

1 HOUSE BILL 415

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 William "Bill" R. Rehm

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9  
10 AN ACT

11 RELATING TO HOSPITALS; REDUCING AUTHORIZED PROPERTY TAX RATES  
12 FOR CLASS A COUNTY HOSPITAL FUNDING AND FOR TRANSFERS TO THE  
13 COUNTY-SUPPORTED MEDICAID FUND; SUBJECTING ALL COUNTIES TO THE  
14 INDIGENT HOSPITAL AND COUNTY HEALTH CARE ACT; REQUIRING CERTAIN  
15 CLASS A COUNTIES TO REPORT COUNTY FUNDING PROVIDED TO CERTAIN  
16 COUNTY HOSPITALS.

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 4-48B-12 NMSA 1978 (being Laws 1981,  
20 Chapter 83, Section 12, as amended) is amended to read:

21 "4-48B-12. TAX LEVIES AUTHORIZED.--

22 A. The county commissioners are authorized to  
23 impose a mill levy and collect annual assessments against the  
24 net taxable value of the property in a county to pay the cost  
25 of operating and maintaining county hospitals or to pay to

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1 contracting hospitals in accordance with a health care  
2 facilities contract and in class A counties to pay for the  
3 county's transfer to the county-supported medicaid fund  
4 pursuant to Section 27-10-4 NMSA 1978 as ~~[follows: (1) in]~~  
5 provided in this section.

6 B. The county commissioners of a class A [counties  
7 ~~as defined in Section 4-44-1 NMSA 1978, the]~~ county may impose,  
8 and after January 1, 2025 may collect, a mill levy [shall] not  
9 to exceed a rate of [six dollars fifty cents (\$6.50)] three  
10 dollars (\$3.00), or any lower maximum amount required by  
11 operation of the rate limitation provisions of Section 7-37-7.1  
12 NMSA 1978 upon a mill levy imposed pursuant to this [paragraph]  
13 subsection, on each one thousand dollars (\$1,000) of net  
14 taxable value of property allocated to the county; however, if  
15 the county uses any portion, not to exceed [one dollar fifty  
16 cents (\$1.50)] seventy cents (\$.70), of the rate authorized by  
17 this [paragraph] subsection to meet the requirement of Section  
18 27-10-4 NMSA 1978, the provisions of Section 7-37-7.1 NMSA 1978  
19 do not apply to the portion of the rate necessary to produce  
20 the revenues required; provided that the portion of the rate  
21 does not exceed [one dollar fifty cents (\$1.50); and

22 ~~(2) in other counties, the]~~ seventy cents  
23 (\$.70).

24 C. The county commissioners of a county other than  
25 a class A county may impose a mill levy [shall] not to exceed

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1 four dollars twenty-five cents (\$4.25), or any lower maximum  
2 amount required by operation of the rate limitation provisions  
3 of Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant  
4 to this ~~[paragraph]~~ subsection, on each one thousand dollars  
5 (\$1,000) of net taxable value of property allocated to the  
6 county.

7 ~~[B.]~~ D. The mill levies provided in ~~[Paragraphs (1)~~  
8 ~~and (2) of Subsection A of]~~ this section shall be made at the  
9 direction of the county commissioners, but only to the extent  
10 that the county commissioners deem it necessary to operate and  
11 maintain county hospitals, to pay the amounts required in the  
12 performance of any health care facilities contracts made  
13 pursuant to the Hospital Funding Act and to provide for a class  
14 A county's transfer to the county-supported medicaid fund  
15 pursuant to Section 27-10-4 NMSA 1978.

16 ~~[C.]~~ E. In the event that the mill levy provided  
17 for in ~~[Paragraph (1) of]~~ Subsection ~~[A]~~ B of this section is  
18 not authorized by the electorate or the resulting mill levy  
19 proceeds are not remitted to the entity operating the hospital  
20 within a reasonable time period, any lease for operation of the  
21 hospital between a county and a state educational institution  
22 named in Article 12, Section 11 of the constitution of New  
23 Mexico may, at the option of the state educational institution,  
24 be terminated immediately. Except as provided in Subsection  
25 ~~[D]~~ F of this section, in the event that the mill levy provided

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1 for in [~~Paragraph (1) of~~] Subsection [A] B of this section is  
2 authorized, an amount not less than the amount that would be  
3 produced by a mill levy at the rate of [~~four dollars (\$4.00)~~]  
4 one dollar eighty-five cents (\$1.85), or any lower amount that  
5 would be required by operation of the rate limitation  
6 provisions of Section 7-37-7.1 NMSA 1978 upon this rate, on  
7 each one thousand dollars (\$1,000) of net taxable value of  
8 property allocated to the county shall be provided from the  
9 proceeds of the mill levy to the state educational institution  
10 operating the hospital for hospital purposes unless the  
11 institution determines that the amount is not necessary.

12 [~~D.~~] F. A class A county imposing the mill levy  
13 provided for in [~~Paragraph (1) of~~] Subsection [A] B of this  
14 section may enter into a mutual agreement with a state  
15 educational institution named in Article 12, Section 11 of the  
16 constitution of New Mexico operating the hospital permitting  
17 the transfer to the county-supported medicaid fund by the  
18 county pursuant to Section 27-10-4 NMSA 1978 of an amount not  
19 to exceed the amount that would be produced by a mill levy at a  
20 rate of [~~one dollar fifty cents (\$1.50)~~] seventy cents (\$.70)  
21 applied to the net taxable value of property allocated to the  
22 county for the prior property tax year and also not to exceed  
23 the amount that would be produced by imposition of the county  
24 health care gross receipts tax.

25 [~~E.~~] G. The distribution of the mill levy

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1 authorized at the rates specified in Subsection [A] B or C of  
2 this section shall be made to county and contracting hospitals  
3 as authorized in the Hospital Funding Act."

4 SECTION 2. Section 4-48B-15 NMSA 1978 (being Laws 1953,  
5 Chapter 174, Section 2, as amended) is amended to read:

6 "4-48B-15. ELECTION ON SPECIAL LEVY.--

7 A. In the event the county commissioners of a  
8 county, other than a class A county, desire to provide the mill  
9 levy authorized in [~~Paragraph (2) of~~] Subsection [A] C of  
10 Section 4-48B-12 NMSA 1978, the county commissioners shall  
11 submit to the qualified electors of the county the question of  
12 levying those taxes not to exceed four dollars twenty-five  
13 cents (\$4.25) on each one thousand dollars (\$1,000) of net  
14 taxable value of property allocated to the county for a period  
15 of time not less than four years nor more than eight years.

16 B. In the event the county commissioners of a class  
17 A county desire to provide the mill levy authorized in  
18 [~~Paragraph (1) of~~] Subsection [A] B of Section 4-48B-12 NMSA  
19 1978, the county commissioners shall submit to the qualified  
20 electors of the county the question of levying those taxes not  
21 to exceed [~~six dollars fifty cents (\$6.50)~~] three dollars  
22 (\$3.00) on each one thousand dollars (\$1,000) of net taxable  
23 value of property allocated to the county for a period of time  
24 of not less than four years nor more than eight years.

25 C. The question may be submitted to the electors

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1 and voted upon as a separate question at any general election  
2 or at any special election called for that purpose by the  
3 county commissioners. The election upon the question of a mill  
4 levy shall be called, held, conducted and canvassed in  
5 substantially the same manner as now or hereafter may be  
6 provided by law for general elections.

7 D. In the event the mill levy submitted under  
8 Subsection A or B of this section is voted upon favorably by  
9 the electors of the county, the mill levy shall become  
10 effective and be made for the ensuing fiscal year and those  
11 future years, not less than three nor more than seven, as  
12 stated in the question voted upon; provided that the question  
13 of continuing the mill levy shall thereafter be submitted to  
14 the electors at the general election immediately prior to the  
15 expiration of the period of assessment previously approved.  
16 The county commissioners shall decrease the rate of any mill  
17 levy imposed under the Hospital Funding Act if required by  
18 operation of the rate limitation provisions of Section 7-37-7.1  
19 NMSA 1978. Subject to the provisions of Subsection ~~[D]~~ F of  
20 Section 4-48B-12 NMSA 1978, the county commissioners may direct  
21 that the mill levy be decreased or not be made for any year if,  
22 in their judgment, sufficient funds for operation and  
23 maintenance of the hospital and transfer to the county-  
24 supported medicaid fund, if applicable, are available or will  
25 be obtained from other sources and if, relative to a county

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1 hospital operated by a state educational institution named in  
2 Article 12, Section 11 of the constitution of New Mexico, a  
3 decision to decrease the mill levy is agreed to by the state  
4 educational institution.

5 E. In the event that the mill levy approved by the  
6 electors is less than the maximum mill levy authorized for the  
7 county by Subsection ~~[A]~~ B or C of Section 4-48B-12 NMSA 1978  
8 and the county commissioners desire to increase the amount of  
9 the approved mill levy, the county commissioners shall submit,  
10 in accordance with Subsection C of this section, to the  
11 qualified electors of the county the questions of levying those  
12 additional taxes for a period of time consistent with the  
13 expiration of the mill levy previously approved; provided that  
14 the additional taxes, when added to the mill levy previously  
15 approved, may not exceed the mill levy maximum for the county  
16 provided in Subsection ~~[A]~~ B or C of Section 4-48B-12 NMSA  
17 1978. In the event that the mill levy increase is voted upon  
18 favorably by the electors of the county, the increase shall  
19 become effective for the years stated in the question voted  
20 upon. Nothing in this subsection shall be construed as  
21 requiring an election to restore the mill levy to an amount no  
22 higher than the mill levy approved by the electors after a  
23 reduction in the mill levy made pursuant to Subsection D of  
24 this section."

25 SECTION 3. Section 7-37-7.1 NMSA 1978 (being Laws 1979,

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1 Chapter 268, Section 1, as amended) is amended to read:

2 "7-37-7.1. ADDITIONAL LIMITATIONS ON PROPERTY TAX  
3 RATES.--

4 A. Except as provided in Subsections D and E of  
5 this section, in setting the general property tax rates for  
6 residential and nonresidential property authorized in  
7 Subsection B of Section 7-37-7 NMSA 1978, the other rates and  
8 impositions authorized in Paragraphs (2) and (3) of Subsection  
9 C of Section 7-37-7 NMSA 1978, except the portion of the rate  
10 authorized in [~~Paragraph (1) of Subsection A of~~] Section  
11 4-48B-12 NMSA 1978 used to meet the requirements of Section  
12 27-10-4 NMSA 1978, and benefit assessments authorized by law to  
13 be levied upon net taxable value of property, assessed value or  
14 a similar term, neither the department of finance and  
15 administration nor any other entity authorized to set or impose  
16 a rate or assessment shall set a rate or impose a tax or  
17 assessment that will produce revenue from either residential or  
18 nonresidential property in a particular governmental unit in  
19 excess of the sum of a dollar amount derived by multiplying the  
20 appropriate growth control factor by the revenue due from the  
21 imposition on residential or nonresidential property, as  
22 appropriate, for the prior property tax year in the  
23 governmental unit of the rate, imposition or assessment for the  
24 specified purpose plus, for the calculation for the rate  
25 authorized for county operating purposes by Subsection B of  
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1 Section 7-37-7 NMSA 1978 with respect to residential property,  
2 any applicable tax rebate adjustment. The calculation  
3 described in this subsection shall be separately made for  
4 residential and nonresidential property. Except as provided in  
5 Subsections D and E of this section, no tax rate or benefit  
6 assessment that will produce revenue from either class of  
7 property in a particular governmental unit in excess of the  
8 dollar amount allowed by the calculation shall be set or  
9 imposed. The rates imposed pursuant to Sections 7-32-4 and  
10 7-34-4 NMSA 1978 shall be the rates for nonresidential property  
11 that would have been imposed but for the limitations in this  
12 section. As used in this section, "growth control factor" is a  
13 percentage equal to the sum of "percent change I" plus V where:

14 (1)  $V = (\text{base year value} + \text{net new value}),$

15  
16 
$$\frac{\quad}{\text{base year value}}$$

17 expressed as a percentage, but if the percentage calculated is  
18 less than one hundred percent, then V shall be set and used as  
19 one hundred percent;

20 (2) "base year value" means the value for  
21 property taxation purposes of all residential or nonresidential  
22 property, as appropriate, subject to valuation under the  
23 Property Tax Code in the governmental unit for the specified  
24 purpose in the prior property tax year;

25 (3) "net new value" means the additional value

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1 of residential or nonresidential property, as appropriate, for  
2 property taxation purposes placed on the property tax schedule  
3 in the current year resulting from the elements in  
4 Subparagraphs (a) through (d) of this paragraph reduced by the  
5 value of residential or nonresidential property, as  
6 appropriate, removed from the property tax schedule in the  
7 current year and, if applicable, the reductions described in  
8 Subparagraph (e) of this paragraph:

9 (a) residential or nonresidential  
10 property, as appropriate, valued in the current year that was  
11 not valued at all in the prior year;

12 (b) improvements to existing residential  
13 or nonresidential property, as appropriate;

14 (c) additions to residential or  
15 nonresidential property, as appropriate, or values that were  
16 omitted from previous years' property tax schedules even if  
17 part or all of the property was included on the schedule, but  
18 no additions of values attributable to valuation maintenance  
19 programs or reappraisal programs shall be included;

20 (d) additions to nonresidential property  
21 due to increases in annual net production values of mineral  
22 property valued in accordance with Section 7-36-23 or 7-36-25  
23 NMSA 1978 or due to increases in market value of mineral  
24 property valued in accordance with Section 7-36-24 NMSA 1978;  
25 and

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1 (e) reductions to nonresidential  
2 property due to decreases in annual net production values of  
3 mineral property valued in accordance with Section 7-36-23 or  
4 7-36-25 NMSA 1978 or due to decreases in market value of  
5 mineral property valued in accordance with Section 7-36-24 NMSA  
6 1978; and

7 (4) "percent change I" means a percent not in  
8 excess of five percent that is derived by dividing the annual  
9 implicit price deflator index for state and local government  
10 purchases of goods and services, as published in the United  
11 States department of commerce monthly publication entitled  
12 "survey of current business" or any successor publication, for  
13 the calendar year next preceding the prior calendar year into  
14 the difference between the prior year's comparable annual index  
15 and that next preceding year's annual index if that difference  
16 is an increase, and if the difference is a decrease, the  
17 "percent change I" is zero. In the event that the annual  
18 implicit price deflator index for state and local government  
19 purchases of goods and services is no longer prepared or  
20 published by the United States department of commerce, the  
21 department shall adopt by regulation the use of any comparable  
22 index prepared by any agency of the United States.

23 B. If, as a result of the application of the  
24 limitation imposed under Subsection A of this section, a  
25 property tax rate for residential or nonresidential property,  
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1 as appropriate, authorized in Subsection B of Section 7-37-7  
2 NMSA 1978 is reduced below the maximum rate authorized in that  
3 subsection, no governmental unit or entity authorized to impose  
4 a tax rate under Paragraph (2) of Subsection C of Section  
5 7-37-7 NMSA 1978 shall impose any portion of the rate  
6 representing the difference between a maximum rate authorized  
7 under Subsection B of Section 7-37-7 NMSA 1978 and the reduced  
8 rate resulting from the application of the limitation imposed  
9 under Subsection A of this section.

10 C. If the net new values necessary to make the  
11 computation required under Subsection A of this section are not  
12 available for any governmental unit at the time the calculation  
13 must be made, the department of finance and administration  
14 shall use a zero amount for net new values when making the  
15 computation for the governmental unit.

16 D. Any part of the maximum tax rate authorized for  
17 each governmental unit for residential and nonresidential  
18 property by Subsection B of Section 7-37-7 NMSA 1978 that is  
19 not imposed for a governmental unit for any property tax year  
20 for reasons other than the limitation required under Subsection  
21 A of this section may be authorized by the department of  
22 finance and administration to be imposed for that governmental  
23 unit for residential and nonresidential property for the  
24 following tax year subject to the restriction of Subsection D  
25 of Section 7-38-33 NMSA 1978.

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1           E. If the base year value necessary to make the  
2 computation required under Subsection A of this section is not  
3 available for any governmental unit at the time the calculation  
4 must be made, the department of finance and administration  
5 shall set a rate for residential and nonresidential property  
6 that will produce in that governmental unit a dollar amount  
7 that is not in excess of the property tax revenue due for all  
8 property for the prior property tax year for the specified  
9 purpose of that rate in that governmental unit.

10           F. For the purposes of this section:

11                   (1) "nonresidential property" does not include  
12 any property upon which taxes are imposed pursuant to the Oil  
13 and Gas Ad Valorem Production Tax Act, the Oil and Gas  
14 Production Equipment Ad Valorem Tax Act or the Copper  
15 Production Ad Valorem Tax Act; and

16                   (2) "tax rebate adjustment" means, for those  
17 counties that have an ordinance in effect providing the  
18 property tax rebate pursuant to the Income Tax Act for the  
19 property tax year and that have not imposed for the property  
20 tax year either a property tax, the revenue from which is  
21 pledged for payment of the income tax revenue reduction  
22 resulting from the provision of the property tax rebate, or a  
23 property transfer tax, the estimated amount of the property tax  
24 rebate to be allowed with respect to the property tax year, and  
25 for any other governmental unit or purpose, zero; provided that

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1 any estimate of property tax rebate to be allowed is subject to  
2 review for appropriateness and approval by the department of  
3 finance and administration."

4 SECTION 4. Section 27-5-4 NMSA 1978 (being Laws 1965,  
5 Chapter 234, Section 4, as amended) is amended to read:

6 "27-5-4. DEFINITIONS.--As used in the Indigent Hospital  
7 and County Health Care Act:

8 A. "ambulance provider" or "ambulance service"  
9 means a specialized carrier based within the state authorized  
10 under provisions and subject to limitations as provided in  
11 individual carrier certificates issued by the public regulation  
12 commission to transport persons alive, dead or dying en route  
13 by means of ambulance service. The rates and charges  
14 established by public regulation commission tariff shall govern  
15 as to allowable cost. Also included are air ambulance services  
16 approved by the county. The air ambulance service charges  
17 shall be filed and approved pursuant to Subsection D of Section  
18 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

19 B. "cost" means all allowable costs of providing  
20 health care services, to the extent determined by resolution of  
21 a county, for an indigent patient. Allowable costs shall be  
22 based on medicaid fee-for-service reimbursement rates for  
23 hospitals, licensed medical doctors and osteopathic physicians;

24 ~~[C. "county" means a county except a class A county  
25 with a county hospital operated and maintained pursuant to a~~

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1 ~~lease or operating agreement with a state educational~~  
2 ~~institution named in Article 12, Section 11 of the constitution~~  
3 ~~of New Mexico;~~

4 ~~D.]~~ C. "department" means the human services  
5 department;

6 ~~[E.]~~ D. "fund" means a county health care  
7 assistance fund;

8 ~~[F.]~~ E. "health care services" means treatment and  
9 services designed to promote improved health in the county  
10 indigent population, including primary care, prenatal care,  
11 dental care, behavioral health care, alcohol or drug  
12 detoxification and rehabilitation, hospital care, provision of  
13 prescription drugs, preventive care or health outreach  
14 services, to the extent determined by resolution of the county;

15 ~~[G.]~~ F. "indigent patient" means a person to whom  
16 an ambulance service, a hospital or a health care provider has  
17 provided medical care, ambulance transportation or health care  
18 services and who can normally support the person's self and the  
19 person's dependents on present income and liquid assets  
20 available to the person but, taking into consideration the  
21 person's income, assets and requirements for other necessities  
22 of life for the person and the person's dependents, is unable  
23 to pay the cost of the ambulance transportation or medical care  
24 administered or both; provided that if a definition of  
25 "indigent patient" is adopted by a county in a resolution, the

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1 definition shall not include any person whose annual income  
2 together with that person's spouse's annual income totals an  
3 amount that is fifty percent greater than the per capita  
4 personal income for New Mexico as shown for the most recent  
5 year available in the survey of current business published by  
6 the United States department of commerce. "Indigent patient"  
7 includes a minor who has received ambulance transportation or  
8 medical care or both and whose parent or the person having  
9 custody of that minor would qualify as an indigent patient if  
10 transported by ambulance, admitted to a hospital for care or  
11 treated by a health care provider;

12 ~~[H.]~~ G. "medicaid eligible" means a person who is  
13 eligible for medical assistance from the department;

14 ~~[F.]~~ H. "planning" means the development of a  
15 countywide or multicounty health plan to improve and fund  
16 health services in the county based on the county's needs  
17 assessment and inventory of existing services and resources and  
18 that demonstrates coordination between the county and state and  
19 local health planning efforts;

20 ~~[J.]~~ I. "public entity" means a state, local or  
21 tribal government or other political subdivision or agency of  
22 that government; and

23 ~~[K.]~~ J. "qualifying hospital" means an acute care  
24 general hospital licensed by the department of health that is  
25 qualified to receive payments from the safety net care pool

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1 pursuant to an agreement with the federal centers for medicare  
2 and medicaid services."

3 SECTION 5. [NEW MATERIAL] REPORTING--CERTAIN CLASS A  
4 COUNTIES--CERTAIN COUNTY HOSPITALS.--

5 A. A class A county with a county hospital operated  
6 and maintained pursuant to a lease or operating agreement with  
7 a state educational institution named in Article 12, Section 11  
8 of the constitution of New Mexico shall file an annual report  
9 with the legislative finance committee by October 1 of each  
10 year on any funding it provides to the county hospital as well  
11 as a copy of any agreement or ordinance pursuant to which the  
12 county provides the funding.

13 B. By October 1 of each year, a county hospital  
14 operated and maintained in a class A county pursuant to a lease  
15 or operating agreement with a state educational institution  
16 named in Article 12, Section 11 of the constitution of New  
17 Mexico shall file an annual report with that class A county  
18 and, on a form approved by the committee, with the legislative  
19 finance committee on any funding it receives from that county,  
20 including proceeds it receives from the mill levy imposed  
21 pursuant to the Hospital Funding Act, funding from health care  
22 assistance funds and funding from any other source. The county  
23 hospital shall also detail in its report, on a hospital-wide  
24 basis as well as by department, all expenditures and the actual  
25 settled cost of each expenditure of county funding that the

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1 county hospital makes for maintenance, operation and  
2 improvement of the county hospital; for financial assistance;  
3 for its bad debt or uncollected receivables; and for any other  
4 purpose.

5 C. For reporting on financial assistance, the  
6 county hospital shall specify the following information:

7 (1) each type of financial assistance that the  
8 county hospital offers, including the eligibility criteria for  
9 each type of financial assistance and information on whether  
10 the assistance includes free or discounted care;

11 (2) any conditions precedent or other  
12 restrictions that the county hospital imposes on the provision  
13 of any items or services to recipients of financial assistance;

14 (3) the basis for the amount charged to  
15 patients and to any third-party payers on behalf of those  
16 patients, including the actual settled cost of items or  
17 services provided;

18 (4) the method that the county hospital  
19 employs for advertising the availability of financial  
20 assistance;

21 (5) the procedures pursuant to which the  
22 county hospital requires patients or third parties to apply for  
23 financial assistance;

24 (6) what actions the county hospital will take  
25 in the event of nonpayment;

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1 (7) a list of health care providers delivering  
2 care in the county hospital that are covered by the county  
3 hospital's financial assistance policy;

4 (8) the conditions that the county hospital  
5 imposes for reimbursement of health care providers;

6 (9) the revenue source used for each type of  
7 financial assistance provided;

8 (10) the county hospital's emergency medical  
9 care policy to comply with the federal Emergency Medical  
10 Treatment and Active Labor Act and regulations issued pursuant  
11 to that act; and

12 (11) any other information that the  
13 legislative finance committee or the county requests.

14 D. As used in this section, "financial assistance"  
15 means any assistance the county hospital provides to a patient  
16 to cover the full or partial cost of items or services the  
17 patient receives from the hospital when the hospital has deemed  
18 the patient or a patient's third-party payer to be unable or  
19 unavailable to meet the full settled cost to the hospital of  
20 items or services that the hospital provides to the patient;  
21 provided that "financial assistance" excludes any operational  
22 or administrative costs.