



**Texas Senate Finance
Committee
Public Hearing SB 8
October 4, 2021**

Chair Nelson stated that the Committee will only receive testimony on SB8 since SB2 is included in its entirety in SB8.

The Chair laid out the Bill.

SB 8 appropriates a total of \$16.3 billion from ARPA -- \$15.8 billion from the Coronavirus State Fiscal Recovery Fund and another \$500.5 million from the Coronavirus Capital Projects Fund, including:

- \$7.2 billion to replenish the Unemployment Compensation Fund, ensuring that businesses are not faced with an increase in unemployment taxes due to pandemic-related layoffs;
- \$3 billion to deploy hospital surge staffing, purchase therapeutic drugs, and support regional infusion centers;
- \$3.7 billion to cover salaries and benefits for state employees directly working on pandemic response;
- \$500.5 million for broadband expansion, with \$75 million of those funds designated for a broadband pole replacement program (out of the Coronavirus Capital Projects Fund);
- \$500 million for construction projects at institutions of higher education, contingent on the passage of legislation;
- \$300 million for a State Operations Center to aid the state in disaster response;
- \$200 million to bolster cybersecurity;
- \$160 million to shore up funding for organizations serving sexual assault survivors and other crime victims;
- \$286 million to the Teacher Retirement System to cover COVID-related health claims and to ensure no active or retired teacher faces an increase in health care premiums due to the pandemic;
- \$237.8 million to expand access to mental health care by completing construction of a new state psychiatric hospital in Dallas;
- \$113 million to the Texas Child Mental Health Care Consortium to expand mental health treatment options for young Texans struggling with depression and suicide; and
- \$100 million to support Texas food banks, which continue to serve high numbers of Texans in need.

SB 2 Nelson Relating to an appropriation of certain federal coronavirus relief money for paying down the state's unemployment insurance debt.

LBB Fiscal Note: [SB 2](#) Estimated Two-year Net Impact to General Revenue Related Funds for SB2, As Introduced : an impact of \$0 through the biennium ending August 31, 2023. However, there would be a cost of \$7.2 billion to the Coronavirus Relief Fund 325.

The bill would make a supplemental appropriation to the Comptroller of Public Accounts of money received by the state from the Coronavirus State Fiscal Recovery Fund under the American Rescue Plan Act. The funds would be deposited to the state's unemployment compensation fund for the purpose of paying back outstanding advances received by the state from the federal government and returning the unemployment compensation fund to the statutory floor computed on October 1, 2021.

The bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house as provided by Section 39, Article III, Texas Constitution. If the bill does not receive the vote necessary for immediate effect, the bill would take effect on the 91st day after the last day of the legislative session.

SB 8 Nelson Relating to making appropriations of certain federal coronavirus relief money. [Texas Legislature Online - 87\(3\) Text for SB 8](#) No fiscal information is available from the Legislative Budget Board. See the summary above for more detail.

LBB Fiscal Note for SB8: The bill would make supplemental appropriations to 11 state agencies for various purposes defined in the bill. The bill would take effect immediately. SB8, As Introduced : an impact of \$0 through the biennium ending August 31, 2023. However, there would be a cost of \$16.3 billion to the Coronavirus Relief Fund 325.

<i>Fiscal Year</i>	Appropriation out of CORONAVIRUS RELIEF FUND 325
2022	\$16,314,863,778
2023	\$0

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

<i>Fiscal Year</i>	Probable (Cost) from CORONAVIRUS RELIEF FUND 325
2022	(\$16,314,863,778)
2023	\$0
2024	\$0
2025	\$0
2026	\$0



The federal American Rescue Plan Act (ARPA) of 2021 provided fiscal relief to states aimed at mitigating the continuing effects of the COVID-19 pandemic. In part, ARPA established the Coronavirus State Fiscal Recovery Fund and the Coronavirus Capital Projects Fund, to which Texas' allocations total \$15.8 billion and \$500.5 million, respectively. S.B. 8 makes appropriations of federal coronavirus relief money, including these two funds from ARPA.

As proposed, S.B. 8 amends current law relating to making appropriations of certain federal coronavirus relief money.

Section by Section Analysis

SECTION 1. COMPTROLLER OF PUBLIC ACCOUNTS: UNEMPLOYMENT COMPENSATION FUND.

Provides that the amount of \$7,245,419,946 is appropriated to the Comptroller of Public Accounts of the State of Texas (comptroller) from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for use during the state fiscal year beginning September 1, 2021, for the purpose of immediately depositing that amount to the credit of the unemployment compensation fund under Section 203.021 (Unemployment Compensation Fund; Separate Accounts), Labor Code, to pay back outstanding advances received by this state under Section 1201, Social Security Act (42 U.S.C. Section 1321), and to return the unemployment compensation fund to the statutory floor computed under Section 204.061 (Ceiling and Floor of Compensation Fund), Labor Code, on October 1, 2021, as reimbursement for payments made as a result of the coronavirus disease pandemic.

SECTION 2. DEPARTMENT OF STATE HEALTH SERVICES: COVID-19 SERVICES. (a) Provides that the amount of \$3,000,000,000 is appropriated to the Department of State Health Services (DSHS) from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the following purposes related to the coronavirus disease pandemic during the period beginning on the effective date of this Act and ending December 31, 2021:

- (1) providing funding for state and local hospital surge staffing;
- (2) purchasing therapeutic drugs; and
- (3) providing funding for the operation of regional infusion centers.

(b) Provides that it is the intent of the Texas Legislature that any reimbursement received by DSHS from the Federal Emergency Management Agency related to expenditures paid from money appropriated under Subsection (a) of this section be deposited to the general revenue fund and not expended until appropriated by the 88th Legislature. Provides that appropriations made under Subsection (a) of this section that remain unobligated on January 1, 2022, lapse to the general revenue fund.

SECTION 3. COMPTROLLER OF PUBLIC ACCOUNTS: BROADBAND INFRASTRUCTURE. (a) Provides that the amount of \$500,475,163 is appropriated to the comptroller from money received by this state from the Coronavirus Capital Projects Fund (42 U.S.C. Section No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the purpose of providing funding for broadband infrastructure in accordance with Section 490I.0108 (Broadband Development Account), Government Code, and other applicable state or federal law during the two-year period beginning on the effective date of this Act.

(b) Authorizes \$75,000,000 of the money appropriated by Subsection (a) of this section to be used only for the Texas broadband pole replacement program.

SECTION 4. OFFICE OF THE GOVERNOR: VICTIMS OF CRIME. Provides that the amount of \$160,000,000 is appropriated to the Office of the Governor from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the purpose of providing funding for grants for victims of crime during the two-year period beginning on the effective date of this Act.

SECTION 5. PUBLIC SAFETY AGENCY SALARY COMPENSATION. (a) Provides that from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325, the following agencies are appropriated the following amounts for the purpose of providing compensation for agency employees for the state fiscal biennium beginning September 1, 2021:

- (1) Department of Criminal Justice: \$2,729,912,000; and
- (2) Department of Public Safety: \$941,836,021.

(b) Requires the agencies listed in Subsection (a) of this section to:

(1) in consultation with the comptroller and the Legislative Budget Board (LBB), determine the proper allocation of benefits included in the appropriations made under Subsection (a) of this section; and

(2) identify the strategies and objectives for which the appropriations made under Subsection (a) of this section are directed.

(c) Provides that it is the intent of the legislature that the agencies receiving appropriations under Subsection (a) of this section consider the appropriations as a change in the method of finance of the compensation to be paid to agency employees and not as an increase in total appropriations to the agencies.

SECTION 6. TEACHER RETIREMENT SYSTEM: TRS-CARE AND TRS-ACTIVECARE. (a) Provides that the amount of \$286,337,761 is appropriated to the Teacher Retirement System from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the purpose of providing funding for coronavirus-related claims in TRS-Care and TRS-ActiveCare incurred before September 1, 2021, during the two-year period beginning on the effective date of this Act.

(b) Provides that it is the intent of the legislature that premiums for TRS-Care and TRS-ActiveCare insurance policies do not increase as a result of coronavirus-related claims incurred before September 1, 2021.

SECTION 7. DEPARTMENT OF AGRICULTURE: FOOD BANKS. Provides that the amount of \$100,000,000 is appropriated to the Department of Agriculture from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the purpose of providing supplemental funding to food banks in response to the coronavirus pandemic during the two-year period beginning on the effective date of this Act.

SECTION 8. HIGHER EDUCATION COORDINATING BOARD: TEXAS CHILD MENTAL HEALTH CARE CONSORTIUM. (a) Provides that the amount of \$113,082,887 is appropriated to the Texas Higher Education Coordinating Board (THECB) from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of



2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the purpose of supporting the operations and expansion of the Texas Child Mental Health Care Consortium to expand mental health initiatives for children during the two-year period beginning on the effective date of this Act. Requires THECB, at the direction of the Texas Child Mental Health Care Consortium, to transfer appropriations through interagency contracts with health-related institutions of higher education for the following purposes:

- (1) \$20,578,442 for enhancements and expansion of the Child Psychiatry Access Network;
- (2) \$56,218,976 for enhancements and expansion of the Texas Child Access Through Telemedicine program;
- (3) \$32,991,791 for expansion of the child and adolescent mental health workforce; and
- (4) \$3,293,676 for administrative expenses.

(b) Requires THECB, not later than December 1, 2021, out of money appropriated by Subsection (a) of this section, to transfer \$3,293,676 to an institution of higher education designated by the Texas Child Mental Health Care Consortium for oversight and evaluation of the outlined initiatives by means of interagency agreements or any other necessary contracts.

(c) Authorizes the Texas Child Mental Health Care Consortium to transfer up to 10 percent of money appropriated for the purposes described by Subsection (a)(1), (2), or (3) of this section to any of the other purposes described by those provisions. Authorizes the Texas Child Mental Health Care Consortium to transfer more than 10 percent of funds for those purposes only with the prior approval for the transfer and expenditure from the LBB. Provides that a request for approval of the transfer and expenditure by the consortium is considered approved unless the LBB issues a written disapproval within 10 business days of the receipt and review of the request by the LBB.

SECTION 9. TEXAS DIVISION OF EMERGENCY MANAGEMENT: STATE OPERATIONS CENTER. Provides that the amount of \$300,000,000 is appropriated to the Texas Division of Emergency Management from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the purpose of the acquisition of land for, and construction of, a state operations center during the two-year period beginning on the effective date of this Act.



SECTION 10. DEPARTMENT OF INFORMATION RESOURCES: CYBERSECURITY PROJECTS. Provides that the amount of \$200,000,000 is appropriated to the Department of Information Resources for deposit into the Technology Improvement and Modernization Fund No. 187 and for use during the two-year period beginning on the effective date of this Act for the purpose of cybersecurity projects from money received by this state from the Coronavirus State

Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325.

SECTION 11. HIGHER EDUCATION COORDINATING BOARD: UNIVERSITY CONSTRUCTION. Provides that, contingent on legislation by the 87th Legislature, 3rd Called Session, 2021, relating to the issuance of tuition revenue bonds, becoming law, the amount of \$500,000,000 is appropriated to THECB from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the purpose of university construction during the two-year period beginning on the effective date of this Act.

SECTION 12. HEALTH AND HUMAN SERVICES COMMISSION: DALLAS STATE HOSPITAL. Provides that the amount of \$237,800,000 is appropriated to the Health and Human Services Commission from money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) and deposited to the credit of the Coronavirus Relief Fund No. 325 for the purpose of completing construction of a state hospital in Dallas during the two-year period beginning on the effective date of this Act.

SECTION 13. LEGISLATIVE INTENT REGARDING APPROPRIATIONS. Provides that it is the intent of the legislature that the appropriations made by this Act are one-time appropriations made for the purpose of addressing the needs of this state for the two-year period beginning on the effective date of this Act.

SECTION 14. APPROPRIATION AUTHORITY UNDER FEDERAL LAW. Provides that the appropriations made under Sections 4, 7, 8, 9, 10, 11, and 12 of this Act using money received by this state from the Coronavirus State Fiscal Recovery Fund (42 U.S.C. Section 802) established under the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) are made in accordance with 42 U.S.C. Section 802(c)(1)(C), which allows money from the Coronavirus State Fiscal Recovery Fund to be used to provide government services to the extent of a reduction in the revenue of a state government caused by the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the state government that ended before that emergency.

SECTION 15. APPLICABILITY OF TRANSFER PROVISIONS OF OTHER LAW. Provides that the transfer provisions of Part 14, Article IX, Chapter 1053 (S.B. 1), Acts of the 87th Legislature, Regular Session, 2021 (the General Appropriations Act), and the transfer provisions of Section 65, Chapter 995 (H.B. 2), Acts of the 87th Legislature, Regular Session, 2021 (the Supplemental Appropriations Act), apply to the appropriations made by this Act to allow appropriate transfer of appropriations made by this Act as if the appropriations made by the General Appropriations Act, the Supplemental Appropriations Act, and this Act were all a part of the same Act, to the extent permitted by federal law.

SECTION 16. Effective date: upon passage.

Public Hearing.

The Chair stated that this is a first draft and she has received priorities from other members. She stated that the requests must be ARPA qualified. She solicited requests from members for their priorities and if a request is made, they should recommend where the funding would come from (within the bill).

Senator Perry inquired of the LBB what ARPA eligibility meant and what are the parameters. LBB stated that the intent of the legislation was to combat and mitigate the impact of the Corona Virus. The Treasury has laid out an interim final rule. Final rule will not be available until later this year. Please see [Interim Final Rule \(treasury.gov\)](#) and [Treasury Guidance on ARP Funds for State & Local Governments](#)

The LBB stated that the bill appears to comply with the guidance of the interim final rule but until that final rule comes out.

Senator Perry inquired if any of the items were duplicative of funds that went directly to local entities. He added that local entities might be keeping money because they don't know what is allowable. LBB stated that the Department of the Treasury maintains a listing of local entities and the amount they received. LBB stated that the funds must be fully expended by 2026.

Senator Kolkhorst inquired about the \$3 billion for DSHS COVID response appears to be targeted for staffing of hospital, infusion centers. This surge is in addition to the previously provided surge funding. Nim Kidd stated that FEMA will reimburse for costs already incurred. There is an extension on the incident period where 100% is reimbursed. After that the reimbursement will be lowered to

75% and the state will be reliant on finding the additional 25%. The Senator asked if FQHCs can receive part of this funding and we could make it a holistic approach. The Chair concurred.

Senator Kolkhorst asked if the state is tracking the funding going directly to hospitals, Nursing homes, doctors and others. She stated that there has been a lot of money thrown out there. LBB stated that there are thousands of lines of information related to what local entities have received. Local entities and hospitals do not often willingly provide that information.

Senator Kolkhorst stated that the provision that people cannot be dropped from the Medicaid rolls while receiving COVID dollars. Trey Wood, HHSC, stated that by January the cost of maintaining the 5 million case load will exceed the amount being received. The claw back provisions have not been clarified relating to enhanced FMAP. The Chair inquired about the provisions of clawback.

Mr. Wood stated that if Medicaid eligibility roles were maintained then the state would receive an enhanced FMAP to 68 percent (an additional 6 percent) (This is why we did not need a supplemental this past session). You cannot remove people from Medicaid as a condition of receiving the enhanced funds. If the state hits the inflection point states could opt out. Under the new administration the opt out may no longer be available.

Senator Kolkhorst stated one of the largest holes needing to be addressed is the inflection point where costs exceed federal enhance assistance. We cannot afford to pay back the enhanced FMAP payments received. It would be in the billions of dollars. The legislation must address continuation of the enrollment. \$51.3 billion nationwide went directly to providers and not monitored by the state. HHSC stated that we also do not know how much was lost by businesses and local entities.

Senator Lucio commented on broadband and that we might need more especially in the Rio Grande Valley. He requested additional funding for the internet for the Rio Grande valley. The chair stated that COVID made us aware of the need for capitol projects. She stated the infrastructure package making its way through Congress now has broad band included in it and we do not want to use this funding when it may be covered in other. The Senator stated that one of the biggest issues from even before the pandemic is housing. People impacted by the pandemic need affordable housing. Nim Kidd stated that staff are putting together statistics on the amount of housing funds that have been received. LBB stated that the interim final guidance provide flexibility for rental assistance and other family housing issues.

Senator Taylor stated that we do not want some entities to receive a windfall while others are suffering. He commented on broadband. LBB stated that CVFR funds are limited on infrastructure.

The Chair stated that state hospital infrastructure can be easily justified. LBB stated that the loss from COVID to the state is about \$12 billion dollars. The Chair asked staff from the Comptroller's office to comment.

Phillip Ashley, Comptroller's Office stated it is \$12.16 Billion.

Senator Schwertner asked how the three billion was calculated given the enhanced revenue for hospitals does not go through HHSC. The LBB stated they did not provide that number. DSHS stated that the \$3 billion was based on total cost (deployment of nurses and housing for the nurses). Five billion was the first estimate and it was reduced to three billion dollars. DSHS stated they know the total amount sent to the state but not broken out by different municipalities.

Senator Kolkhorst confirmed that there were six billion dollars in surge staffing funding provided and that the three in this bill is in addition to that. She confirmed that hospitals do not have to reimburse the state for the surge funding. She asked if we will ever get transparency on these funds. She stated that perhaps we should build flexibility into the bill to keep some of this funding back, so we do not get upside down with Medicaid. DSHS pointed out the three billion will be 100% reimbursed by FEMA and then will be available for use for other purposes. DSHS added that this funding does not assume another surge this winter.

The chair stated that it is a balance to make sure hospitals get the funding they need but also be able to account for funding at the local level so only the necessary funding is provided.

Senator Campbell asked Chief Kidd to confirm the FEMA reimbursement of the \$3 billion. He stated that in spirit FEMA is poised to reimburse. He stated that it will be 100% for allowable expenses. DSHS stated that the \$3 billion will be through the calendar year. The funding is primarily for staffing with some ancillary costs included. The Senator stated that small/rural hospitals are already getting ripped off from DSRIP and now from the staffing dollars because of the process for receiving funds.

Senator Perry inquired about the inflection reversion in addition to the new million Medicaid eligible people. He asked for some clarification. He stated that additional Medicaid costs are not ARPA eligible. LBB clarified that ARPA cannot be used on costs incurred prior to the pandemic. The Senator stated that there will be a claw back in the future if we bump people off Medicaid. The Senator commented about a hospital taxing jurisdiction and how they have spent the money. Nim Kidd stated that hospital staff have been paid and FEMA is providing reimbursement. Local entities have gotten dollars up front but very few have allocated that funding to the health of their citizens. The senator stated that hospitals have cut off differential pay, overtime pay and other

enhancements. This was a disincentive to hold nurses at their hospital. Nurses did not get the extra pay until we did the nursing staffing funding. He inquired about regional warehousing. Chief Kidd stated that the \$300 million is for the construction of a disaster management center. The Senator stated we have not put the funding into regional warehouses. Chief Kidd stated that the funding is going to several warehouse hubs. The Senator stated that on the broadband issue he is the expert. He stated that the key to broadband is to take the service all the way into people's homes (the last mile). We don't want to put cable on top of cable.

Senator Kolkhorst commented on the interim rule and pre-COVID expenses. LBB stated that the funds are designated back to March 3rd, 2021. The CVFR fund covers through 2026. She stated that patients are facing copays that have been negotiated. Employers who have provided insurance are taking the brunt of the hit. Indigent patients are fully covered. The private insurers are the ones who will have to pay more.

Senator Buckingham inquired what charges are being used for reimbursement. LBB stated they do not have that information from nonstate entities. The chair stated it is not just hospitals but school districts and other entities.

Senator Johnson (not a committee member) asked about DPS and criminal justice and the statement that it is not for supplemental pay to employees. LBB stated that the IFG provides reimbursement for staffing but does not increase the salaries of the staff. LBB stated that this is a method of finance swap. The Chair stated that the staff at correctional facilities have had to adjust to address COVID. Federal rules allow the funds to address this. It is fiscally responsible to free up GR for this. Senator Johnson inquired about staffing surges. We are paying for future expenses up through the end of this fiscal year. He asked what happens to the FEMA reimbursement. LBB stated that the funding would be used to reimburse GR. Funds can be re-obligated by 2024. The funds cannot be comingled with other reserve accounts. Any funds deposited into any account must be used for the purposes for which they were authorized.

Senator Taylor inquired if we could require local reporting of outside funds. LBB stated that there are problems with requiring local entities to report nonstate funds. The Senator stated that we should look to ways to get the reporting.

Senator Kolkhorst inquired about section 6 where funding was provided to ensure premiums for TRS Care and TRS Active plans do not increase. This points out the issues that local employers face as well. We self-fund TRS. TRS stated that they looked at all the claims filed that were directly

attributable to COVID. They determined that 5 % premium increase would be attributable to COVID if not addressed by this bill. ERS has not made a request.

The Chair stated that the bill attempts to address the issues hitting most of the citizenry.

Senator Perry stated that numerous home health providers stated that they did not receive PPE reimbursement.

Senator Kolkhorst stated that SB809 requires a report on expenditures by October of 2021. This is for hospitals.

Senate Bill 809, 87th Regular Session.

Fiscal Note: The bill requires health care institutions who have received federal funding during the coronavirus disease public health emergency, including under the federal Coronavirus Aid, Relief, and Economic Security Act and the federal American Rescue Plan Act of 2021, to provide a monthly report of the funding received to the Health and Human Services Commission (HHSC). HHSC is required to compile the information received from health care institutions and submit a quarterly written report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, the Legislative Budget Board, and the standing committees of the Legislature with primary jurisdiction over state finance and public health.

Additionally, the bill allows the appropriate licensing agency of a health care institution to take disciplinary action against a health care institution that violates reporting requirements as if the health care institution violated an applicable licensing law.

Bill Summary During the COVID-19 public health emergency, the federal government provided billions of dollars in additional funds to assist health care providers. Ordinarily, these federal funds might flow through and/or be identified during the traditional state budget process. However, due to the emergency nature that these funds were distributed in, the state does not currently have an adequate picture of the amount of federal funding that has been provided to Texas health care institutions since the onset of the pandemic. S.B. 809 requires health care providers to report federal money received under the CARES Act and the Consolidated Appropriations Act, 2021, on a monthly basis. The goal is to achieve a better understanding of the type and amount of federal funds that have flowed to health care institutions during the COVID-19 public health emergency.

Key Provisions

On a monthly basis, a public health provider must report federal funds received under the CARES Act and the Consolidated Appropriations Act, 2021 to the Health and Human Services Commission (HHSC).

Each quarter of the fiscal year, HHSC will compile the information received from health care providers and draft a report.

These quarterly reports must be provided to the lieutenant governor, the speaker of the House of Representatives, the Legislative Budget Board, and the standing committees of the legislature with primary jurisdiction over state finance and public health.

The appropriate licensing authority may take disciplinary action against a health care provider should the requirements of this bill not be followed.

Committee Substitute Changes

Adds federal funds received under the American Rescue Plan Act of 2021.

Clarifies that the first report should include money received by the institutions from January 31, 2020, to August 31, 2021.

The substitute changes the focus from health care providers to health care institutions. This alleviates concerns from the medical community that the bill as introduced would target individual nurses and doctors. The substitute instead uses "health care institutions" as defined by Section 74.001, Civil Practice and Remedies Code.

Makes clear that no one is required to report funds received from the paycheck protection program.

Requires HHSC to the greatest extent possible to avoid the duplication of reporting by institutions for information they are already required to report to the federal government.

Section Analysis

SECTION 1. Amends Subtitle D, Title 2, Health and Safety Code, by adding Chapter 81A, as follows:

CHAPTER 81A. CORONAVIRUS DISEASE PUBLIC HEALTH EMERGENCY REPORTING

Sec. 81A.001. DEFINITIONS. Defines "coronavirus disease public health emergency" and "health care institution."

Sec. 81A.002. HEALTH CARE INSTITUTION REPORT. (a) Requires a health care institution, except as provided by Subsection (b), and subject to Subsection (d), that receives federal money for assisting health care institutions during the coronavirus disease public health emergency, including money received under the Coronavirus Aid, Relief, and Economic Security Act (15 U.S.C. Section 9001 et seq.), the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260), and the American Rescue

Plan Act of 2021 (Pub. L. No. 117-2), to report the money received to the Health and Human Services Commission (HHSC) on a monthly basis. Requires that a health care institution's initial report to HHSC include all federal money received by the institution during the period beginning January 31, 2020 and ending August 31, 2021.

(b) Provides that a health care institution is not required to report federal money:

(1) received as a loan during the coronavirus disease public health emergency from the United States Small Business Administration as part of a paycheck protection program; or

(2) received under Subsection (a) if the health care institution returned or repaid the money to the federal government.

(c) Requires HHSC to compile the information described by Subsection (a) into a written report each quarter provided to the governor, lieutenant governor, and speaker of the Texas House of Representatives to the Legislative Budget Board and to the standing committees of the legislature with primary jurisdiction over state finance and public health.

(d) Requires HHSC to establish procedures for health care institutions to report the information required under Subsection (a). Requires HHSC, in establishing the procedures, to the extent practicable, to minimize duplication of reporting by institutions to HHSC, and to avoid requiring institutions to report information that is duplicative of information that institutions are required to report to the federal government.

Sec. 81A.003. DISCIPLINARY ACTION BY LICENSING AUTHORITY. Authorizes the appropriate licensing authority to take disciplinary action against a health care institution that violates this chapter as if the institution violated an applicable licensing law.

Sec. 81A.004. EXPIRATION. Provides that this chapter expires September 1, 2023.

SECTION 2. Effective date: September 1, 2021.

This completed the expert witness portion of the hearing. Public comment portion of the hearing will be covered in a second report.

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