

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

1 State of Arkansas As Engrossed: H2/20/23 H2/28/23

2 94th General Assembly

A Bill

3 Regular Session, 2023

HOUSE BILL 1415

4

5 By: Representative Lundstrum

6 By: Senator J. English

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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.

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Subtitle

24 TO AMEND ARKANSAS CONSTITUTION, ARTICLE
25 19, § 14, AND ARKANSAS LAW TO PROVIDE
26 THAT LOTTERY PROCEEDS MAY BE USED FOR
27 SCHOLARSHIPS AND GRANTS TO ARKANSANS
28 ENROLLED IN VOCATIONAL-TECHNICAL SCHOOLS
29 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1 measure approved by a vote of the people shall be amended or repealed by the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"; and

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

31 (b) By the passage of this act, the General Assembly expresses its
32 belief that, upon consideration of this act using the standard of review
33 established in Andrews, supra, the Supreme Court will:

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

36 (2) Overturn its decision in Edgmon, supra, as inconsistent with

1 its holding in Andrews, supra, and Buonaiuto, supra; and
2 (3) Uphold the constitutional authority of the General Assembly
3 under Arkansas Constitution, Article 5, § 1, to amend or repeal amendments to
4 the Arkansas Constitution by a two-thirds vote of each house.

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

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

15 (A) A public or private nonprofit two-year or four-year
16 college or university;

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

18 (C) A public or private technical institute.

19 (2) The General Assembly shall establish criteria to determine
20 who is eligible to receive the scholarships and grants pursuant to this
21 Amendment.

22
23 SECTION 3. Arkansas Code § 6-85-204(3), concerning the definition of
24 an "approved institution of higher education" under the Arkansas Academic
25 Challenge Scholarship Program, is amended to read as follows:

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

29 (A) A state-supported two-year or four-year college or
30 university;

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

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

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

1 (E) A public or private technical institute;

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

6 (1) "Approved institution of higher education" means an
7 institution of higher education approved by the Division of Higher Education
8 to participate in the Arkansas Workforce Challenge Scholarship Program and
9 that is:

10 (A) A state-supported two-year or four-year college or
11 university; ~~or~~

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

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

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

17
18 SECTION 5. Arkansas Code § 6-85-306 is amended to read as follows:
19 6-85-306. Agreements between institutions.

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

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

29 (1) "Approved institution of higher education" means an
30 institution of higher education that:

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

33 (B) Offers at least a fifty-percent discount on the
34 tuition and mandatory fees of an endorsed concurrent enrollment course or
35 certificate program to a student who is enrolled in an endorsed concurrent
36 enrollment course or certificate program, unless other opportunities are

1 provided that lower the tuition and mandatory fees below fifty percent (50%);
2 and

3 (C) Is a:

4 (i) State-supported two-year or four-year college or
5 university; ~~or~~

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

9 (iii) A public or private vocational-technical
10 school; or

11 (iv) A public or private technical institute;

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13 */s/Lundstrum*

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