

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1421

5 By: Representative L. Johnson
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT TO PROVIDE FOR AN INCOME TAX INCENTIVE FOR
10 DONATIONS TO A RURAL HOSPITAL ORGANIZATION; TO CREATE
11 AN INCOME TAX CREDIT FOR CONTRIBUTIONS TO CERTAIN
12 RURAL HOSPITAL ORGANIZATIONS; TO CREATE THE HELPING
13 ENHANCE ACCESS TO RURAL TREATMENT (HEART) ACT; AND
14 FOR OTHER PURPOSES.
15

Subtitle

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17
18 TO CREATE AN INCOME TAX CREDIT FOR
19 CONTRIBUTIONS TO CERTAIN RURAL HOSPITAL
20 ORGANIZATIONS; AND TO CREATE THE HELPING
21 ENHANCE ACCESS TO RURAL TREATMENT (HEART)
22 ACT.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code Title 20, Chapter 12, is amended to add an
28 additional subchapter to read as follows:

29 Subchapter 7 – Helping Enhance Access to Rural Treatment (HEART) Act

30
31 20-12-701. Title.

32 This subchapter shall be known and may be cited as the "Helping Enhance
33 Access to Rural Treatment (HEART) Act".
34

35 20-12-702. Definitions.

36 As used in this subchapter:



1 (1) “Critical access hospital” means a hospital that meets the
2 requirements of the Centers for Medicare & Medicaid Services to be designated
3 as a critical access hospital and that is recognized by the Department of
4 Health as a critical access hospital for purposes of Medicaid;

5 (2) “Patient margin” means gross patient revenues less
6 contractual adjustments, bad debt, indigent and charity care, other
7 uncompensated care, and total expenses;

8 (3) “Rural county” means a county having a population of less
9 than fifty thousand (50,000) according to the most recent federal decennial
10 census, excluding any military personnel and their dependents living in a
11 county that contains a military base or installation; and

12 (4) “Rural hospital organization” means a licensed acute care
13 hospital that:

14 (A) Either provides inpatient hospital services at a
15 facility located in a rural county or is a critical access hospital;

16 (B) Participates in both Medicaid and Medicare and accepts
17 both Medicaid and Medicare patients;

18 (C) Provides healthcare services to indigent patients;

19 (D) Has at least ten percent (10%) of its annual net
20 revenue categorized as indigent care, charity care, or bad debt;

21 (E) Annually files either:

22 (i) IRS Form 990, Return of Organization Exempt From
23 Income Tax, with the department; or

24 (ii) For any hospital not required to file IRS Form
25 990, the form prescribed by the department that collects the same information
26 as the IRS Form 990;

27 (F) Is operated by a county or municipal authority or is
28 designated as a tax-exempt organization under 26 U.S.C. § 501(c)(3), as it
29 existed on January 1, 2023;

30 (G) Is current with all audits and reports required by
31 law; and

32 (H) Has a three-year average patient margin, as a
33 percentage of expense, less than one (1) standard deviation above the
34 statewide three-year average of organizations meeting the requirements of
35 subdivision (3)(A)-(G) of this section, as calculated by the department.

36

1 20-12-703. Powers and duties of Department of Health – List of
2 approved rural hospital organizations.

3 (a) The Department of Health may accept and expend any donations and
4 contributions received under this subchapter.

5 (b) The Department of Health shall:

6 (1) By December 1 of each year, approve a list of rural hospital
7 organizations eligible to receive contributions from the income tax credit
8 provided under § 26-51-517 and transmit the list to the Department of Finance
9 and Administration;

10 (2)(A) Create an operations manual for identifying rural
11 hospital organizations and ranking rural hospital organizations in order of
12 financial need.

13 (B) The operations manual required under subdivision
14 (b)(2)(A) of this section shall include without limitation:

15 (i) All deadlines for rural hospital organizations
16 to submit the required information to the Department of Health;

17 (ii) The criteria to be included in the five-year
18 plan required under § 20-12-704 for rural hospital organizations; and

19 (iii) The formula applied to rank rural hospital
20 organizations in order of financial need;

21 (3) Prepare an annual report compiling the information received
22 under § 20-12-704 and submit it to the Chair of the House Committee on Public
23 Health, Welfare and Labor and the Chair of the Senate Committee on Public
24 Health, Welfare and Labor; and

25 (4) Post the following information in a prominent location on
26 the Department of Health's website:

27 (A) The list of rural hospital organizations eligible to
28 receive contributions as approved under subdivision (b)(1) of this section;

29 (B) The operations manual required under subdivision
30 (b)(2) of this section;

31 (C) The annual report required under subdivision (b)(3) of
32 this section;

33 (D) The total amount received by each third party that
34 participated in soliciting, administering, or managing contributions under
35 this subchapter; and

36 (E) A link to the Department of Finance and

1 Administration's website containing the information required under § 26-51-
 2 517(h).

3
 4 20-12-704. Requirements for rural hospital organizations.

5 (a)(1) Before a rural hospital organization is included on the list
 6 required under § 20-12-703 and is eligible to receive contributions from the
 7 income tax credit provided under § 26-51-517, the rural hospital organization
 8 shall submit to the Department of Health a five-year plan detailing the
 9 financial viability and stability of the rural hospital organization.

10 (2) The criteria to be included in the five-year plan required
 11 under subdivision (a)(1) of this section shall be established by the
 12 department under § 20-12-703.

13 (b)(1) A rural hospital organization that receives contributions under
 14 § 26-51-517 shall:

15 (A) Use the contributions received under § 26-51-517 for
 16 the provision of healthcare-related services for residents of a rural county
 17 or for residents of the area served by a critical access hospital; and

18 (B) Report on a form provided by the department:

19 (i) All contributions received from individual and
 20 corporate donors under § 26-51-517 detailing the manner in which the
 21 contributions received were expended by the rural hospital organization; and

22 (ii)(a) Any payments made to a third party to
 23 solicit, administer, or manage the contributions received by the rural
 24 hospital organization under this subchapter or § 26-51-517.

25 (b) Payments made to a third party to solicit,
 26 administer, or manage the contributions received under this subchapter shall
 27 not exceed three percent (3%) of the total amount of the contributions
 28 received by a rural hospital organization.

29
 30 SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 5, is
 31 amended to add an additional section to read as follows:

32 26-51-517. Contributions to rural hospital organizations.

33 (a) As used in this section:

34 (1) "Qualified rural hospital organization expense" means the
 35 contribution of funds by an individual or corporate taxpayer to a rural
 36 hospital organization for the direct benefit of the rural hospital

1 organization during the tax year for which a credit under this section is
2 claimed; and

3 (2) "Rural hospital organization" means an organization that is
4 approved by the Department of Health under the Helping Enhance Access to
5 Rural Treatment (HEART) Act, § 20-12-701 et seq.

6 (b)(1)(A) There is allowed an income tax credit against the income tax
7 imposed by this chapter in the amount determined under subdivision (b)(1)(B)
8 of this section for qualified rural hospital organization expenses incurred
9 by an individual taxpayer.

10 (B) Except as otherwise provided in this section, the
11 credit allowed under this subdivision (b)(1) shall be in the following
12 amounts:

13 (i) For a single individual or a head of household,
14 the actual amount expended;

15 (ii) For a married couple filing a joint return, the
16 actual amount expended; or

17 (iii) For an individual who is a member of a limited
18 liability company duly formed under state law, a shareholder of a Subchapter
19 S corporation, or a partner in a partnership, the amount expended using
20 income on which tax was actually paid by the individual under this chapter or
21 under the Elective Pass-Through Entity Tax Act, § 26-65-101 et seq.

22 (2) There is allowed an income tax credit against the income tax
23 imposed by this chapter for the qualified rural hospital organization
24 expenses incurred by a corporation or other entity in an amount not to exceed
25 the lesser of the actual amount expended or seventy-five percent (75%) of the
26 liability of the corporation or other entity under this chapter.

27 (c)(1) From January 1 to June 30 each taxable year, an individual
28 taxpayer is limited in the qualified rural hospital organization expenses
29 that are allowable for credit under this section.

30 (2) The Secretary of the Department of Finance and
31 Administration shall not approve qualified rural hospital organization
32 expenses incurred from January 1 to June 30 each taxable year that exceed the
33 following limits:

34 (A) For a single individual or a head of household, five
35 thousand dollars (\$5,000);

36 (B) For a married couple filing a joint return, ten

1 thousand dollars (\$10,000); or

2 (C) For an individual who is a member of a limited
3 liability company formed under state law, a shareholder of a Subchapter S
4 corporation, or a partner in a partnership, ten thousand dollars (\$10,000).

5 (d)(1) The amount of the income tax credit under this section that may
6 be claimed by the taxpayer in a tax year shall not exceed the amount of
7 income tax due by the taxpayer.

8 (2) Any unused income tax credit under this section may be
9 carried forward for five (5) consecutive tax years following the tax year in
10 which the income tax credit was earned.

11 (3) A taxpayer shall not claim the credit allowed under this
12 section against prior years' tax liability.

13 (e)(1) The aggregate amount of credits allowed under this section
14 shall not exceed seventy-five million dollars (\$75,000,000) in a taxable
15 year.

16 (2)(A)(i) Total contributions to an individual rural hospital
17 organization shall not exceed four million dollars (\$4,000,000) in a taxable
18 year.

19 (ii) From January 1 to June 30 each taxable year,
20 the secretary shall not preapprove contributions submitted by:

21 (a) Individual taxpayers in an amount that
22 exceeds two million dollars (\$2,000,000) to an individual rural hospital
23 organization; and

24 (b) Corporate donors in an amount that exceeds
25 two million dollars (\$2,000,000) to an individual rural hospital
26 organization.

27 (iii) Subject to the limits otherwise stated in this
28 subsection, from July 1 to December 31 each taxable year, the secretary shall
29 approve contributions submitted by individual taxpayers and corporations or
30 other entities.

31 (B) If an individual or corporate donor desires to make a
32 contribution to an individual rural hospital organization that has received
33 the maximum amount of contributions for that taxable year under this section,
34 the Department of Health shall provide the individual or corporate donor with
35 a list, ranked in order of financial need, as determined by the Department of
36 Health, of rural hospital organizations still eligible to receive

1 contributions under this section for the taxable year.

2 (C) If an individual or corporate donor desires to make a
3 contribution to an unspecified or undesignated rural hospital organization,
4 either directly to the Department of Health or through a third party that
5 participates in soliciting, administering, or managing contributions, the
6 contribution shall be attributed to the rural hospital organization ranked
7 with the highest financial need by the Department of Health that has not yet
8 received the maximum amount of contributions for that taxable year,
9 regardless of whether a third party has a contractual relationship or
10 agreement with the rural hospital organization.

11 (D) A third party that participates in soliciting,
12 advertising, or managing contributions to rural hospital organizations shall
13 provide the complete list of rural hospital organizations eligible to receive
14 the credit provided under this section, including their ranking in order of
15 financial need as determined by the Department of Health under the Helping
16 Enhance Access to Rural Treatment (HEART) Act, § 20-12-701 et seq., to any
17 potential donor regardless of whether the third party has a contractual
18 relationship or agreement with the rural hospital organization.

19 (3)(A) For purposes of subdivisions (e)(1) and (e)(2) of this
20 section, a rural hospital organization shall notify a potential donor of the
21 requirements of this section.

22 (B)(i) Before making a contribution to a rural hospital
23 organization, a taxpayer shall electronically notify the Department of
24 Finance and Administration, in a manner specified by the Department of
25 Finance and Administration, of the total amount of contribution that the
26 taxpayer intends to make to the rural hospital organization under this
27 section.

28 (ii) The secretary shall preapprove or deny the
29 requested amount within thirty (30) days after receiving the request from the
30 taxpayer and shall provide written notice to the taxpayer and rural hospital
31 organization of the preapproval or denial, which shall not require a signed
32 release or notarized approval by the taxpayer.

33 (iii) To receive a credit under this section, the
34 taxpayer shall make the preapproved contribution to the rural hospital
35 organization within one hundred eighty (180) days after receiving notice from
36 the secretary that the requested amount was preapproved.

1 (iv) If a taxpayer does not comply with this
2 subdivision (e)(3), the secretary shall not include the preapproved
3 contribution amount when calculating the limits prescribed in subdivision
4 (e)(1) and (e)(2) of this section.

5 (4)(A) Preapproval of contributions by the secretary shall be
6 based solely on the availability of credits under this section.

7 (B) A taxpayer that is preapproved by the secretary under
8 this subsection shall retain its preapproval in the event the credit
9 percentage in this section is modified for the year in which the taxpayer was
10 preapproved.

11 (C) Upon the rural hospital organization's confirmation of
12 receipt of contributions that have been preapproved by the secretary, a
13 taxpayer preapproved by the secretary under subdivision (e)(3) of this
14 section shall receive the full benefit of the credit established by this
15 section even if the rural hospital organization to which the taxpayer made a
16 contribution does not properly comply with the reports or filings required
17 under this section.

18 (5) Notwithstanding any laws to the contrary, the Department of
19 Finance and Administration shall not take any adverse action against donors
20 to rural hospital organizations under this section if the secretary
21 preapproved a contribution for a credit under this section before the date
22 the rural hospital organization is removed from the Department of Health list
23 under the Helping Enhance Access to Rural Treatment (HEART) Act, § 20-12-701
24 et seq., and all such contributions shall remain as preapproved credits
25 subject only to the donor's compliance with subdivision (e)(3) of this
26 section.

27 (f)(1) For a taxpayer to claim a credit under this section, a letter
28 of confirmation of contribution issued by the rural hospital organization to
29 which the contribution was made shall be attached to the taxpayer's tax
30 return.

31 (2)(A) If the taxpayer files an electronic return, the
32 confirmation required under subdivision (f)(1) of this section shall be
33 required to be electronically attached to the return only if the Internal
34 Revenue Service allows such attachments when the return is transmitted to the
35 Department of Finance and Administration.

36 (B) If a taxpayer files an electronic return and the

1 confirmation required under subdivision (f)(1) of this section is not
2 attached because the Internal Revenue Service does not, at the time of the
3 electronic filing, allow electronic attachments to the Arkansas return, the
4 confirmation required under subdivision (f)(1) of this section shall be
5 maintained by the taxpayer and made available upon request by the secretary.

6 (3) The letter of confirmation of contribution required under
7 subdivision (f)(1) of this section shall contain the:

8 (A) Taxpayer's name;

9 (B) Taxpayer's address;

10 (C) Taxpayer's tax identification number;

11 (D) Amount of the contribution;

12 (E) Date of the contribution; and

13 (F) Amount of the credit allowed under this section.

14 (g) A credit shall not be allowed under this section with respect to
15 any amount deducted from taxable net income by the taxpayer as a charitable
16 contribution to a bona fide charitable organization qualified under 26 U.S.C.
17 § 501(c)(3).

18 (h) The Department of Finance and Administration shall post the
19 following information in a prominent location on its website:

20 (1) All pertinent timelines relating to the credit allowed under
21 this section, including without limitation the:

22 (A) Beginning date when contributions can be submitted for
23 preapproval by donors for the January 1 to June 30 period;

24 (B) Ending date when contributions can be submitted for
25 preapproval by donors for the January 1 to June 30 period;

26 (C) Beginning date when contributions can be submitted for
27 preapproval by donors for the July 1 to December 31 period;

28 (D) Ending date when contributions can be submitted for
29 preapproval by donors for the July 1 to December 31 period; and

30 (E) Date by which preapproved contributions are required
31 to be sent to the rural hospital organization;

32 (2) The list and ranking order of rural hospital organizations
33 eligible to receive contributions established under the Helping Enhance
34 Access to Rural Treatment (HEART) Act, § 20-12-701 et seq.;

35 (3) A monthly progress report, including without limitation the:

36 (A) Total preapproved contributions under this section to

1 date by each rural hospital organization;

2 (B) Total contributions received under this section to
 3 date by each rural hospital organization;

4 (C) Total aggregate amount of preapproved contributions
 5 made under this section to date; and

6 (D) Aggregate amount of credits available under this
 7 section; and

8 (4) A list of all preapproved contributions that were made to an
 9 unspecified or undesignated rural hospital organization and the rural
 10 hospital organizations that received the preapproved contributions.

11 (i) The Department of Inspector General shall annually conduct an
 12 audit of the tax credit program established under this section, including
 13 without limitation:

14 (1) The amount and the recipient rural hospital organization for
 15 each contribution made under this section;

16 (2) All credits received by individual and corporate taxpayers
 17 under this section; and

18 (3) All amounts received by third parties that solicited,
 19 administered, or managed contributions related to this section and the
 20 Helping Enhance Access to Rural Treatment (HEART) Act, § 20-12-701 et seq.

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 22 SECTION 3. EFFECTIVE DATE. Section 2 of this act is effective for tax
 23 years beginning on or after January 1, 2024.

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