

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

As Engrossed: H2/20/23

A Bill

HOUSE BILL 1415

5 By: Representative Lundstrum
6 By: Senator J. English
7

For An Act To Be Entitled

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

Subtitle

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

35 (a) The General Assembly finds:

36 (1) Arkansas Constitution, Article 5, § 1, provides that "[n]o



1 measure approved by a vote of the people shall be amended or repealed by the
2 General Assembly. . . except upon a yea and nay vote on roll call of two-
3 thirds of all the members elected to each house of the General Assembly. .
4 .";

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

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

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

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

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

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

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

36 (b) By the passage of this act, the General Assembly expresses its

1 belief that, upon consideration of this act using the standard of review
 2 established in Andrews, supra, the Supreme Court will:

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

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

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

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

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

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

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

23 (C) A public or private technical institute.

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

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

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

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

36 (B) A private, nonprofit two-year or four-year college or

1 university with its primary headquarters located in Arkansas that is eligible
2 to receive Title IV federal student aid funds; ~~or~~

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

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

6 (E) A public or private technical institute;

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

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

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

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

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

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

22
23 SECTION 5. Arkansas Code § 6-85-306 is amended to read as follows:
24 6-85-306. Agreements between institutions.

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

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

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

36 (A) Is approved by the Division of Higher Education to

1 participate in the Arkansas Concurrent Challenge Scholarship Program;

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

8 (C) Is a:

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

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

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

16 (iv) A public or private technical institute;

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18 /s/Lundstrum
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