

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

A Bill

HOUSE BILL 1415

5 By: Representative Lundstrum
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE PROVISIONS OF ARKANSAS
9 CONSTITUTION, ARTICLE 19, § 14, TO PROVIDE THAT
10 LOTTERY PROCEEDS MAY BE USED TO FUND OR PROVIDE
11 SCHOLARSHIPS AND GRANTS TO ARKANSAS CITIZENS ENROLLED
12 IN VOCATIONAL-TECHNICAL SCHOOLS AND TECHNICAL
13 INSTITUTES; TO AMEND ARKANSAS CONSTITUTION, ARTICLE
14 19, § 14, PURSUANT TO THE AUTHORITY GRANTED BY
15 ARKANSAS CONSTITUTION, ARTICLE 5, § 1; TO AMEND
16 PROVISIONS OF THE ARKANSAS CODE CONCERNING APPROVED
17 INSTITUTIONS OF HIGHER EDUCATION UNDER LAWS
18 CONCERNING SCHOLARSHIPS AND GRANTS FUNDED BY LOTTERY
19 PROCEEDS; AND FOR OTHER PURPOSES.
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Subtitle

21
22 TO AMEND ARKANSAS CONSTITUTION, ARTICLE
23 19, § 14, AND ARKANSAS LAW TO PROVIDE
24 THAT LOTTERY PROCEEDS MAY BE USED FOR
25 SCHOLARSHIPS AND GRANTS TO ARKANSANS
26 ENROLLED IN VOCATIONAL-TECHNICAL SCHOOLS
27 AND TECHNICAL INSTITUTES.
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31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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33 SECTION 1. DO NOT CODIFY. LEGISLATIVE INTENT.

34 (a) The General Assembly finds:

35 (1) Arkansas Constitution, Article 5, § 1, provides that "[n]o
36 measure approved by a vote of the people shall be amended or repealed by the



1 General Assembly. . . except upon a yea and nay vote on roll call of two-
2 thirds of all the members elected to each house of the General Assembly. .
3 .";

4 (2) Arkansas Constitution, Article 5, § 1, defines "measure" to
5 include any bill, law, resolution, ordinance, charter, constitutional
6 amendment or legislative proposal or enactment of any character;

7 (3) The plain language of the definition of "measure" in
8 Arkansas Constitution, Article 5, § 1, clearly includes amendments to the
9 Arkansas Constitution, meaning that the General Assembly may amend amendments
10 to the Arkansas Constitution with a two-thirds vote of each house;

11 (4) Despite observing that the definition of "measure" in
12 Arkansas Constitution, Article 5, § 1 includes "constitutional amendment(s)
13 'or legislative proposals of any character'", the Supreme Court in Arkansas
14 Game and Fish Commission v. Edgmon, 218 Ark. 207, 235 S.W.2d 554 (1951),
15 declined to construe the language literally and held that the General
16 Assembly lacked the power to amend or repeal amendments to the Arkansas
17 Constitution by a two-thirds vote of each house;

18 (5) In Board of Trustees of the University of Arkansas v.
19 Andrews, 2018 Ark. 12 (2018), the Supreme Court overturned years of precedent
20 by holding that the General Assembly cannot waive by law the state's
21 sovereign immunity granted by Arkansas Constitution, Article 5, § 20;

22 (6) In reaching its decision in Andrews, supra, the Supreme
23 Court held that the language of Arkansas Constitution, Article 5, § 20,
24 should be interpreted "precisely as it reads";

25 (7) In Buonaiuto v. Gibson, 2020 Ark. 352, the Arkansas Supreme
26 Court noted that the phrase "four-lane highway" as used in Arkansas
27 Constitution, Amendment 91, had been "given a specific meaning that is plain
28 and unambiguous" and thus funds under Arkansas Constitution, Amendment 91,
29 could not be used to improve six-lane portions of interstate highways; and

30 (8) An interpretation of Arkansas Constitution, Article 5, § 1,
31 "precisely as it reads" clearly leads to the conclusion that the General
32 Assembly may amend all measures, including constitutional amendments, by a
33 two-thirds vote of each house, as the term "measure" has been given a plain
34 and unambiguous definition in Arkansas Constitution, Article 5, § 1.

35 (b) By the passage of this act, the General Assembly expresses its
36 belief that, upon consideration of this act using the standard of review

1 established in Andrews, supra, the Supreme Court will:

2 (1) Interpret Arkansas Constitution, Article 5, § 1, precisely
 3 as it reads in consideration of its plain and unambiguous language;

4 (2) Overturn its decision in Edgmon, supra, as inconsistent with
 5 its holding in Andrews, supra, and Buonaiuto, supra; and

6 (3) Uphold the constitutional authority of the General Assembly
 7 under Arkansas Constitution, Article 5, § 1, to amend or repeal amendments to
 8 the Arkansas Constitution by a two-thirds vote of each house.

9
 10 SECTION 2. Arkansas Constitution, Article 19, § 14(b), concerning the
 11 use of lottery proceeds, is amended under the authority granted by Arkansas
 12 Constitution, Article 5, § 1, to read as follows:

13 (b)(1) Lottery proceeds shall be used solely to pay the operating
 14 expenses of lotteries, including all prizes, and to fund or provide for
 15 scholarships and grants to citizens of this State enrolled in ~~public and~~
 16 ~~private non-profit two-year and four-year colleges and universities~~ the
 17 following higher education institutions located within the State that are
 18 certified according to criteria established by the General Assembly:

19 (A) A public or private nonprofit two-year or four-year
 20 college or university;

21 (B) A public or private vocational-technical school; or

22 (C) A public or private technical institute.

23 (2) The General Assembly shall establish criteria to determine
 24 who is eligible to receive the scholarships and grants pursuant to this
 25 Amendment.

26
 27 SECTION 3. Arkansas Code § 6-85-204(3), concerning the definition of
 28 an "approved institution of higher education" under the Arkansas Academic
 29 Challenge Scholarship Program, is amended to read as follows:

30 (3) "Approved institution of higher education" means an
 31 institution of higher education approved by the division to participate in
 32 the Arkansas Academic Challenge Scholarship Program and that is:

33 (A) A state-supported two-year or four-year college or
 34 university;

35 (B) A private, nonprofit two-year or four-year college or
 36 university with its primary headquarters located in Arkansas that is eligible

1 to receive Title IV federal student aid funds; ~~or~~

2 (C) An approved school of nursing, subject to the
3 provisions of § 6-85-213(c);

4 (D) A public or private vocational-technical school; or

5 (E) A public or private technical institute;

6
7 SECTION 4. Arkansas Code § 6-85-302(1), concerning the definition of
8 an "approved institution of higher education" under the Arkansas Workforce
9 Challenge Scholarship Program, is amended to read as follows:

10 (1) "Approved institution of higher education" means an
11 institution of higher education approved by the Division of Higher Education
12 to participate in the Arkansas Workforce Challenge Scholarship Program and
13 that is:

14 (A) A state-supported two-year or four-year college or
15 university; ~~or~~

16 (B) A private, nonprofit two-year or four-year college or
17 university with its primary headquarters located in Arkansas that is eligible
18 to receive Title IV federal student aid funds;

19 (C) A public or private vocational-technical school; or

20 (D) A public or private technical institute; and

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22 SECTION 5. Arkansas Code § 6-85-306 is amended to read as follows:
23 6-85-306. Agreements between institutions.

24 An approved institution of higher education may enter into agreements
25 with other institutions of higher education, ~~including without limitation~~
26 ~~technical institutes,~~ to allow students enrolled in the approved institution
27 of higher education under this subchapter to take courses at the other
28 institutions of higher education.

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30 SECTION 6. Arkansas Code § 6-85-402(1), concerning the definition of
31 "approved institution of higher education" under the Arkansas Concurrent
32 Challenge Scholarship Program, is amended to read as follows:

33 (1) "Approved institution of higher education" means an
34 institution of higher education that:

35 (A) Is approved by the Division of Higher Education to
36 participate in the Arkansas Concurrent Challenge Scholarship Program;

1 (B) Offers at least a fifty-percent discount on the
2 tuition and mandatory fees of an endorsed concurrent enrollment course or
3 certificate program to a student who is enrolled in an endorsed concurrent
4 enrollment course or certificate program, unless other opportunities are
5 provided that lower the tuition and mandatory fees below fifty percent (50%);
6 and

7 (C) Is a:

8 (i) State-supported two-year or four-year college or
9 university; ~~or~~

10 (ii) Private, nonprofit two-year or four-year
11 college or university that has its primary headquarters located in Arkansas
12 and that is eligible to receive Title IV federal student aid funds;

13 (iii) A public or private vocational-technical
14 school; or

15 (iv) A public or private technical institute;
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