A BILL FOR AN ACT
101 CONCERNING CHANGES TO THE HOSPITAL COMMUNITY BENEFIT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill makes changes to the hospital community benefit and imposes certain requirements on the public presentation of each hospital's community implementation plan. The bill requires each hospital to:

- Solicit feedback from the community during each annual presentation of its proposed community benefit implementation plan for the following year;
- Submit a report that details who attended the public meeting, the topics discussed at the meeting, and any
decisions made as a result of the discussion;
- Make the report available to the public; and
- Complete a community benefit implementation plan that addresses the needs described in the reporting hospital's community health needs assessment and includes an explanation of the community served by the hospital.

The bill requires the state board to promulgate rules governing the accessibility standards for the public meetings and to implement best practices to ensure public engagement from a diverse range of populations.

The bill requires the department of health care policy and financing (state department) to:
- Include in its annual report a summary of the estimated federal and state tax exemptions made by each hospital;
- Establish a minimum annual community investment target based on certain calculation standards; and
- Set requirements for compliance, and allows the state department to take remedial action if a hospital fails to comply with the hospital community benefit requirements.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Colorado's nonprofit hospitals are exempt from local and state sales and property taxes and are exempt from state and federal income taxes. In addition to tax exemptions, a hospital's nonprofit status allows the hospital to benefit from tax-exempt bond financing and to receive charitable contributions that are tax-deductible to the donors. These tax exemptions save Colorado's nonprofit hospitals millions of dollars of tax liability each year.

(b) Colorado's largest urban and system-affiliated nonprofit hospitals realize profits after community benefit spending, and these profits incur no taxes;

(c) The tax exemption policies provide significant financial
benefits to nonprofit hospitals. In exchange for the tax exemptions, nonprofit hospitals assume a social obligation to provide community benefits of public interest.

(d) To meet the social obligation, nonprofit hospitals must be transparent about their community benefit spending and must be held accountable to their communities. Nonprofit hospitals must ensure that their community benefit spending meets the needs expressed by community members.

(2) Therefore, the general assembly hereby finds and declares that detailed, consistent, and public reporting of Colorado's nonprofit hospitals' community benefit spending is necessary for all communities served by hospitals to understand the breadth and amount of hospital community benefit spending and the impact that spending has on the health of Coloradans.

SECTION 2. In Colorado Revised Statutes, 25.5-1-701, add (6) as follows:

25.5-1-701. Definitions. As used in this part 7, unless the context otherwise requires:

(6) "URBAN SAFETY NET HOSPITAL" MEANS A REPORTING HOSPITAL LOCATED IN THE DENVER-AURORA-LAKEWOOD, COLORADO METROPOLITAN STATISTICAL AREA WHICH PARTICIPATES IN THE COLORADO INDIGENT CARE PROGRAM, ESTABLISHED IN SECTION 25.5-3-104; HAS A MEDICAID INPATIENT UTILIZATION RATE OF ONE STANDARD DEVIATION ABOVE THE MEAN COMPARED TO ALL GENERAL AND CRITICAL ACCESS HOSPITALS; AND HAS HOSPITAL-BASED FEDERALLY QUALIFIED HEALTH CENTERS.

SECTION 3. In Colorado Revised Statutes, 25.5-1-702, amend
(1), (2), and (3); and add (2.5), (2.7), (4), (5), and (6) as follows:

25.5-1-702. Hospitals - public community meeting requirement - rules. (1) At least once each year, each REPORTING hospital shall convene a public meeting to seek feedback regarding the REPORTING hospital's community benefit activities during the previous year and the REPORTING hospital's community benefit implementation plan for the following year.

(2) (a) Each REPORTING hospital shall invite, at a minimum, representatives from the following entities to participate in the meeting described in subsection (1) of this section, if any such entities operate in the REPORTING hospital's community:

(I) Local public health agencies;

(II) Local chambers of commerce and economic development organizations;

(III) Local health-care consumer organizations;

(IV) School districts;

(V) County governments;

(VI) City and town governments;

(VII) Community health centers;

(VIII) Certified rural health clinics or primary care clinics located in a county that has been designated by the federal office of management and budget as a rural or frontier county;

(IX) Area agencies on aging; and

(X) Health-care consumer advocacy organizations.

(b) In addition to the entities described in subsection (2)(a) of this section, each REPORTING hospital shall invite, at a minimum, representatives from the following state agencies to participate in the
meeting described in subsection (1) of this section:

(I) The state department;

(II) The department of public health and environment;

(III) The department of human services;

(IV) The Colorado commission on higher education; and

(V) The office of saving people money on healthcare in the lieutenant governor's office.

(c) In addition to the entities described in subsections (2)(a) and (2)(b) of this section, each REPORTING hospital shall invite the general public to the annual meeting described in subsection (1) of this section. The REPORTING hospital shall issue such invitation in an advertisement placed in any major newspaper published in the REPORTING hospital's community.

(2.5) When presenting the proposed community benefit implementation plan described in subsection (1) of this section, the REPORTING hospital must:

(a) Present priority areas identified in the REPORTING hospital's most recent community health needs assessment and any other community benefit investment option recommended by the REPORTING hospital. Each priority recommendation presented must clearly identify the source of the recommendation.

(b) Solicit public input and community approval for any additional community benefit investment priority; and

(c) Consider the public feedback received before the REPORTING hospital finalizes its annual community benefit implementation plan. REPORTING hospitals located in the Denver-Aurora-Lakewood, Colorado metropolitan statistical
AREA SHALL INCLUDE SUPPORT FOR URBAN SAFETY NET HOSPITALS AS AN 
OPTION FOR COMMUNITY BENEFIT INVESTMENT PRIORITIES.

(2.7) A REPORTING HOSPITAL MAY ONLY ADD COMMUNITY BENEFIT 
PRIORITIES TO THE REPORTING HOSPITAL'S IMPLEMENTATION PLAN IF THE 
COMMUNITY BENEFIT PRIORITIES RECEIVED COMMUNITY APPROVAL 
PURSUANT TO SUBSECTION (2.5) OF THIS SECTION. THE REPORTING 
HOSPITAL MUST INDICATE THAT THE IMPLEMENTED COMMUNITY BENEFIT 
PRIORITIES ARE A RESULT OF REPORTING HOSPITAL RECOMMENDATIONS 
AND NOT FROM COMMUNITY FEEDBACK.

(3) To satisfy the requirements of this section, a REPORTING 
hospital may convene a joint public meeting with one or more other 
REPORTING hospitals that share some or all of the hospital's community.

(4) FOR EACH PUBLIC MEETING AND COMMUNITY HEALTH NEEDS 
ASSESSMENT COMMUNITY ENGAGEMENT MEETING HELD, EACH REPORTING 
HOSPITAL SHALL SUBMIT A REPORT TO THE STATE DEPARTMENT AND MAKE 
THE REPORT AVAILABLE TO COMMUNITY MEMBERS BY MAKING THE 
REPORT PUBLICLY AVAILABLE ON THE REPORTING HOSPITAL'S WEBSITE. 
The report must include, at a minimum, the following:

(a) MEETING MINUTES;

(b) A LIST OF THE MEETING ATTENDEES;

(c) THE CONTENT OF THE MEETING DISCUSSION, INCLUDING ANY 
COMMUNITY BENEFIT PRIORITIES DISCUSSED AND THE DECISIONS MADE 
REGARDING THOSE DISCUSSED COMMUNITY BENEFIT PRIORITIES;

(d) COMMUNITY FEEDBACK RECEIVED AND HOW THE HOSPITAL 
PLANS TO INCORPORATE THE FEEDBACK INTO THE REPORTING HOSPITAL'S 
COMMUNITY BENEFIT IMPLEMENTATION PLAN; AND

(e) ANY DATA COLLECTED FROM ATTENDEES, SUCH AS DATA
CONCERNING RACE, ETHNICITY, OR INCOME.

(5) THE STATE DEPARTMENT MUST CONDUCT A STAKEHOLDER MEETING WITH CONSUMER ADVOCATES, COMMUNITY ORGANIZERS, COMMUNITY ORGANIZATIONS, AND HOSPITAL REPRESENTATIVES TO IDENTIFY AND DEVELOP, AT A MINIMUM, BEST PRACTICES TO ENSURE LOW-INCOME RESIDENTS, RESIDENTS OF COLOR, PEOPLE WITH SERIOUS MENTAL ILLNESS, PEOPLE WITH DISABILITIES, AND OTHER POPULATIONS EXPERIENCING DISPROPORTIONATE HEALTH OUTCOMES IN LOCAL COMMUNITIES ARE MEANINGFULLY ENGAGED AND TO ENSURE THEIR INPUT IS INCORPORATED INTO THE DATA USED TO IDENTIFY COMMUNITY PRIORITIES FOR THE COMMUNITY HEALTH NEEDS ASSESSMENT AND COMMUNITY BENEFIT IMPLEMENTATION PLAN.

(6) THE STATE BOARD SHALL PROMULGATE RULES TO ESTABLISH ACCOMMODATION STANDARDS FOR THE ANNUAL COMMUNITY BENEFIT PUBLIC MEETINGS AND COMMUNITY HEALTH NEEDS ASSESSMENT THAT INCLUDE LANGUAGE ACCESSIBILITY, ADEQUATE ADVANCED PUBLIC NOTICE, AND ANY OTHER TYPE OF ACCESSIBILITY MEASURES DEEMED NECESSARY BY THE STATE BOARD, AND TO IMPLEMENT THE BEST PRACTICES IDENTIFIED AND DEVELOPED PURSUANT TO SUBSECTION (5) OF THIS SECTION.

SECTION 4. In Colorado Revised Statutes, 25.5-1-703, amend (2), (3)(d)(I)(C), (3)(d)(I)(D), (5)(a), (7)(b), and (7)(c); and add (3.5) and (7)(d) as follows:

25.5-1-703. Hospitals - community health needs assessments - community benefit implementation plans - reports - rules. (2) On or before a date to be determined by rules promulgated by the state board, and on or before such date each year thereafter, each reporting hospital
shall complete a community benefit implementation plan that:

(a) Addresses the needs described by the reporting hospital's community health needs assessment;

(b) INCLUDES AN EXPLANATION OF THE COMMUNITY SERVED BY THE HOSPITAL FACILITY; AND

(c) DESCRIBES HOW THE COMMUNITY WAS DETERMINED PURSUANT TO 26 C.F.R. 1.501(r) 3(b).

(3) On or before a date to be determined by rules promulgated by the state board, and on or before such date each year thereafter, each reporting hospital shall prepare and submit to the state department a report on certain community benefits, costs, and shortfalls. The report must include:

(d) A description of certain spending and investments made by the reporting hospital during the preceding year, including:

(I) A list of the investments made by the reporting hospital that were included in part I, part II, and part III of schedule H of the reporting hospital's form 990. For each such investment, the reporting hospital shall:

(C) For any investment that addressed a community-identified health need, identify any of the following categories, which may be further defined by rules promulgated by the state board, that are applicable: Free or discounted health-care services, programs that address health behaviors or risks, programs that address the social determinants of health, and such other categories as may be defined in rules promulgated by the state board; and BEHAVIORAL HEALTH; COMMUNITY-BASED HEALTH CARE; SOCIAL DETERMINANTS OF HEALTH SPENDING, INCLUDING HOUSING, FOOD, TRANSPORTATION, INTERPERSONAL
VIOLENCE, EDUCATION, AND JOB OPPORTUNITIES; AND PROVIDER
RECRUITMENT, EDUCATION, AND RESEARCH AND TRAINING. IN
IDENTIFYING THESE CATEGORIES, THE REPORTING HOSPITAL SHALL
DISTINGUISH DIRECT OR CASH EXPENDITURES FROM IN-KIND
CONTRIBUTIONS.

(D) For any investment that addressed a community-identified
health need, describe available evidence that shows how the investment
improves community health outcomes.

(3.5) On or before a date to be determined by rules
promulgated by the State Board, and on or before such date
every three years thereafter, the State Department shall
review each reporting hospital's community health needs
assessment and each reporting hospital's annual community
benefit implementation plan to identify the highest priority
areas as reported by communities as compared to the reporting
hospital's reported spending. The State Department shall include
such information in the report described in subsection (7) of this
section.

(5) (a) The state board shall promulgate rules establishing
reporting that establish:

(I) REPORTING requirements for reporting hospitals that are not
required to complete schedule H of the form 990. The rules must promote
uniformity with the requirements set forth in subsection (3) of this
section; AND
(II) **Requirements for the Evidence-Based Supporting Documentation That Is Required Pursuant to Subsection (3)(d)(I)(D) of This Section.**

(7) As part of the report authorized in section 25.5-4-402.8, the state department shall include a summary of the reports submitted to the state department pursuant to subsection (3) of this section during the preceding year. The summary must include:

(b) A summary of the reporting hospitals' investments that have been effective in improving community health outcomes; and

(c) Any legislative recommendations the state department has for the general assembly; and

(d) The estimated federal and state tax exemption received by each hospital.

**SECTION 5.** In Colorado Revised Statutes, add 25.5-1-704 as follows:

**25.5-1-704. Hospital community investments.** (1) The state department shall establish a minimum annual community investment threshold, not including Medicaid shortfalls or free or reduced costs of care, research, provider recruitment, or training, which is:

(a) For the first three years following the effective date of this section, the lower of the estimated value of federal and state income tax exemption or three percent of net patient revenues; except that the amount of the investment must not be less than the reporting hospital's average community investments as a percentage of the net patient revenues for the most recent reporting year as calculated by the state.
DEPARTMENT; AND

(b) FOR EACH SUBSEQUENT YEAR, THE HIGHER OF THE ESTIMATED
VALUE OF FEDERAL AND STATE TAX EXEMPTION OR A PERCENTAGE OF NET
PATIENT REVENUES, WHEN THE PERCENTAGE OF NET PATIENT REVENUE
EQUALS THREE PERCENT FOR THE FIRST YEAR FOLLOWING THE PASSAGE OF
THIS SECTION, THEN INCREASED BY ONE-HALF OF ONE PERCENT FOR EACH
SUBSEQUENT YEAR TO A MAXIMUM OF FIVE PERCENT OF NET PATIENT
REVENUE.

(2) SUBJECT TO FEDERAL REQUIREMENTS FOR DISPROPORTIONATE
SHARE HOSPITAL PAYMENTS, REPORTING HOSPITALS THAT MEET THE
MINIMUM ANNUAL COMMUNITY INVESTMENT THRESHOLD:

(a) ARE ELIGIBLE FOR DISPROPORTIONATE SHARE HOSPITAL
PAYMENTS EVEN IF THEY DO NOT MEET OTHER DISPROPORTIONATE SHARE
HOSPITAL PAYMENT REQUIREMENTS; AND

(b) MUST RECEIVE A DISPROPORTIONATE SHARE HOSPITAL
PAYMENT ADJUSTMENT FACTOR WHICH IS A FIVE PERCENT INCREASE TO
THE REPORTING HOSPITAL'S UNCOMPENSATED CARE COSTS.

(3) A COLORADO REPORTING HOSPITAL SHALL NOT EXPEND TOTAL
MARGINS EARNED IN COLORADO OUTSIDE OF COLORADO.

(4) A COLORADO REPORTING HOSPITAL SHALL NOT TRANSFER
CURRENT OR ANY FUTURE RESERVES OUT OF THIS STATE.

(5) THE STATE DEPARTMENT SHALL SUBJECT A REPORTING
HOSPITAL THAT FAILS TO MEET THE MINIMUM ANNUAL COMMUNITY
INVESTMENT THRESHOLD DETAILED IN SUBSECTION (1) OF THIS SECTION
TO A CORRECTIVE ACTION OR FINANCIAL PENALTIES AS DESCRIBED IN
SECTION 25.5-1-705.

(6) URBAN SAFETY NET HOSPITALS ARE EXCLUDED FROM THE
MINIMUM ANNUAL COMMUNITY INVESTMENT THRESHOLD THROUGH STATE FISCAL YEAR 2025-26.

SECTION 6. In Colorado Revised Statutes, add 25.5-1-705 as follows:

25.5-1-705. Hospital community investment compliance.

(1) (a) If the State Department finds that a reporting hospital is not in material compliance with the community benefit requirements of this part 7, the State Department shall notify the reporting hospital of its noncompliance and identify the information that needs to be provided. If a reporting hospital does not comply, the State Department shall require the reporting hospital to submit to the State Department a corrective action plan within one hundred and twenty days for approval by the State Department. Except as provided for in subsection (1)(b) of this section, if noncompliance continues or a reporting hospital fails to submit a corrective action plan, the State Department may create a mandatory pay-for-reporting compliance measure within the hospital transformation program that is tied to the healthcare affordability and sustainability supplemental payment.

(b) If the State Department determines a hospital's noncompliance with this section is knowing or willful or a repeated pattern of noncompliance exists, the State Department shall consider the size of the hospital and the seriousness of the violation in setting a fine amount of not more than twenty thousand dollars per day per violation, as determined by rule.

(2) The State Department shall deposit any fines pursuant
SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.