

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1421

By: Representative L. Johnson

By: Senator Irvin

## For An Act To Be Entitled

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

## Subtitle

TO CREATE AN INCOME TAX CREDIT FOR CONTRIBUTIONS TO CERTAIN RURAL HOSPITAL ORGANIZATIONS; AND TO CREATE THE HELPING ENHANCE ACCESS TO RURAL TREATMENT (HEART) ACT.

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

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

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

20-12-701. Title.

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

20-12-702. Definitions.

As used in this subchapter:



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

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

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

(4) "Rural hospital organization" means a licensed acute care hospital that:

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

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

(C) Provides healthcare services to indigent patients;

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

(E) Annually files either:

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

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

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

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

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

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

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

(b) The Department of Health shall:

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

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

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

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

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

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

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

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

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

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

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

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

(E) A link to the Department of Finance and

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

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

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

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

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

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

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

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

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

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

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

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

(a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

thousand dollars (\$10,000); or

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

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

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

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

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

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

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

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

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

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

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

contributions under this section for the taxable year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) Taxpayer's name;
- (B) Taxpayer's address;
- (C) Taxpayer's tax identification number;
- (D) Amount of the contribution;
- (E) Date of the contribution; and
- (F) Amount of the credit allowed under this section.

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

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

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

- (A) Beginning date when contributions can be submitted for preapproval by donors for the January 1 to June 30 period;
- (B) Ending date when contributions can be submitted for preapproval by donors for the January 1 to June 30 period;
- (C) Beginning date when contributions can be submitted for preapproval by donors for the July 1 to December 31 period;
- (D) Ending date when contributions can be submitted for preapproval by donors for the July 1 to December 31 period; and
- (E) Date by which preapproved contributions are required to be sent to the rural hospital organization;

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

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

- (A) Total preapproved contributions under this section to

date by each rural hospital organization;

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

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

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

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

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

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

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

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

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