

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

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

HOUSE BILL 2239

By: Representative Love

## For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS CONSTITUTION, AMENDMENT 98, ALSO KNOWN AS THE "ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016" REGARDING THE TAXATION AND DISTRIBUTION OF PROCEEDS; TO CREATE THE MEDICAL MARIJUANA COMMISSION FUND AND THE ARKANSAS MEDICAL MARIJUANA IMPLEMENTATION AND OPERATIONS FUND; TO CREATE THE GENERAL ASSEMBLY PROMISE SCHOLARSHIP PROGRAM; TO PROVIDE FUNDS TO EVERY CHILD BORN IN ARKANSAS TO BE USED FOR COLLEGE TUITION; TO PROVIDE MEDICAL MARIJUANA TAX FUNDS FOR THE GENERAL ASSEMBLY PROMISE SCHOLARSHIP PROGRAM AND THE ARKANSAS BETTER CHANCE PROGRAM; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016 REGARDING THE TAXATION AND DISTRIBUTION OF PROCEEDS; AND TO CREATE THE GENERAL ASSEMBLY PROMISE SCHOLARSHIP PROGRAM.

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

SECTION 1. Pursuant to § 23 of Arkansas Constitution, Amendment 98, also known as the "Arkansas Medical Marijuana Amendment of 2016", Arkansas Constitution, Amendment 98, § 17, is amended to read as follows:

§ 17. Taxation and distribution of proceeds.

(a) The sale of usable marijuana is subject to all state and local



sales taxes at the same rate as other goods.

(b) The ~~states~~ state sales tax revenues received by the Department of Finance and Administration from the sale of usable marijuana under this amendment shall be distributed as follows:

(1) All moneys received as part of this amendment are designated as special revenue and the funds collected shall be deposited in the State Treasury and credited to the Arkansas Medical Marijuana Implementation and Operations Fund;

(2) All moneys received as part of this amendment prior to the effective date of this section shall be immediately transferred to the Arkansas Medical Marijuana Implementation and Operations Fund upon the effective date of this section;

(3) In order for the Chief Fiscal Officer of the State to determine the expenses that state agencies incurred due to the passage of this amendment, the following state entities shall submit a report to the Chief Fiscal Officer of the State no later than May 1 of each year of the projected expenses for the next fiscal year, including without limitation expenses as set out in subdivision (b)(4) of this section:

(A) The Alcoholic Beverage Control Division of the Department of Finance and Administration;

(B) The Department of Health;

(C) The Medical Marijuana Commission; and

(D) Any other state agency that incurs implementation, administration, or enforcement expenses related to this amendment; and

(4)(A) From time to time, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the Treasurer of State and the Auditor of State the amounts as set out in subdivision (b)(3) of this section or so much as is available in proportion to the amount identified by each agency in subdivision (b)(3) of this section from the Arkansas Medical Marijuana Implementation and Operations Fund to the Miscellaneous Agencies Fund Account for the Alcoholic Beverage Control Division of the Department of Finance and Administration, the paying account as determined by the Chief Fiscal Officer for the Department of Health, the Medical Marijuana Commission Fund, and any other fund necessary to the implementation, administration, or enforcement of this amendment to pay for or reimburse personal services, operating expenses, professional fees, equipment, monitoring, auditing, and

other miscellaneous expenses of this amendment.

(B) At the end of each fiscal year, any unobligated balances of the amounts transferred shall be deducted from the amount transferred in the next fiscal year as authorized in subdivision (b)(4)(A) of this section.

(C) Any unanticipated expenses or expenses over the amount transferred may be added from time to time to the transfer amount authorized in subdivision (b)(4)(A) of this section.

(D) The Department of Finance and Administration shall report at the end of the fiscal year to the Legislative Council or the Joint Budget Committee if during a legislative session the following information:

(i) The total annual amount received as a result of this amendment;

(ii) The amount transferred to each agency; and

(iii) Copies of the report submitted to the Chief Fiscal Officer of the State identifying estimated expenses as set out in subdivision (b)(3) of this section.

(c) After the transfer described in subsection (b) of this section, the amounts remaining in the Arkansas Medical Marijuana Implementation and Operations Fund shall be distributed as follows:

~~(1) Five percent (5%) to the Department of Health paying account or its successor fund or fund account;~~

~~(2) Two percent (2%) to the Miscellaneous Agencies Fund or its successor fund or fund account to be used exclusively by the Department of Finance and Administration—Alcoholic Beverage Control Administration Division or its successor;~~

~~(3) Two percent (2%) to the Miscellaneous Agencies Fund or its successor fund or fund account to be used exclusively by the Department of Finance and Administration—Alcoholic Beverage Control Enforcement Division or its successor;~~

~~(4)(A) One percent (1%) to a special revenue account credited to the Medical Marijuana Commission Fund or its successor fund or fund account to be used exclusively by the Medical Marijuana Commission.~~

~~(B) The General Assembly shall by law created the Medical Marijuana Commission Fund no later than July 1, 2017;~~

~~(5)(A)(1)(A) Ten percent (10%) to the Skills Development Fund or~~

its successor fund or fund account, to be used exclusively by the Office of Skills Development of the Department of Career Education or its successor for the development and implementation of workforce training programs.

(B) The Office of Skills Development of the Department of Career Education or its successor may use revenues received under subdivision ~~(b)(6)(A)~~ (c)(1)(A) of this section to:

(i) Supplement or enhance existing programs, including without limitation grant programs; or

(ii) Establish new programs, including without limitation grant programs.

(C) If the Office of Skills Development of the Department of Career Education or its successor establishes a new program under subdivision ~~(b)(6)(B)~~ (c)(1)(B) of this section, ~~it~~ the Office of Skills Development of the Department of Career Education shall promulgate rules to implement the program;

~~(6)(A)(2)(A)~~ Fifty percent (50%) to a special revenue account credited to the Vocational and Technical Training Special Revenue Fund Department of Career Education Public School Fund Account or its successor fund or fund account, to be used exclusively by the ~~Department of Finance and Administration~~ Department of Career Education or its successor for vocational start-up grants to: technical institutes and vocational technical schools for personal services and operating expenses, scholarships, research, development and delivery of education coursework and math and science coursework, land acquisition, equipment acquisition, infrastructure costs, including without limitation site development costs, construction, improvements, landscaping, renovation, dormitory renovation, major maintenance, and the building of roads and parking lots

(i) Start and upgrade career and technical programs, including without limitation vocational programs;

(ii) Support the minimum required equipment to meet program standards; and

(iii) Support short-term adult skills training classes.

~~(B) The General Assembly shall by law create the Vocational and Technical Training Special Revenue Fund no later than July 1, 2017.~~

~~(C) The Department of Finance and Administration~~ Department of

Career Education or its successor shall promulgate rules to implement the grant program described in this subdivision ~~(b)(7)~~ (c)(2) by July 1, 2017;

(3) Two and five-tenths percent (2.5%) to the General Assembly Promise Scholarship Program Fund or its successor fund or fund account to be used exclusively for the General Assembly Promise Scholarship Program;

(4) Two and five-tenths percent (2.5%) to the Department of Education Public School Fund Account to be used exclusively for the Arkansas Better Chance Program; and

~~(7)(5) Thirty percent (30%)~~ Thirty-five percent (35%) to the General Revenue Fund.

~~(e)(d)~~ An entity receiving a grant of state sales tax revenue under subsection (b) or subsection (c) of this section may make one (1) or more successive grant applications for the same project or projects.

SECTION 2. Arkansas Code Title 6 is amended to add an additional chapter to read as follows:

Chapter 86 – General Assembly Promise Scholarship Program

6-86-101. Creation – Administration – Purpose.

There is created the General Assembly Promise Scholarship Program to be developed and administered by the Treasurer of State to provide a financial contribution to an account for each person born in this state on and after January 1, 2018, whose parent or legal guardian opts into the program.

6-86-102. Definition.

As used in this chapter:

(1)(A) “Foster care” means the care of a child on the basis of twenty-four (24) hours a day away from the home of the child’s parent.

(B) The foster care may be provided by:

(i) A relative of the child;

(ii) An individual not related to the child;

(iii) A parent of the child if the foster care is provided by reason of a court-ordered placement and not by virtue of the parent-child relationship;

(iv) A group home;

(v) A state agency;

(vi) A residential facility; or

(vii) Any other entity.

(2) "Foster care" does not include placement of a foster-care recipient with any individual or entity under subdivision (1)(B)(ii) of this section by a parent if a child welfare agency or court is not involved with the parent or foster-care recipient through an open case or investigation.

6-86-103. General Assembly Promise Scholarship Program.

(a)(1) The General Assembly Promise Scholarship Program shall provide a financial contribution to an account for each person born in this state on and after January 1, 2018, whose parent or legal guardian opts into the program on a timeline developed by the Treasurer of State.

(2) A person in foster care may opt into the program under subdivision (a)(1) of this section at any time.

(b)(1) A person on whose behalf a financial contribution was made under subdivision (a)(1) of this section may access funds from the account:

(A) Only for the purpose of financing the person's cost of attendance at an institution of higher education in this state; and

(B) Until the person reaches twenty-two (22) years of age.

(2) The funds a person may access under subdivision (b)(1) of this section are:

(A) The original contribution made on behalf of the person under subdivision (a)(1) of this section; and

(B) Any investment revenue derived from the original contribution.

(3) If a person does not access the funds before he or she reaches twenty-two (22) years of age, the funds shall be forfeited and become part of the funds available under § 6-86-105(a)(1) for financial contributions.

(c) When a person elects to access the funds from the account to finance the person's cost of attendance at an institution of higher education in this state, the funds shall be disbursed to the institution of higher education in which the person is enrolled.

(d)(1) The disbursement of funds under this chapter is subject to the prohibition under § 6-80-105 against using public funds in a student financial package in excess of the recognized cost of attendance at the

institution of higher education in this state where the student is enrolled.

(2) Any funds under this chapter determined to be excess funds shall be forfeited and become part of the funds available under § 6-86-105(a)(1) for financial contributions.

6-86-104. Account administration.

The Treasurer of State may:

(1) Enter into agreements with financial institutions or other entities to:

(A) Manage and administer the accounts under § 6-86-103(a)(1); and

(B) Perform other services necessary to implement this chapter; and

(2) Conduct outreach and engage in educational activities with the general public to encourage financial literacy.

6-86-105. Contributions.

(a) Annually by February 15, the Treasurer of State shall:

(1) Based on the amount of funds available, determine the amount of the financial contribution to be made for each person who opted into the General Assembly Promise Scholarship Program under § 6-86-103(a) during the previous year; and

(2) Make the financial contribution for each person who opted into the program under § 6-86-103(a) during the previous year.

(b)(1) The amount of the financial contribution shall be the same for each person who opted into the program under § 6-86-103(a) during a calendar year.

(2) The amount of the annual financial contribution for each person who opted into the program shall not exceed one hundred dollars (\$100).

6-86-106. Information sharing.

The Department of Health and the Department of Human Services shall share information with the Treasurer of State necessary for the Treasurer of State to implement this chapter, including without limitation records related to:

- (1) The births of children in this state; and
- (2) Foster children in this state.

6-86-107. Funding.

(a) The Treasurer of State may accept gifts, grants, donations, and bequests on behalf of the General Assembly Promise Scholarship Program to support and provide funding assistance to the program.

(b) Funds received under this chapter shall be deposited into the General Assembly Promise Scholarship Program Fund to be used to support and provide funding assistance to the program and to provide funds to every child born in the State of Arkansas to be used for college tuition.

6-86-108. Report.

(a) The Treasurer of State shall submit annually by March 15 a report on the operation and financial condition of the General Assembly Promise Scholarship Program to:

- (1) The Senate Committee on Education; and
- (2) The House Committee on Education.

(b) The report under subsection (a) of this section may be submitted electronically.

6-86-109. Rules.

The Treasurer of State shall adopt rules to implement this chapter.

SECTION 3. Arkansas Code § 19-5-305(a)(2), concerning the Department of Career Education Public School Fund Account, is amended to read as follows:

(2) Department of Career Education Public School Fund Account. The Department of Career Education Public School Fund Account shall be used for grants and aids for the programs administered by the Department of Career Education consisting of, but not limited to:

- (A) General adult education grants;
- (B) Adult basic education grants;
- (C) Manpower development and training grants;
- (D) Vocational-technical and adult education, including without limitation starting and upgrading career and technical programs as

described in Arkansas Constitution, Amendment 98, § 17(c)(2); and

(E) Such other grants and aids as may be authorized by law for disbursement by the Department of Career Education; and

SECTION 4. Arkansas Code § 19-6-301, concerning the enumeration of special revenues, is amended to add an additional subdivision to read as follows:

(255) All sales tax revenues collected by the Department of Finance and Administration from the sale of usable marijuana under the Arkansas Medical Marijuana Amendment of 2016.

SECTION 5. Arkansas Code § 19-6-830(b), concerning the Skills Development Fund, is amended to read as follows:

(b) The fund shall consist of:

(1) Moneys obtained from private grants or other sources that are designated to be credited to the fund; ~~and~~

(2) Ten percent (10%) of the funds distributed under Arkansas Constitution, Amendment 98, § 17(c); and

(3) Any other revenues as may be authorized by law.

SECTION 6. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add additional sections to read as follows:

19-6-833. Arkansas Medical Marijuana Implementation and Operations Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Medical Marijuana Implementation and Operations Fund".

(b) The fund shall consist of:

(1) Moneys obtained pursuant to Arkansas Constitution, Amendment 98, § 17, from taxation of medical marijuana; and

(2) Any other revenues as may be authorized by law.

(c) The fund shall be used to pay expenses of state agencies incurred due to the passage of Arkansas Constitution, Amendment 98, and for transfers of the distributions as set out by Arkansas Constitution, Amendment 98.

19-6-834. Medical Marijuana Commission Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Medical Marijuana Commission Fund".

(b) The fund shall consist of:

(1) Funds distributed under Arkansas Constitution, Amendment 98, § 17(b); and

(2) Other revenues and funds authorized by law.

(c) The Medical Marijuana Commission shall use the fund for the administration of the commission and other purposes under Arkansas Constitution, Amendment 98.

19-6-835. General Assembly Promise Scholarship Program Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "General Assembly Promise Scholarship Program Fund".

(b) The fund shall consist of:

(1) Two and five-tenths percent (2.5%) of the funds distributed under Arkansas Constitution, Amendment 98, § 17(c); and

(2) Other revenues and funds authorized by law.

(c) The Treasurer of State shall use the fund for the administration of the General Assembly Promise Scholarship Program to provide moneys to every child born in the State of Arkansas to be used for college tuition.

SECTION 7. DO NOT CODIFY. Implementation date – General Assembly Promise Scholarship Program.

The General Assembly Promise Scholarship Program shall be implemented beginning January 1, 2018.