

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

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H2/20/23 H2/28/23
A Bill

HOUSE BILL 1415

By: Representative Lundstrum

By: *Senator J. English*

For An Act To Be Entitled

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

Subtitle

TO AMEND ARKANSAS CONSTITUTION, ARTICLE 19, § 14, AND ARKANSAS LAW TO PROVIDE THAT LOTTERY PROCEEDS MAY BE USED FOR SCHOLARSHIPS AND GRANTS TO ARKANSANS ENROLLED IN VOCATIONAL-TECHNICAL SCHOOLS AND TECHNICAL INSTITUTES.

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

SECTION 1. DO NOT CODIFY. LEGISLATIVE INTENT.

(a) The General Assembly finds:

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



measure approved by a vote of the people shall be amended or repealed by the General Assembly.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

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

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

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

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

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

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

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

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

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

its holding in Andrews, supra, and Buonaiuto, supra; and

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

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

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

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

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

(C) A public or private technical institute.

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

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

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

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

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

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

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

(E) A public or private technical institute;

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

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

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

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

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

(D) A public or private technical institute; and

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

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

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

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

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

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

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

(C) Is a:

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

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

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

(iv) A public or private technical institute;

/s/Lundstrum