

1 SB499  
2 139592-2  
3 By Senators Holtzclaw and Orr  
4 RFD: Finance and Taxation Education  
5 First Read: 10-APR-12

1 SB499

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4 ENROLLED, An Act,

5 To amend Section 16-60-110, Code of Alabama 1975, to  
6 remove Athens State University from under the jurisdiction,  
7 supervision, and control of the State Board of Education and  
8 Department of Postsecondary Education; to provide for the  
9 mission of the university; to create and provide for the  
10 governance of the university under the Board of Trustees of  
11 Athens State University; to provide for certain powers and  
12 duties of the board; to provide for meetings of the board; to  
13 provide for a quorum for the transaction of business; to  
14 provide for the filling of vacancies on the board and for the  
15 creation and use of a nominating committee to fill vacancies  
16 on the board; to provide for the appointment and duties of a  
17 president of the university; to provide for the employment of  
18 suitable persons to act as police officers for the university;  
19 and to authorize the Code Commissioner to revise references to  
20 Athens State University in the Code of Alabama 1975, as  
21 appropriate, to reflect the status of the university under  
22 this act.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 16-60-110 of the Code of Alabama  
25 1975, is amended to read as follows:

1           "§16-60-110.

2           "For purposes of this article, the following words  
3 and phrases shall have the respective meaning ascribed to them  
4 by this section:

5           "(1) BOARD. The State Board of Education.

6           "(2) JUNIOR COLLEGE. An educational institution  
7 offering instruction in the arts and sciences on the level of  
8 difficulty of the first two years above high school level.

9           "(3) STATE. The State of Alabama.

10          "(4) TRADE SCHOOL. An educational institution  
11 offering instruction primarily in useful trades, occupations  
12 or vocational skills.

13          "(5) POSTSECONDARY EDUCATION DEPARTMENT. A parallel  
14 organization to the State Department of Education directly  
15 responsible to the State Board of Education for the direction  
16 and supervision of junior colleges and trade schools and  
17 community colleges with a chief executive officer entitled  
18 Chancellor."

19          Section 2. The school heretofore established in  
20 Athens, Alabama, and previously known as Athens State College  
21 and now known as Athens State University, is and shall remain  
22 a body corporate under the corporate name of Athens State  
23 University, and by that name, and under the direction of a  
24 board of trustees, may sue and contract, acquire, and hold  
25 real and personal property, and have and exercise all the

1 powers of a corporation established to be a state educational  
2 institution of higher learning and shall succeed to all the  
3 rights, privileges, emoluments, benefits, interests, and  
4 titles heretofore at any time vested in the institution in its  
5 respective names. None of the powers, authority, or functions  
6 of the corporation provided for in this act shall be abated or  
7 impaired by this section. Whenever the institution is referred  
8 to in the laws of Alabama, by any one of the respective names  
9 by which it has been known, the same shall be considered to  
10 refer to Athens State University.

11 Section 3. Commencing on the effective date of this  
12 act, the Athens State University Board of Trustees, as created  
13 in Section 5, shall have exclusive jurisdiction, supervision,  
14 and control of Athens State University and the State Board of  
15 Education shall be divested of all jurisdiction, power, and  
16 authority with regard to the supervision, management, and  
17 control of the university, except as otherwise provided in  
18 this act. In addition to the powers, duties, and authority  
19 vested in the board by this section, the board shall have and  
20 exercise all power, authority, and duties conferred on, vested  
21 in, or required of the State Board of Education or the  
22 Department of Postsecondary Education before the effective  
23 date of this act, under the laws of this state with regard to  
24 the supervision, management, and control of the university. On  
25 or before the effective date of this act, the State Board of

1 Education shall transfer to the board all supplies, funds,  
2 books, documents, records, and other property or effects of  
3 the university. After the effective date of this act, the  
4 university may continue to offer all current units or programs  
5 of instruction for academic credit without new or additional  
6 approval from the Alabama Commission on Higher Education, so  
7 long as those units or programs of instruction for academic  
8 credit were offered by the university before the effective  
9 date of this act. The University shall continue to be under  
10 the jurisdiction of, and shall be subject to, the rules,  
11 regulations and procedures of the Alabama Commission on Higher  
12 Education.

13 Section 4. (a) Athens State University shall  
14 provide, maintain, and operate public higher education  
15 programs and facilities dedicated to the preparation of  
16 students. The university shall provide educational services  
17 for the greater community including advanced education for  
18 mature students, private citizens, and service men and women.  
19 The university shall provide an academic, cultural, and social  
20 environment that fosters individuality and develops productive  
21 members of society. The mission of the university shall be  
22 accomplished by providing services to students and the greater  
23 community through the utilization of university staff and  
24 facilities and through superior teaching, scholarship,  
25 creative activities, and public service.

1           (b) The overriding mission of the university, unique  
2 in Alabama higher education, is to be a university serving the  
3 upper division needs of transfer students.

4           (c) The university may provide onsite academic  
5 instruction on the campuses of those community colleges where  
6 the senior institution in whose service area or areas the  
7 community college is located is unable or unwilling to provide  
8 the onsite instruction.

9           (d) Resulting from and inherent in the mission of  
10 the university are a number of ongoing goals that the board,  
11 from time to time, may affirm on the basis of recommendations  
12 of the president of the university.

13           (e) The annual objectives of the university, as  
14 determined by the president of the university, shall be  
15 consistent with the ongoing goals and mission of the  
16 university.

17           Section 5. (a) There is created a Board of Trustees  
18 for Athens State University. The board shall consist of the  
19 following voting members:

20           (1) Six members shall be residents of either the  
21 fourth or fifth congressional districts as constituted on the  
22 effective date of this act, at least two of whom shall be  
23 residents of the county in which the main campus of the  
24 institution is located.

1           (2) Two members shall be appointed from the state at  
2 large.

3           (3) One member shall be appointed from the governing  
4 body of the two-year institutions of higher education located  
5 in the district where the main campus of the university is  
6 located.

7           (4) The Chancellor of the Department of  
8 Postsecondary Education.

9           (5) The Governor, who shall be ex officio president  
10 of the board.

11           (b) Except as otherwise provided in this act,  
12 trustees shall be appointed by the Governor, subject to  
13 confirmation by the Senate, and shall hold office for a term  
14 of seven years and until their successors are appointed and  
15 qualified. Of the initial members appointed to the board  
16 pursuant to subdivisions (1) and (2) of subsection (a), three  
17 members shall be appointed for terms of three years, three  
18 members shall be appointed for terms of five years, and two  
19 members shall be appointed for terms of seven years. These  
20 initial trustees, appointed after the effective date of this  
21 act, shall have immediate, interim authority to conduct such  
22 business as may be necessary to fulfill the intent of this act  
23 without Senate confirmation for not more than 12 months after  
24 appointment. No trustee shall receive any pay or emolument,  
25 other than his or her actual expenses incurred in the

1 discharge of his or her duties as a trustee. No employee of  
2 the university, or any person related by blood or marriage to  
3 the president of the university, shall be eligible to serve on  
4 the board. No trustee may serve more than two terms of office,  
5 except that the initial trustees appointed pursuant to  
6 subdivisions (1) or (2) of subsection (a) may be appointed to  
7 one additional term regardless of the previous number of terms  
8 served.

9 (c) No member of the board, individually, as a  
10 partner, as a stockholder, a board member, or an officer of a  
11 corporate body, shall conduct any business transaction,  
12 directly or indirectly, with the university. Any person who  
13 violates this subsection shall be immediately removed from the  
14 board, and replaced for the unexpired portion of his or her  
15 term by appointment of the Governor. The president of the  
16 university may not as an individual, or as an incorporator,  
17 officer, or director of any for profit entity, engage in any  
18 business in any manner which would conflict with his or her  
19 duties as president or with the best interests of the  
20 university or the students enrolled in the university. Nothing  
21 in this subsection shall be construed as forbidding the  
22 president from serving as a trustee of any other educational  
23 institution, as an officer of a church or other eleemosynary  
24 institution, or as an officer, director, or trustee of any  
25 organization from which no profit would accrue to him or her,



1 or his or her immediate family, from any business of the  
2 organization for or with the university or the students  
3 enrolled in the university. Should the president of the  
4 university engage in any business in violation of this  
5 subsection, such action shall be sufficient cause for his or  
6 her immediate removal by the board.

7 (d) The Governor, the Chancellor of the Department  
8 of Postsecondary Education, and the member appointed pursuant  
9 to subdivision (3) of subsection (a), by virtue of his or her  
10 respective office, and the trustees appointed pursuant to  
11 subdivisions (1) and (2) of subsection (a), and their  
12 successors in office, are constituted and shall be considered  
13 a body corporate under the name of Athens State University.

14 Section 6. (a) The board shall have all the rights,  
15 privileges, and franchises necessary to the promotion of the  
16 ends of its creation, and shall be charged with all  
17 corresponding duties, liabilities, and responsibilities. The  
18 board may hold and may lease, sell, or, in any other manner  
19 not inconsistent with the object or terms of the grant or  
20 grants under which it holds, dispose of any property, real or  
21 personal, or any estate or interest therein remaining, of any  
22 grant by any governmental unit or by any person, or accruing  
23 to the corporation from any source, as the board may deem best  
24 for the purposes of the university. The president of the  
25 university, with the approval of the board, may execute any

1 lease, deed, or other instrument of conveyance on behalf of  
2 the corporation, without additional approval.

3 (b) The board shall have the exclusive authority  
4 over and jurisdiction of land, buildings, and other capital  
5 improvements now existing on or hereinafter provided for such  
6 campus. No contract for capital improvements, alterations,  
7 remodeling, and changing of capital improvements shall be made  
8 without the authorization and approval of the board, and which  
9 approval shall be granted by appropriate resolutions of the  
10 body. Any contract, agreement, or other act relating to  
11 capital improvements, except for maintenance, repairs, and  
12 maintaining existing facilities, shall be void and of no  
13 effect unless authorized by resolutions of the board.

14 Section 7. (a) The board shall hold its regular  
15 annual meeting each year, on the first Monday in June, at the  
16 main campus of the university, unless the board shall in  
17 regular session determine to hold its meeting at some other  
18 time and place. Thereafter, the board shall hold quarterly  
19 meetings on the first Monday of each third month after the  
20 annual meeting, unless the board shall in regular session  
21 determine to hold its quarterly meeting at some other time or  
22 place. Special meetings of the board may be assembled by  
23 either of the two following methods:

24 (1) A special meeting of the board may be called by  
25 the Governor. In calling a special meeting, the Governor shall

1 mail a written notice to each trustee at least 10 days in  
2 advance of the date of the meeting.

3 (2) Upon the application in writing of any three  
4 members of the board, the Governor shall call a special  
5 meeting, naming the time and place thereof, and causing  
6 notices to be issued in writing to the several members of the  
7 board. The Governor shall mail a written notice to each  
8 trustee at least 10 days in advance of the date of the  
9 meeting.

10 (b) The executive committee, and any other committee  
11 or subcommittee of the board, shall hold meetings at such  
12 times and on such dates as the board may provide.

13 (c) All meetings of the board shall be subject to  
14 and comply with all applicable provisions of state law.

15 Section 8. Six members of the board shall constitute  
16 a quorum for the transaction of business, but a smaller number  
17 may adjourn from day to day until a quorum is present.

18 Section 9. (a) Any vacancy in the office of trustee  
19 occurring during a recess of the Legislature shall be filled  
20 by appointment of the Governor. The appointee shall hold  
21 office until the next session of the Legislature, at which  
22 time the appointment shall be confirmed by the Senate. If not  
23 confirmed by the Senate, another appointment shall be made by  
24 the Governor in like manner until an appointment is confirmed  
25 by the Senate. A trustee appointed by the Governor to fill a

1 vacancy, by and with the consent of the Senate, shall hold  
2 office during the unexpired term.

3 (b) After the initial appointments to the board,  
4 future members appointed to the board shall be appointed by  
5 the Governor from a list of three persons nominated by a  
6 nominating committee. The nominating committee shall consist  
7 of all of the following members:

8 (1) One member of the board as elected by the  
9 membership of the board.

10 (2) The presiding officer of the Athens State  
11 University Faculty Senate.

12 (3) The presiding officer of the Athens State  
13 University Staff Senate.

14 (4) One member of the Limestone County Legislative  
15 Delegation, as selected by the delegation.

16 (5) The President of the Athens State University  
17 Alumni Association, or his or her designee.

18 (6) The President of the Athens State University  
19 Foundation, or his or her designee.

20 (7) The president of the university shall serve as a  
21 nonvoting, ex officio member and chair of the committee

22 (c) Within 45 days of any vacancy on the board, the  
23 nominating committee shall select and forward to the Governor  
24 three names for consideration for appointment. If no  
25 recommendation is made by the nominating committee within 45

1 days after a vacancy, the Governor, by and with the advice and  
2 consent of the Senate, may appoint a qualified candidate to  
3 fill the vacancy.

4 Section 10. (a) The board may designate one or more  
5 depositories for school funds.

6 (b) The board shall make or cause to be made to the  
7 Legislature, at the beginning of each regular session thereof,  
8 a full report of board transactions and the condition of the  
9 university, including an itemized account of all receipts and  
10 disbursements on account of the university by those charged  
11 with the administration of its finances.

12 Section 11. No grant or gift, by will or otherwise,  
13 shall fail on account of any misnomer or informality when the  
14 intent of the grantor or donor can be determined; nor shall  
15 any default, malfeasance, or nonuser on the part of the  
16 trustees or other officers or agents of such corporation work  
17 a forfeiture of any of its rights, privileges, powers, or  
18 franchises.

19 Section 12. (a) The president of the university  
20 shall be appointed by the board and shall do all of the  
21 following:

22 (1) Appoint a corps of instructors who shall be  
23 styled the faculty of the university.

24 (2) Appoint such other instructors and officers as  
25 the interest of the university may require.

1 (3) Remove any instructors or officers.

2 (4) Fix the salaries or compensation of the  
3 instructors or officers.

4 (5) Define the authority or duty of the instructors  
5 or officers.

6 (6) Regulate, alter, and modify the organization of  
7 the university, subject to the review and concurrence of the  
8 board.

9 (7) Prescribe courses of instruction within academic  
10 programs that have been approved by the board.

11 (b) Full-time employees, whether tenured,  
12 nontenured, nonprobationary, or probationary, who are employed  
13 on the effective date of this act by the university, shall  
14 retain any and all rights and privileges as provided in  
15 Chapter 24C of Title 16, Code of Alabama 1975.

16 (c) The president of the university, upon the  
17 recommendation of the faculty, may confer academic degrees and  
18 such honorary degrees as are usually conferred by institutions  
19 of similar character.

20 Section 13. (a) The president of the university may  
21 appoint and employ suitable persons to act as police officers  
22 to keep off intruders and prevent trespass upon and damage to  
23 the property and grounds of the university. Such persons shall  
24 be charged with all the duties and invested with all the  
25 powers of police officers and may eject trespassers from the

1 university buildings and grounds, and may, without a warrant,  
2 arrest any person guilty of disorderly conduct or of trespass  
3 upon the property of the university or of any public offense  
4 committed in their presence, and take them before the nearest  
5 district court, before which, upon proper affidavit charging  
6 the offense, any person so arrested may be tried and convicted  
7 as in cases of persons brought before him or her on his or her  
8 warrant. Such officers, with a warrant, may arrest any person  
9 found upon or near the premises of the university charged with  
10 any public offense and take them before any proper officer.

11 (b) The police officers provided for in this section  
12 shall cooperate with and, when requested, furnish assistance  
13 to the regularly constituted authorities of the City of Athens  
14 and Limestone County and their jurisdictions and authority  
15 shall be coextensive within the corporate limits of each  
16 municipality or county.

17 Section 14. Commencing on the effective date of this  
18 act, the terms junior college, trade school, community  
19 college, and technical college, or any combination of these  
20 terms, as used in the Code of Alabama 1975, may not be  
21 interpreted to include Athens State University or its  
22 predecessor, Athens State College. After the effective date of  
23 this act, the Code Commissioner may revise any reference to  
24 Athens State University that refers to or classifies the

1 university as a junior college, trade school, community  
2 college, or technical college.

3 Section 15. This act shall become effective October  
4 1, 2012, following its passage and approval by the Governor,  
5 or its otherwise becoming law.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB499

Senate 26-APR-12

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris  
Secretary

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House of Representatives  
Amended and passed 10-MAY-12

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Senate concurred in House amendment 10-MAY-12

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By: Senator Holtzclaw