

Amend **HB 2154** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter G, Chapter 403, Government Code, is amended by adding Section 403.1056 to read as follows:

Sec. 403.1056. HEALTH CARE ACCESS FUND. (a) The health care access fund is a special fund in the state treasury outside the general revenue fund.

(b) The fund is composed of:

- (1) gifts and grants contributed to the fund;
- (2) earnings on the principal of the fund; and
- (3) other amounts deposited to the credit of the fund,

including:

(A) legislative appropriations; and

(B) money deposited under Section 155.2415, Tax Code.

(c) Except as provided by Subsections (d) and (e), money in the fund may not be appropriated for any purpose and shall be used only to recruit and retain health care providers in health professional shortage areas as described by Subsection (d).

(d) In each state fiscal biennium, money in the fund shall be appropriated to the Texas Higher Education Coordinating Board to enable the repayment of health care provider education loans under Subchapter FF, Chapter 61, Education Code.

(e) A gift or grant to the fund may be appropriated in the same manner as money in the fund derived from other sources, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Sections 403.095 and 404.071 do not apply to the fund.

SECTION 2. Chapter 61, Education Code, is amended by adding Subchapter FF to read as follows:

SUBCHAPTER FF. REPAYMENT OF CERTAIN HEALTH CARE

PROVIDER EDUCATION LOANS

Sec. 61.9781. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of State Health Services.

(2) "Health care provider" means:

(A) a physician licensed under Subtitle B, Title

3, Occupations Code;

(B) a dentist licensed under Subtitle D, Title 3, Occupations Code;

(C) a physician assistant licensed under Chapter 204, Occupations Code;

(D) an advanced practice nurse licensed under Chapter 301, Occupations Code;

(E) a dental hygienist licensed under Chapter 256, Occupations Code;

(F) a psychologist licensed under Chapter 501, Occupations Code;

(G) a licensed master social worker, as defined by Section 505.002, Occupations Code;

(H) a licensed professional counselor, as defined by Section 503.002, Occupations Code; and

(I) a licensed marriage and family therapist, as defined by Section 502.002, Occupations Code.

Sec. 61.9782. REPAYMENT ASSISTANCE AUTHORIZED. (a) The board may provide, in accordance with this subchapter and the rules of the board and the department, assistance in the repayment of education loans for health care providers who apply and qualify for the assistance.

(b) The provision of financial assistance in the repayment of education loans under this subchapter promotes a public purpose.

Sec. 61.9783. ELIGIBILITY. (a) To be eligible to receive repayment assistance, a health care provider must:

(1) apply to the board;

(2) be licensed in this state in the appropriate field of practice;

(3) subject to Subsections (b) and (d), have completed one, two, three, or four consecutive years of practice in a health professional shortage area designated by the department; and

(4) provide health care services to:

(A) recipients under the medical assistance program authorized by Chapter 32, Human Resources Code; or

(B) enrollees under the child health plan program authorized by Chapter 62, Health and Safety Code.

(b) Notwithstanding any other law, a health care provider who, after receiving one or more grants of repayment assistance under this subchapter, fails to complete a second, third, or fourth consecutive year of practice as required by Subsection (a)(3) becomes ineligible to receive any additional grants of education loan repayment assistance under this subchapter or any other education loan repayment assistance program offered by the state.

(c) A health care provider is ineligible to receive repayment assistance under this subchapter based on service that concurrently fulfills a service agreement entered into under another education loan repayment assistance program or contractual arrangement, such as a service agreement described by Section 61.9792.

(d) The board may excuse an otherwise eligible health care provider from the requirement imposed by Subsection (a)(3) that health care services be provided in consecutive years if the break in services results from a hardship or other good cause, including the performance of active duty military service.

Sec. 61.9784. CONDITIONAL APPROVAL. The board may grant prior conditional approval to a person who applies to the board before completing the eligibility requirements under Sections 61.9783(a)(2), (3), and (4) and may withhold approved repayment assistance if the remaining requirements are not completed.

Sec. 61.9785. MAXIMUM AMOUNT OF REPAYMENT ASSISTANCE. (a) A health care provider may receive repayment assistance under this subchapter in the amount determined by board rule, not to exceed the following amounts for each year for which the provider establishes eligibility for the assistance:

- (1) for the first year, \$25,000;
- (2) for the second year, \$35,000;
- (3) for the third year, \$45,000; and
- (4) for the fourth year, \$55,000.

(b) A health care provider may not receive repayment assistance under this subchapter for more than four consecutive years.

(c) The board shall ensure that:

- (1) the total amount of repayment assistance available

to a health care provider under this subchapter is divided into four separate payments, each of which must be awarded in the same calendar year in which the qualifying year of service was completed; and

(2) the amount of repayment assistance granted to a health care provider is increased for each year the provider receives the assistance.

(d) The total amount of repayment assistance received by a health care provider may not exceed the total amount of principal and interest due on the health care provider's education loans.

(e) Notwithstanding Subsection (a), the board may increase at any time on or after September 1, 2013, the maximum amounts described by Subsection (a), as applicable, based on:

(1) data available from the Association of American Medical Colleges regarding the average physician educational loan debt; or

(2) equivalent data for dentists or other health care providers.

Sec. 61.9786. ELIGIBLE LOANS. (a) Except as provided by Subsection (b), the board may provide repayment assistance for the repayment of any education loan received by the health care provider through any lender, other than a private individual, for:

(1) graduate, postgraduate, or professional education:

(A) at an institution of higher education or an accredited private or independent institution of higher education; and

(B) that satisfies an initial requirement for licensure in the provider's field of practice; and

(2) undergraduate education at an institution of higher education or an accredited private or independent institution of higher education.

(b) The board may not provide repayment assistance for an education loan that is in default at the time of the health care provider's application for the assistance, except that a loan in default may become an eligible loan for the purposes of this section if the loan is rehabilitated to the satisfaction of the lender or

any other holder of the loan, as applicable.

(c) Each state fiscal biennium, the board shall attempt to allocate for the purposes of this subchapter all money available to the board under Section 61.9789.

Sec. 61.9787. REPAYMENT. (a) The board shall deliver any repayment assistance under this subchapter:

(1) in accordance with applicable federal law and regulations; and

(2) in a lump sum payable on behalf of the health care provider to the lender or other holder of the affected loan.

(b) Repayment assistance received under this subchapter may be applied to the principal amount of the loan and to interest that accrues.

Sec. 61.9788. ASSISTANCE OF DEPARTMENT OF STATE HEALTH SERVICES. (a) The board and the department shall enter into a memorandum of understanding in which the department agrees to:

(1) identify and recruit persons who may be or could become eligible for repayment assistance under this subchapter; and

(2) accept and review applications by those persons for the assistance.

(b) A memorandum of understanding under Subsection (a) must address the provision of resources for the staffing and technology necessary for the department to perform the duties required by that subsection.

(c) The department, in coordination with the board, shall adopt, publish, and as necessary revise a set of standards governing eligibility for repayment assistance under this subchapter and providing priorities among types of health care providers for grants of that assistance. Priority status shall be given first to licensed dentists who plan to practice in health professional shortage areas and to licensed physicians who plan to practice as primary care providers in health professional shortage areas and second to other health care providers based on which fields of practice are most needed in the health professional shortage area the providers propose to serve.

(d) Not later than December 31 of each year, the board and the department shall publish the following information:

(1) the health professional shortage areas for which the repayment assistance was paid;

(2) the types of health care providers receiving the repayment assistance;

(3) the amount of repayment assistance paid to each health care provider; and

(4) the period for which each health care provider receiving repayment assistance has remained in the health professional shortage area.

Sec. 61.9789. ACCEPTANCE OF FUNDS. For the purposes of this subchapter, the board may solicit and accept gifts, grants, and donations and may use any other available revenue, including money appropriated from the health care access fund created under Section 403.1056, Government Code.

Sec. 61.9790. RULES. (a) The board and the department shall adopt rules necessary for the administration of this subchapter.

(b) The board shall distribute a copy of the rules adopted by the board and the department under this section and a copy of pertinent information in this subchapter to:

(1) each institution of higher education or accredited private or independent institution of higher education;

(2) any appropriate state agency; and

(3) any appropriate professional association.

Sec. 61.9791. COSTS OF ADMINISTRATION. To cover the costs of administering this subchapter, the board may use a reasonable amount of the money available for the purposes of this subchapter, not to exceed 1-1/2 percent of the total amount available.

SECTION 3. Section 61.540, Education Code, is transferred to Subchapter FF, Chapter 61, Education Code, as added by this Act, redesignated as Section 61.9792, Education Code, and amended to read as follows:

Sec. 61.9792 [~~61.540~~]. SERVICE AGREEMENTS ENTERED INTO UNDER FORMER LAW; SAVING PROVISION. (a) This section applies only to a person who entered into a written agreement to perform service as a physician in exchange for loan repayment assistance under Subchapter J [~~this subchapter~~] before September 1, 2003.

(b) The agreement continues in effect and Subchapter J [~~this subchapter~~], as it existed when the person entered into the agreement, is continued in effect for purposes of that agreement until the person satisfies all the conditions of the agreement or repays all amounts due under the agreement if the person does not satisfy the conditions of the agreement.

(c) A person to whom this section applies is not eligible to receive repayment assistance under another provision of this subchapter.

SECTION 4. Section 155.0211, Tax Code, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), (b-3), (b-4), (c), (d), and (e) to read as follows:

(b) Except as provided by Subsection (c), the [~~The~~] tax rate for each can or package of a tobacco product [~~products~~] other than cigars is \$1.22 per ounce and a proportionate rate on all fractional parts of an ounce [~~40 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal~~].

(b-1) Notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2012, the tax rate for each can or package of a tobacco product other than cigars is \$1.19 per ounce and a proportionate rate on all fractional parts of an ounce. This subsection expires December 1, 2013.

(b-2) Notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2011, the tax rate for each can or package of a tobacco product other than cigars is \$1.16 per ounce and a proportionate rate on all fractional parts of an ounce. This subsection expires December 1, 2012.

(b-3) Notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2010, the tax rate for each can or package of a tobacco product other than cigars is \$1.13 per ounce and a proportionate rate on all fractional parts of an ounce. This subsection expires December 1, 2011.

(b-4) Notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1,

2009, the tax rate for each can or package of a tobacco product other than cigars is \$1.10 per ounce and a proportionate rate on all fractional parts of an ounce. This subsection expires December 1, 2010.

(c) The tax imposed on a can or package of a tobacco product other than cigars that weighs less than 1.2 ounces is equal to the amount of the tax imposed on a can or package of a tobacco product that weighs 1.2 ounces.

(d) The computation of the tax under this section and the applicability of Subsection (c) shall be based on the net weight as listed by the manufacturer. The total tax to be imposed on a unit that contains multiple individual cans or packages is the sum of the taxes imposed by this section on each individual can or package intended for sale or distribution at retail.

(e) A change in the tax rate in effect for a state fiscal year that occurs in accordance with this section does not affect taxes imposed before that fiscal year, and the rate in effect when those taxes were imposed continues in effect for purposes of the liability for and collection of those taxes. This subsection expires December 1, 2013.

SECTION 5. Section 155.101, Tax Code, is amended to read as follows:

Sec. 155.101. RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, and export warehouse shall keep records at each place of business of all tobacco products purchased or received. Each retailer shall keep records at a single location, which the retailer shall designate as its principal place of business in the state, of all tobacco products purchased and received. These records must include the following, except that Subdivision (7) applies to distributors only and Subdivision (8) applies only to the purchase or receipt of tobacco products other than cigars:

(1) the name and address of the shipper or carrier and the mode of transportation;

(2) all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;

(3) the date and the name of the place of origin of the tobacco product shipment;

(4) the date and the name of the place of arrival of the tobacco product shipment;

(5) a statement of the number, kind, and price paid for the tobacco products;

(6) the name, address, permit number, and tax identification number of the seller;

(7) the manufacturer's list price for the tobacco products; ~~and~~

(8) the net weight as listed by the manufacturer for each unit; and

(9) any other information required by rules of the comptroller.

SECTION 6. Section 155.102, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to the information required under Subsection (b), the records for each sale, distribution, exchange, or use of tobacco products other than cigars must show the net weight as listed by the manufacturer for each unit.

SECTION 7. Section 155.103, Tax Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) In addition to the information required under Subsection (a), the records for each sale of tobacco products other than cigars must show the net weight as listed by the manufacturer for each unit.

(b) A manufacturer who sells tobacco products to a permit holder in this state shall file with the comptroller, on or before the last day of each month, a report showing the information required to be listed by Subsections ~~[in Subsection]~~ (a) and (a-1), if applicable, for the previous month.

SECTION 8. Section 155.105(b), Tax Code, is amended to read as follows:

(b) The wholesaler or distributor shall file the report on or before the 25th day of each month. The report must contain the following information for the preceding calendar month's sales in relation to each retailer:

(1) the name of the retailer and the address of the retailer's outlet location to which the wholesaler or distributor delivered cigars or tobacco products, including the city and zip code;

(2) the taxpayer number assigned by the comptroller to the retailer, if the wholesaler or distributor is in possession of the number;

(3) the tobacco permit number of the outlet location to which the wholesaler or distributor delivered cigars or tobacco products; and

(4) the monthly net sales made to the retailer by the wholesaler or distributor, including:

(A) the quantity and units of cigars and tobacco products sold to the retailer; and

(B) for each unit of tobacco products other than cigars, the net weight as listed by the manufacturer.

SECTION 9. Section 155.111, Tax Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) In addition to the information required under Subsection (b), the report must show the net weight as listed by the manufacturer for each unit of tobacco products other than cigars that is purchased, received, or acquired.

SECTION 10. Section 155.2415, Tax Code, is amended to read as follows:

Sec. 155.2415. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND AND CERTAIN OTHER FUNDS. Notwithstanding Section 155.241, the [all] proceeds from the collection of taxes imposed by Section 155.0211 shall be allocated as follows:

(1) the amount of the proceeds that is equal to the amount that, if the taxes imposed by Section 155.0211 were imposed at a rate of 40 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal, would be attributable to the portion of that [the] tax rate in excess of 35.213 percent [of the manufacturer's list price, exclusive of any trade discount, special discount, or deal], shall be deposited to the credit of the property tax relief fund under Section 403.109, Government Code;

(2) the amount of the proceeds that is equal to the amount that would be attributable to a tax rate of 35.213 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal, if the taxes were imposed by Section 155.0211 at that rate, shall be deposited to the credit of the general revenue fund; and

(3) the remaining proceeds shall be deposited to the credit of the health care access fund under Section 403.1056, Government Code.

SECTION 11. The following provisions are repealed:

- (1) Subchapters V and AA, Chapter 61, Education Code;
- (2) Sections 61.531, 61.532, 61.533, 61.534, 61.535, 61.536, 61.5361, 61.537, 61.538, and 61.539, Education Code; and
- (3) Section 204.104, Occupations Code.

SECTION 12. The changes in law made by this Act in amending Chapter 155, Tax Code, do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 13. This Act takes effect September 1, 2009.