

2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

# A Bill

HOUSE BILL 1800

5  
6 By: Representative King

7 Filed with: Interim House Committee on Public Health, Welfare and Labor  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

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10 AN ACT TO ENACT THE AFFORDABLE HEALTH INSURANCE ACT;  
11 TO INCREASE THE AVAILABILITY OF AFFORDABLE HEALTH  
12 SAVINGS ACCOUNT PLANS; TO DECREASE THE COST OF HEALTH  
13 INSURANCE; AND FOR OTHER PURPOSES.

## Subtitle

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16 TO ENACT THE AFFORDABLE HEALTH INSURANCE  
17 ACT.

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

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23 SECTION 1. Arkansas Code Title 23, Chapter 79 is amended to add an  
24 additional subchapter to read as follows:

25 23-79-1501. Title.

26 This subchapter shall be known and may be cited as the "Affordable  
27 Health Insurance Act".

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29 23-79-1502. Legislative findings and intent.

30 (a) The General Assembly finds that:

31 (1) A need exists for individuals, employers, and other  
32 purchasers of health insurance coverage in this state to have the opportunity  
33 to choose a health benefit plan that is more affordable and flexible than  
34 existing market health benefit plans offering accident and sickness insurance  
35 coverage;

1           (2) By removing barriers that limit access to affordable health  
2 coverage and expanding opportunities for Arkansans to purchase more  
3 affordable coverage, the state can improve access to health care and prevent  
4 rising health care costs while preserving the first-rate care that so many  
5 Arkansans enjoy; and

6           (3) It is important to provide Arkansans with more choices when  
7 selecting a health benefit plan, thereby increasing access to quality health  
8 care.

9           (b) The General Assembly intends by the enactment of this act to:

10           (1) Authorize the Insurance Commissioner to establish flexible  
11 guidelines for high deductible health plans that are eligible for a health  
12 savings account that will be affordable to citizens of this state and to  
13 increase the availability of these types of plans by accident and sickness  
14 insurers licensed to transact such insurance in this state;

15           (2) Encourage the offering of affordable high deductible health  
16 plans that are eligible for a health savings account, as required under the  
17 rules of the Internal Revenue Service related to the establishment of health  
18 savings accounts, with the specific intent of reaching many otherwise  
19 uninsured citizens of this state and the general intent of creating  
20 affordable comprehensive health insurance for all citizens of this state; and

21           (3) Enhance the affordability of insurance with the flexible  
22 high deductible health plans that are eligible for a health savings account  
23 allowed under this subchapter by allowing rewards and incentives for  
24 participation in and adherence to health behaviors that recognize the value  
25 of the personal responsibility of each citizen to maintain good health, seek  
26 preventive care services, and comply with approved treatments.

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28           23-79-1503. Health reimbursement arrangement-only plans.

29           (a) The Insurance Commissioner may allow health reimbursement  
30 arrangement-only plans that encourage employer financial support of health  
31 insurance or health-related expenses recognized under the rules of the  
32 Internal Revenue Service.

33           (b) Health reimbursement arrangement-only plans that are not sold in  
34 connection with or packaged with health insurance coverage shall not be  
35 considered insurance under the laws of this state.

1       (c)(1) Individual health insurance policies funded through health  
2 reimbursement arrangement-only plans shall not be considered employer-  
3 sponsored or group coverage under the laws of this state.

4           (2) This subchapter does not require an insurer to:

5                   (A) Offer an individual health insurance policy for sale  
6 in connection with or packaged with a health reimbursement arrangement-only  
7 plan; or

8                   (B) Accept premiums from health reimbursement arrangement-  
9 only plans for individual health insurance policies.

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11       23-79-1504. Restrictions.

12       (a) A relationship is not required between preferred provider and  
13 nonpreferred provider plan reimbursements for high deductible health plans  
14 that are eligible for a health savings account using nonpreferred provider  
15 reimbursement.

16       (b) High deductible health plans that are eligible for a health  
17 savings account shall not:

18           (1) Unfairly deny health benefits for medically necessary  
19 covered services;

20           (2) Have differences in benefit levels payable to preferred  
21 providers compared to other providers that unfairly deny benefits for covered  
22 services;

23           (3) Have a plan coinsurance percentage applicable to benefit  
24 levels for services provided by nonpreferred providers that is less than  
25 sixty percent (60%) of the benefit levels under the policy for such services;  
26 or

27           (4) Have an adverse effect on the availability or the quality of  
28 services.

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30       23-79-1505. Unfair trade practices.

31       Insurers that include and operate wellness and health promotion  
32 programs, disease and condition management programs, health risk appraisal  
33 programs, and similar provisions in their high deductible health plans that  
34 are eligible for a health savings account in keeping with federal  
35 requirements are not engaging in unfair trade practices under the Trade

1 Practices Act, § 23-66-201 et seq., with respect to references to the  
2 practices of illegal inducements, unfair discrimination, and rebating.

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4 23-79-1506. Income tax – Deduction – Tax credit.

5 (a) As used in this section, "taxpayer" means an employer who employs  
6 directly, or who pays compensation to individuals whose compensation is  
7 reported on Internal Revenue Service Form 1099, fifty (50) or fewer persons  
8 and for whom the taxpayer provides high deductible health plans that include,  
9 at a minimum, catastrophic health care coverage that are established and used  
10 with a health savings account under the applicable provisions of 26 U.S.C. §  
11 223, as it existed on January 1, 2010, and in which such employees are  
12 enrolled.

13 (b) Under § 26-51-457 and rules promulgated by the Director of the  
14 Department of Finance and Administration, a taxpayer who pays premiums on a  
15 high deductible health plan that is eligible for a health savings account  
16 under the applicable provisions of 26 U.S.C. § 223, as it existed on January  
17 1, 2010, may take a deduction from his or her taxable income for state income  
18 tax purposes.

19 (c) Under § 26-51-515 and rules promulgated by the director, a  
20 taxpayer is allowed a tax credit against the income tax imposed by the Income  
21 Tax Act of 1929, § 26-51-101 et seq.

22  
23 23-79-1507. Insurance premium tax – Exemption.

24 Insurers in this state are exempt from otherwise applicable state taxes  
25 on insurance premiums paid by residents of this state for high deductible  
26 health plans that are eligible for a health savings account under the  
27 applicable provisions of 26 U.S.C. § 223, as it existed on January 1, 2010.

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29 23-79-1508. Insurance Commissioner – Powers and duties.

30 (a) The Insurance Commissioner shall develop flexible guidelines for  
31 coverage and approval of high deductible health plans that are eligible for a  
32 health savings account and designed to qualify under federal and state  
33 requirements as high deductible health plans for use with health savings  
34 accounts that comply with federal requirements under the applicable  
35 provisions of the federal Internal Revenue Code.

36 (b) The commissioner may:

1           (1)(A) Encourage and promote the marketing of high deductible  
2 health plans that are eligible for a health savings account by accident and  
3 sickness insurers in this state.

4           (B) However, this section does not authorize the sale of  
5 insurance in violation of the requirements of law relating to the transaction  
6 of insurance in this state or prohibiting the interstate sale of insurance;

7           (2) Conduct a national study of high deductible health plans  
8 that are eligible for a health savings account in other states and to  
9 determine if and how these products serve the uninsured and if they should be  
10 made available to the citizens of this state;

11           (3) Develop an automatic or fast-track approval process for high  
12 deductible health plans that are eligible for a health savings account  
13 already approved under the laws and regulations of this state or other  
14 states; and

15           (4) Promulgate rules that he or she deems necessary and  
16 appropriate for the design, promotion, and regulation of high deductible  
17 health plans that are eligible for a health savings account, including rules  
18 for the expedited review of standardized policies, advertisements, and  
19 solicitations and other matters deemed relevant by the commissioner.

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21           SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 4 is amended  
22 to add an additional section to read as follows:

23           26-51-457. Deductions – Qualified health insurance.

24           (a) As used in this section, "taxpayer" means an employer who employs  
25 directly, or who pays compensation to individuals whose compensation is  
26 reported on Internal Revenue Service Form 1099, fifty (50) or fewer persons  
27 and for whom the taxpayer provides high deductible health plans that include,  
28 at a minimum, catastrophic health care coverage that are established and used  
29 with a health savings account under the applicable provisions of 26 U.S.C. §  
30 223, as it existed on January 1, 2010, and in which employees are enrolled.

31           (b) In addition to other deductions allowed by law, a taxpayer may  
32 deduct from his or her taxable income for state income tax purposes an amount  
33 equal to one hundred percent (100%) of the premiums paid by the taxpayer  
34 during the taxable year for high deductible health plans that are eligible  
35 for health savings accounts under the Affordable Health Insurance Act, § 23-

1 79-1501 et seq. and the applicable provisions of 26 U.S.C. § 223, as it  
2 existed on January 1, 2010, if:

3 (1) The deduction has not been included in federal adjusted  
4 gross income, as defined under the Internal Revenue Code of 1986;

5 (2) The premiums have not been provided from a health  
6 reimbursement arrangement-only plan; and

7 (3) The premiums have not been included in itemized business  
8 deductions that are excluded from the taxpayer's taxable income.

9 (c) The Director of the Department of Finance and Administration shall  
10 promulgate rules to administer this section.

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12 SECTION 3. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended  
13 to add an additional section to read as follows:

14 26-51-515. Qualified health insurance expenses tax credit.

15 (a) As used in this section:

16 (1) "Qualified health insurance" means a high deductible health  
17 plan that includes, at a minimum, catastrophic health care coverage that is  
18 eligible to be used with a health savings account under the applicable  
19 provisions of 26 U.S.C. § 223, as it existed on January 1, 2010;

20 (2) "Qualified health insurance expenses" means the expenditure  
21 of funds of at least two hundred fifty dollars (\$250) annually for health  
22 insurance premiums for qualified health insurance; and

23 (3) "Taxpayer" means an employer who employs directly, or who  
24 pays compensation to individuals whose compensation is reported on Internal  
25 Revenue Service Form 1099, fifty (50) or fewer persons and for whom the  
26 taxpayer provides high deductible health plans that include, at a minimum,  
27 catastrophic health care coverage that are established and used with a health  
28 savings account under the applicable provisions of 26 U.S.C. § 223, as it  
29 existed on January 1, 2010, and in which such employees are enrolled.

30 (b) A taxpayer is allowed a tax credit against the income tax imposed  
31 by the Income Tax Act of 1929, § 26-51-101 et seq., for qualified health  
32 insurance expenses under the Affordable Health Insurance Act, § 23-79-1501 et  
33 seq., in an amount of two hundred fifty dollars (\$250) for each employee  
34 enrolled for twelve (12) consecutive months in a qualified health insurance  
35 plan if the qualified health insurance is made available to all of the

1 employees and compensated individuals of the taxpayer under the applicable  
2 provisions of 26 U.S.C. § 125, as it existed on January 1, 2010.

3 (c)(1) The total amount of the tax credit under this section for a  
4 taxable year shall not exceed the taxpayer's income tax liability.

5 (2) A taxpayer may carry forward any unused tax credit under  
6 this section.

7 (3) A tax credit under this section is not allowed for a  
8 taxpayer's prior years' income tax liability.

9 (d) A tax credit under this section applies only to qualified health  
10 insurance expenses under the Affordable Health Insurance Act, § 23-79-1501 et  
11 seq.

12 (e) The Director of the Department of Finance and Administration shall  
13 promulgate rules to administer this section.

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15 SECTION 4. Effective Date. This act is effective \_\_\_\_\_, 2011.

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17 Referred by the Arkansas House of Representatives

18 Prepared by: JET/VJF  
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