.

The amendment also would stop part of Louisiana's cigarette tax from expiring. Under current law, the state's 36 cent-per-pack tax would revert to 32 cents on June 30, 2012. After Gov. Bobby Jindal vetoed legislation that would maintain the entire tax, legislators inserted into the TOPS amendment a provision to accomplish constitutionally what the governor thwarted them from doing by statute. In isolation, maintaining Louisiana's cigarette tax at the current level would be good public policy. The state needs the money — especially after ill-advised income tax reductions in recent years — and smoking is a dangerous practice that increases the amount of money the state needs to spend on health care.

Millennium Trust Fund History

In 1998, Louisiana and 45 other states entered into a settlement with major tobacco companies. Louisiana's share of the settlement was an estimated \$4.6 billion over the first 25 years with payments continuing as long as tobacco products are sold within the state. After legislators spent all the tobacco monies received during the first year, the Legislature, at the urging of the Public Affairs Research Council (PAR), the Council for a Better Louisiana, and other watchdog groups, took steps to protect the tobacco windfall from being spent haphazardly. The Millennium Fund was created with the requirement that it would receive 75 percent of the settlement revenue each year. The remaining 25 percent goes to the Louisiana Fund, created at the same time, and can be used for children's education and health care programs, health care for tobacco-related illnesses, and smoking prevention efforts. Fund proceeds were to be invested and the returns on those investments, but not the principle, spent on programs.

Two years after creating the Millennium Fund, legislators in 2001 approved selling 20-40 year bonds so the state could borrow against future tobacco revenues and place the proceeds into the Millennium Fund for investment. This created a much larger fund, resulting in significantly more investment proceeds that could be used to support programs. This action also mitigated the risk that future tobacco settlement revenues would be lower than expected due to the decline in smoking, future lawsuits, and increased regulation.

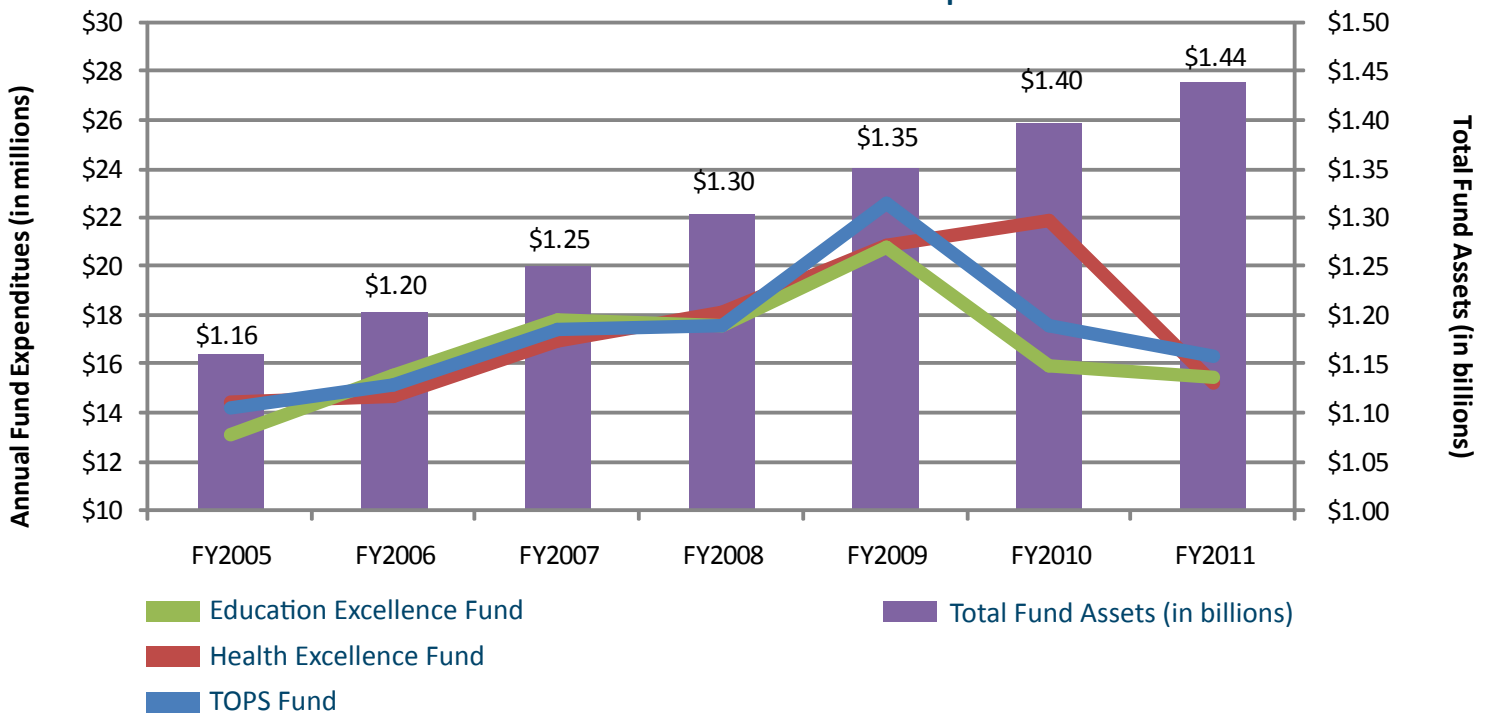
“ TOPS is an increasingly expensive higher education assistance program that largely benefits students from wealthier families, at the expense of health care and education support for low-income and working families across Louisiana. ”

So, now 60 percent of the money Louisiana receives yearly from the tobacco settlement pays off those bonds. The rest of the money is split, with one quarter of it going to the Louisiana Fund and three quarters to the Millennium Trust Fund. The proceeds from the tobacco settlement are invested by the state in order to expand the assistance offered by the Louisiana and Millennium Trust funds. Last year, after payment on the bonds, Louisiana was left with \$55.4 million that was distributed as follows:

- \$13.9 million to the Louisiana Fund for children’s health insurance through LaCHIP, school-based clinics, and prevention programs aimed at keeping young people from starting smoking.
- \$41.5 million to the Millennium Trust Fund.

The earnings from the fund’s investments — \$44.7 million in FY2011 — were split evenly between three funds: The Health Excellence Fund for providing services to people receiving Medicaid, mental health facilities, and nursing homes; the Education Excellence Fund for early childhood education, remedial instruction, and stipends for low-income elementary and secondary students in New Orleans, the Louisiana Schools for the Deaf and Visually Impaired, the Louisiana Special Education Center, the Louisiana School for Math, Science and Arts, the New Orleans Center for Creative Arts; and the TOPS Fund, which helps support four-year scholarships for students attending Louisiana colleges and universities (Figure 1).

Figure 1
Millennium Trust Fund: Total Assets and Expenditures



Problems with the proposed amendment

The proposed state constitutional amendment would require that the amount of money in the Millennium Trust Fund — not counting interest and other proceeds from investments — never exceed \$1.38 billion. The Louisiana Fund would still receive 25 percent of the annual settlement payment left after the bond payment. But the remaining 75 percent would flow directly into the TOPS Fund — restricting the earnings potential of the Health Excellence and Education Excellence Funds.

This is problematic for a number of reasons. When they enshrined the Millennium Trust Fund in the state constitution, legislators intended to create a permanent source of support for the health and education needs of future generations, safe from the whims of policymakers who might want to tap into the savings account to pay the state’s bills.

The Fund was not meant to serve as a solution to the widening gap between state revenues and the cost of meeting public needs — a structural deficit exacerbated significantly by the largest tax cuts in state history. Those cuts came with the 2007 and 2008 rollback of the Stelly Plan, which in return for eliminating state sales tax on utilities, groceries, and medicines imposed limited increases in income taxes primarily affecting upper-income taxpayers. The Stelly rollbacks, coupled with the impact of the national economic downturn, left Louisiana with a \$1.6 billion shortfall last fiscal year which the Governor and Legislature balanced by laying off state workers, making cuts to public hospitals, and raiding various dedicated funds.

According to PAR's analysis of the 1999 amendment that created it, the Millennium Fund — exclusive of interest and investment earnings — was expected to grow to \$5.6 billion within 30 years and serve as a continuing source of revenue for health and education. "It targets spending from trust earnings to a number of worthwhile purposes — primarily health and education," the analysis said. But this will not happen if voters approve Amendment 1.

Amendment 1's limit on the Millennium Trust Fund's principal would prevent future growth of the Health Excellence and the Education Excellence funds. By depriving these funds of earnings from an asset base that grows each year with additional tobacco settlement payments, the Legislative Fiscal Office projects that, if Amendment 1 is approved, investment earnings will be significantly less than they would have been without passage of the amendment: \$2.9 million in fiscal year 2013, \$4.2 million in fiscal year 2014, \$5.6 million in fiscal year 2015, and \$6.9 million in fiscal year 2016.

The amendment would make up for some of this revenue loss by dedicating the four cent cigarette tax renewal to the Health Excellence Fund at \$12 million per year. Therefore, the Education Excellence Fund will be the real loser if Amendment 1 passes. "Raiding a K-12 trust fund to pay for college scholarships is like building a house from the roof down," wrote former state senator and current Public Service Commissioner Foster Campbell. In Louisiana, where one-third of students in public schools are performing below grade level, Educational Excellence money helps fund new classroom materials, additional teaching assistants, and remedial instruction for at-risk children. As opposed to TOPS, which one-third of all 2009 high school graduates received, the Education Excellence Fund benefits virtually all K-12 students in Louisiana.

Furthermore, the amendment gives undue protection to TOPS from funding cuts during the present fiscal crisis and future budget difficulties. Today, 72 percent of all TOPS recipients come from families that make \$50,000 or more per year, well over the median income for Louisiana; 39 percent come from families making \$100,000 or more. Meanwhile Go Grants, tuition stipends designed to promote access to higher education for low-income and non-traditional students, have been chronically underfunded.

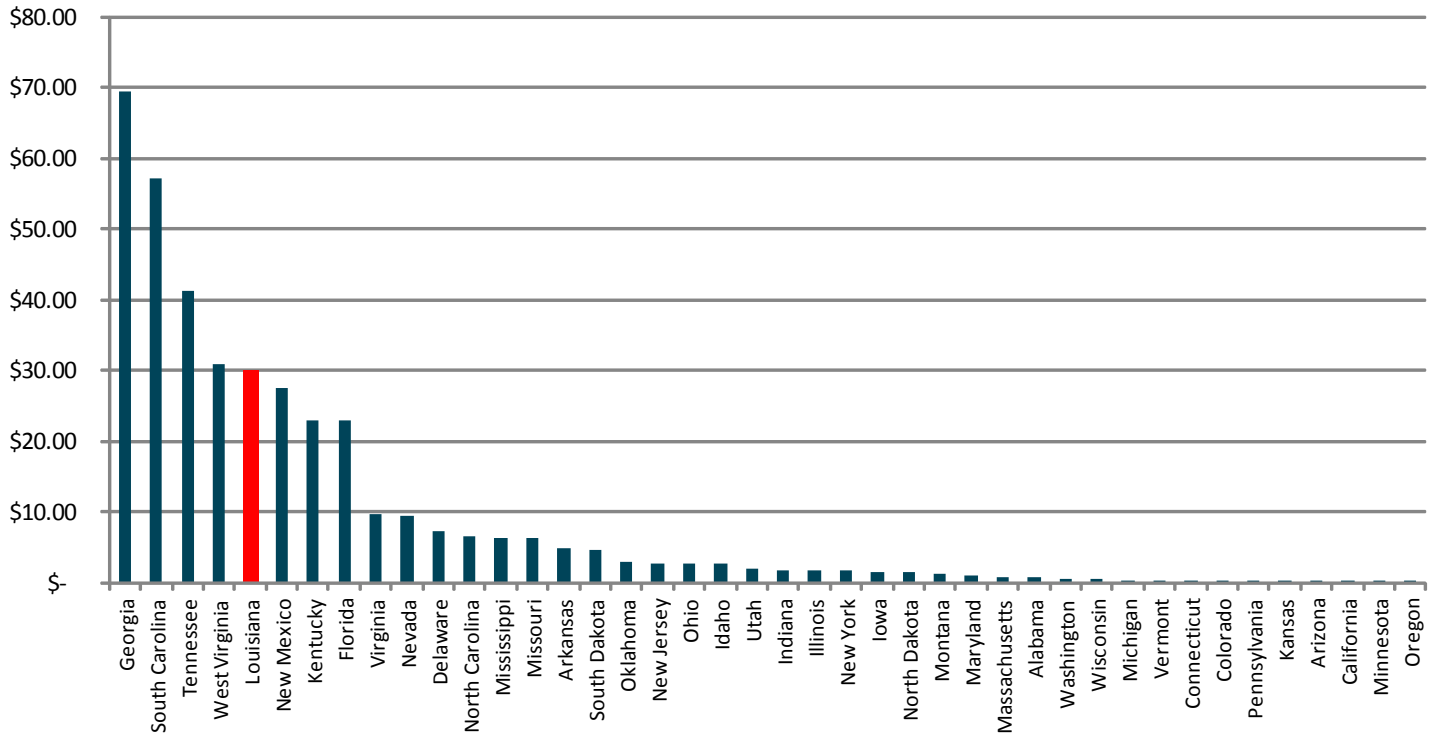
Most TOPS funding (an average of 86 percent over the last decade) is discretionary spending through the State General Fund (SGF), which means it is subject to being cut during periods of revenue shortfalls. Despite its discretionary status, the legislature has never reduced TOPS awards and, to date, all who have qualified have received the benefit without regard to the condition of the state budget.¹

Tobacco settlement dollars have supported about 13 percent of TOPS spending, but the proposed amendment would nearly triple that contribution — freeing up the equivalent in the state general fund to be spent anywhere else in the budget. This year, if the amendment passes, about \$83 million would be reallocated to the TOPS Fund (the amount from fiscal years 2011 and 2012 combined) and \$41.5 million in each year thereafter. The situation gets worse once the tobacco settlement bonds are paid off. Then, the amount dedicated toward TOPS will increase by an additional \$70 million a year. Thus, another state subsidy that primarily benefits the well-to-do will be enshrined in the state constitution at the expense of Louisiana's poor and working class families.

1 For a more detailed analysis of the TOPS program, see LBP's report "*TOPS and Go Grants: Louisiana's Financial Aid Programs Reward Too Much Mediocrity and Provide Too Little for THose in Need*," available on www.labudget.org

The amendment will also make it more difficult to reform TOPS in the future. Many Louisianans support reforms that would rein in rising costs for what is the fifth most expensive merit-based scholarship program in the country (Figure 2). Due to tuition and fee increases, total TOPS spending will reach \$154.4 million this year, an increase of 6 percent since last year, and 18 percent from two years ago. Compared to other states, Louisiana spends a disproportionately large share of its financial aid resources on those who can readily afford college while providing too little to those who need financial help in order to have a chance at a college education.

Figure 2
Per Capita Spending for Merit-Based Student Aid Programs by State, 2009-10



Source: National Association of State Student Grant and Aid Programs
 Note: The eight states that did not have merit-based aid programs are not included in the chart.

Since the program’s inception, legislators have tried, unsuccessfully, to pass dozens of bills that would have fundamentally reformed TOPS. According to the 2011 Louisiana Survey conducted by the LSU Public Policy Research Lab, 23 percent of Louisianans favor lowering the award amount, 55 percent believe awards should only go to students with financial need, and 58 percent support increasing the academic requirements. Any of these changes would significantly affect the cost of TOPS.

The proposed amendment would make it difficult to redirect the TOPS Fund revenues to other funds because such a change would require another constitutional amendment. By significantly reducing, and ultimately eliminating, TOPS funding from the annual appropriation process, legislative oversight and accountability would be greatly reduced.

Conclusion

Constitutional Amendment 1 is not sound fiscal policy and represents misplaced priorities during the 2011 Regular Session.

Rather than increasing cigarette taxes by 70 cents per pack for nearly \$122 million in additional revenue — a measure that was proposed and rejected — legislators settled for the status quo. Rather than fully funding Go Grants for low-income students, legislators propose to protect funding for an increasingly expensive scholarship program that subsidizes the college students from the state’s most affluent families.

Louisiana needs a long-term solution to its fiscal crisis that includes well thought out revenue increases, not a quick fix that comes from raiding what are supposed to be protected funds.

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About the Louisiana Budget Project

The Louisiana Budget Project (LBP) provides independent, nonpartisan research and analysis of Louisiana fiscal issues and their impact on Louisiana families and businesses. We seek to bring wider prosperity to Louisiana through a deeper understanding of the state budget, broadening fiscal policy debates, and increasing public participation in decision-making. As part of the State Fiscal Analysis Initiative's 40 state budget projects that are coordinated by the national Center on Budget and Policy Priorities, we uphold a commitment to issuing work that is Credible, Timely, and Accessible.