

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 116

By: Senators A. Clark, D. Sullivan, Beckham, Caldwell, L. Chesterfield, Elliott, J. English, K. Hammer, K. Ingram, Irvin, B. Johnson, M. Johnson, G. Leding, B. Sample, Teague, C. Tucker, D. Wallace
By: Representatives Womack, Bragg, Cavanaugh, Christiansen, Cloud, Cozart, Dalby, M. Davis, Evans, L. Fite, Fortner, Hollowell, Ladyman, Lynch, McClure, McGrew, Milligan, Perry, Rye, Scott, B. Smith, S. Smith, Speaks, Tosh, Warren, Watson, Wooten

For An Act To Be Entitled

AN ACT CONCERNING THE CONSOLIDATION OF HENDERSON STATE UNIVERSITY AND ARKANSAS STATE UNIVERSITY; TO AMEND THE NAME OF THE BOARD OF TRUSTEES OF ARKANSAS STATE UNIVERSITY; TO ABOLISH THE BOARD OF TRUSTEES OF HENDERSON STATE UNIVERSITY; TO AMEND THE COMPOSITION OF THE BOARD OF TRUSTEES OF ARKANSAS STATE UNIVERSITY; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE NAME OF THE BOARD OF TRUSTEES OF ARKANSAS STATE UNIVERSITY; TO ABOLISH THE BOARD OF TRUSTEES OF HENDERSON STATE UNIVERSITY; TO AMEND THE BOARD OF ARKANSAS STATE UNIVERSITY MEMBERS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 6-62-306(a), concerning the issuance of advice of the Arkansas Higher Education Coordinating Board regarding bonds or notes, is amended to read as follows:

(a) The boards of trustees of the University of Arkansas, University



of Central Arkansas, Henderson State University, Arkansas State University System, Arkansas Tech University, and Southern Arkansas University, hereinafter referred to as the "board of the institution involved", shall not issue any notes or bonds under the provisions of this subchapter for any of the purposes authorized by this subchapter, unless prior to the issuance of such notes or bonds, the board of the institution involved shall have obtained the advice of the Arkansas Higher Education Coordinating Board as to the economic feasibility of the particular project to be financed, in whole or in part, by those notes or bonds.

SECTION 2. Arkansas Code § 6-65-201(a), concerning the Board of Trustees of Arkansas State University, is amended to read as follows:

(a) There is created ~~an honorary~~ a board constituting the Board of Trustees of the Arkansas State University System.

SECTION 3. Arkansas Code § 6-65-201(b)(1), concerning the number of members serving on the Board of Trustees of Arkansas State University, is amended to read as follows:

(b)(1) The board shall consist of ~~five (5)~~ seven (7) members appointed from the state at large.

SECTION 4. Arkansas Code § 6-65-201(d)(1), concerning the term lengths of members serving on the Board of Trustees of Arkansas State University, is amended to read as follows:

(d)(1) The term of office for each member shall commence on January 15 and shall end on January 14 of the ~~fifth~~ seventh year following the year in which the regular term commenced.

SECTION 5. Arkansas Code § 6-65-202(a), concerning the powers and duties of the Board of Trustees of Arkansas State University, is amended to read as follows:

(a) The Board of Trustees of the Arkansas State University System created in § 6-65-201 is charged with the management and control of the Arkansas State University System.

SECTION 6. Arkansas Code § 6-65-203(c)(1), concerning the Board of

Trustees of Arkansas State University’s right of eminent domain, is amended to read as follows:

(c)(1) Before any suit can be instituted, it shall be necessary for the Board of Trustees of the Arkansas State University System to pass a resolution to the effect that the acquisition of the property sought to be condemned is necessary for the use and benefit of the university.

SECTION 7. Arkansas Code § 6-65-208 is amended to read as follows:
 6-65-208. ASU-Beebe – Board of trustees.

The Board of Trustees of the Arkansas State University System is empowered to exercise any powers, rights, and obligations in regard to Arkansas State University-Beebe that it is now empowered and authorized by law to exercise in regard to Arkansas State University.

SECTION 8. Arkansas Code §§ 6-65-209 and 6-65-210 are repealed.
~~6-65-209. ASU-Beebe — Counties composing district.~~

~~The Board of Trustees of Arkansas State University is empowered to designate the counties of Lonoke, Prairie, White, Pulaski, Grant, Saline, Gleburne, Stone, Independence, and Hot Spring as composing the district for Arkansas State University-Beebe.~~

~~6-65-210. ASU-Beebe — Course of study.~~

~~The course of study shall be provided by the Board of Trustees of Arkansas State University and shall consist of actual experiments, treatises, or lectures on agriculture, horticulture, poultry raising, dairying, truck and small fruit growing, and their marketing.~~

SECTION 9. Arkansas Code § 6-65-211(b), concerning faculty at Arkansas State University-Beebe, is amended to read as follows:

(b) The Board of Trustees of the Arkansas State University System may combine the duties of any of the ~~above~~ positions listed in subsection (a) of this section when practical.

SECTION 10. Arkansas Code § 6-65-212(a), concerning the establishment of tuition at Arkansas State University-Beebe by the Board of Trustees of Arkansas State University, is amended to read as follows:

(a) The tuition in Arkansas State University-Beebe shall be determined by the Board of Trustees of the Arkansas State University System.

SECTION 11. Arkansas Code § 6-65-213 is repealed.

~~6-65-213. ASU Beebe — Labor performed by students.~~

~~All work in, on, or about Arkansas State University Beebe, or on the farm, or on or in the barns or poultry yards connected with the university, whether it is farming, building, care of stock, or work of whatsoever kind, shall be performed by students of the university under such rules as the Board of Trustees of Arkansas State University may provide.~~

SECTION 12. Arkansas Code § 6-65-214 is amended to read as follows:

6-65-214. ASU-Beebe – Rental of unused property authorized.

The Board of Trustees of the Arkansas State University System ~~are~~ is authorized to rent to the best advantage from time to time any portion of the property of Arkansas State University-Beebe not required for the immediate use of the university.

SECTION 13. Arkansas Code § 6-65-217 is amended to read as follows:

6-65-217. Arkansas State Technical Institute – Legislative findings, determinations, and intent.

~~(a)~~ It is found and determined by the Seventy-Fifth General Assembly of the State of Arkansas that:

- (1) The education and employment of its populace are two (2) of the highest goals of modern government;
- (2) Technological advancements in industrial production and business are changing the means and methods in which business is conducted in world markets;
- (3) Existing businesses and industries in Arkansas must respond to these changes in order to survive;
- (4) If the state is to develop a stronger economic base, steps must be taken to provide existing businesses and industries with the tools necessary for continued development, and new industries must be convinced of the state’s desire to have them locate within our borders;
- (5) In both instances a highly educated and trained work force is an essential element;

(6) Although improvements have been and are being made in secondary and postsecondary vocational and technical education programs in the state, no program currently exists which combines applied advanced mathematics and science and general education with highly technical vocational programs at the certificate and associate degree level; and

(7) The financial resources of the state dictate that such a program should be established for the State of Arkansas.

~~(b) It is the intent of the General Assembly that the institute authorized by this section, § 6-65-218, § 6-65-219 [repealed], and §§ 6-65-220—6-65-224 should constantly evaluate its programs and modify or delete programs as the needs of business and industry change.~~

SECTION 14. Arkansas Code § 6-65-218 is repealed.

~~6-65-218. Arkansas State Technical Institute—Establishment.~~

~~The Board of Trustees of Arkansas State University is empowered and directed to design and establish a technical education program at Arkansas State University-Beebe to be known as the Arkansas State Technical Institute.~~

SECTION 15. Arkansas Code §§ 6-65-221 – 6-65-224 are repealed.

~~6-65-221. Arkansas State Technical Institute—Operations generally.~~

~~The chief administrative officer of the Arkansas State Technical Institute shall be responsible to the Chancellor of Arkansas State University-Beebe and the President of Arkansas State University and Board of Trustees of Arkansas State University for the operation of the institute within the rules and procedures adopted by the board.~~

~~6-65-222. Arkansas State Technical Institute—Admissions, advanced placement, etc.~~

~~The Board of Trustees of Arkansas State University, upon the recommendation of the advisory council established in § 6-65-219 [repealed], shall adopt rules, procedures, and requirements for admission to, and advanced placement and continuation in, the Arkansas State Technical Institute.~~

~~6-65-223. Arkansas State Technical Institute—Tuition, fees, charges, etc.~~

~~The Board of Trustees of Arkansas State University shall also adopt policies regarding student payment of tuition, room and board, and such other fees and charges as deemed appropriate.~~

~~6-65-224. Arkansas State Technical Institute — Reporting requirements.~~

~~The Board of Trustees of Arkansas State University shall report to the Governor and the Legislative Council, biennially, the types and numbers of students and programs offered or planned to be offered at the Arkansas State Technical Institute.~~

SECTION 16. Arkansas Code § 6-65-226 is amended to read as follows:

6-65-226. Housing allowance.

Upon approval by the Board of Trustees of the Arkansas State University System, the chancellor, or the director if there is no chancellor, of ~~the various campuses~~ a campus of the Arkansas State University System may receive a housing allowance in an amount not to exceed ~~four hundred dollars (\$400)~~ one thousand five hundred dollars (\$1,500) per month in lieu of college housing.

SECTION 17. Arkansas Code § 6-66-101 is repealed.

~~6-66-101. Board of Trustees of Henderson State University.~~

~~(a) There is created an honorary board constituting the Board of Trustees of Henderson State University, which is made and continued a body politic and corporate.~~

~~(b)(1) The board shall consist of seven (7) members.~~

~~(2) The Governor, by and with the advice and consent of the Senate, shall appoint the members of the board.~~

~~(3) The Secretary of State shall furnish a certificate to each board member within ten (10) days following appointment, whereupon the appointee shall notify the Governor and the Secretary of State in writing of his or her acceptance of the appointment within thirty (30) days, and if the appointee shall fail to give such notice of his or her acceptance within the time required, then the appointment shall be declared void and another appointment shall be made.~~

~~(c)(1) Members of the board appointed by the Governor under the provisions of this section, in addition to possessing the qualifications of~~

~~an elector, shall reside in the State of Arkansas.~~

~~(2)(A) The Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, Commissioner of State Lands, a Justice of the Supreme Court, and the director or employees of any state department, state agency, or state institution shall be ineligible for membership on the board provided for in this section during the time for which he or she was elected or appointed.~~

~~(B) No individual may be a member of more than one (1) of the boards created under the provisions of § 25-17-201 at the same time.~~

~~(d)(1) The term of office for each member shall commence on January 15 and shall end on January 14 of the seventh year following the year in which the regular term commenced.~~

~~(2) The Governor shall submit to the Senate for approval, on or before the fourteenth day following the commencement of each regular session of the General Assembly, the names of all unconfirmed appointments made by him or her to fill expired terms and the names of appointments to fill the terms expiring during the regular session of the General Assembly. The members appointed by the Governor to fill vacancies caused by the expiration of the terms of members may qualify and hold office until the appointments are rejected by the Senate.~~

~~(e) Any vacancies arising in the membership of the board for any reason other than the expiration of the regular terms for which the members were appointed shall be filled by the appointment of the Governor, subject to the approval by a majority of the remaining members of the board, and shall be thereafter effective until the expiration of the regular terms.~~

~~(f) Before entering upon his or her respective duties, the trustee shall make and subscribe to an affidavit to faithfully, diligently, and impartially discharge the duties of his or her office, regardless of the requirements of § 25-17-207.~~

~~(g)(1)(A) There shall be one (1) regular meeting of the board each year to be held within thirty (30) days after the close of commencement week.~~

~~(B) Called meetings may be held at the request of the president or of any two (2) members of the board if at least seven (7) days' written notice is given in advance to each member of the called meeting, except in cases of emergency, when three (3) days' notice will suffice.~~

~~(2) The board shall elect from its members a chair who shall~~

~~preside at the meetings of the board, a vice chair who shall preside at the meetings of the board in the absence of the regular chair, and a secretary who shall keep the records of the meetings of the board. The secretary need not be a member of the board.~~

~~(3) A majority of the board shall constitute a quorum.~~

~~(4) Members of the board provided for in this section may receive expense reimbursement in accordance with § 25-16-901 et seq.~~

~~(h)(1) The Governor shall have the power to remove any member of the board before the expiration of his or her term for cause only, after notice and hearing.~~

~~(2) The removal shall become effective only when approved in writing by a majority of the total number of the board, but the member removed or his or her successor shall have no right to vote on the question of removal.~~

~~(3) The removal action shall be filed with the Secretary of State, together with a complete record of the proceedings at the hearing.~~

~~(4)(A) An appeal may be taken to the Pulaski County Circuit Court by the Governor or the member ordered removed, and the appeal shall be tried de novo on the record of the hearing before the Governor.~~

~~(B) An appeal may be taken from the circuit court to the Supreme Court, which shall likewise be tried de novo.~~

SECTION 18. Arkansas Code § 6-66-102 is amended to read as follows:

6-66-102. ~~Powers and duties~~ Abolishment of board.

(a) The Board of Trustees of Henderson State University ~~created in § 6-66-101 is charged with the management and control of Henderson State University~~ abolished as a separate entity with responsibility for the governance of Henderson State University and is transferred to the control of the Board of Trustees of the Arkansas State University System.

(b) The ~~board~~ Board of Trustees of Henderson State University shall: ~~have the power, authority, and duties formerly conferred by law on the board it succeeds, including those set forth in this section~~

(1) Relinquish all responsibility, control, and supervision concerning Henderson State University; and

(2) Be divested of all obligations and duties applicable to Henderson State University that are abolished by this section.

~~(c) The board shall be charged with the liabilities of the corporate body which it succeeds~~ The Board of Trustees of the Arkansas State University System shall become vested with and succeed to all of the following that were vested with the Board of Trustees of Henderson State University before its abolishment under subsection (a) of this section:

- (1) Rights;
- (2) Powers;
- (3) Interests;
- (4) Duties;
- (5) Responsibilities;
- (6) Titles; and
- (7) Interests in and to all:
 - (A) Real property; and
 - (B) Personal property.

~~(d)(1) The board shall:~~

- ~~(A) Have perpetual succession of officers and members;~~
- ~~(B) Have the right to use and keep a common seal and to alter the seal at will;~~
- ~~(C) Have the right to contract and be contracted with;~~
- ~~(D) Have the right to own and purchase, sell, and convey property, real, personal, and mixed; and~~
- ~~(E) Be authorized and empowered to receive and hold donations, devises, bequests, and legacies for the use and benefit of the institution, provided that all property purchased under the authority of this chapter shall be free from liens and encumbrances, and the title of the property, as well as to any donation that the board may receive, shall be taken in the name of the members of the board and shall become the property of the State of Arkansas.~~

~~(2) The board shall have full power and authority from time to time to make, constitute, and establish such bylaws, rules, and orders not inconsistent with the laws of the land as seem necessary to it for the regulation, government, and control of themselves as trustees and all officers, teachers, and other persons in the institution, as well as with reference to limitations as to number of pupils to be admitted.~~

~~(3) The board shall fix and regulate tuition, all fees, costs, and other charges for attendance at the university.~~

~~(4) Admission requirements shall be established by the board in accordance with policies adopted by the board and consistent with the laws and rules of this state.~~

~~(5) The board may:~~

~~(A) Hire and regulate faculty and staff;~~

~~(B) Establish and regulate the curriculum; and~~

~~(C) Grant diplomas and degrees.~~

SECTION 19. Arkansas Code § 6-66-103 is repealed.

~~6-66-103. Participation in federal and state aid authorized.~~

~~In order to qualify for federal aid to education in its several phases and at different levels of training and activities, Henderson State University is designated and directed to provide for and to participate in the educational training activities which have been or are designated and in the funds appropriated therefor by the federal government, for the support of educational programs for the improved preparation of teachers, both general and vocational, for transportation of children, for improved housing, for night schools, for noncredit educational service, for rural libraries, for vocational guidance, for experimentation and research, for educational planning and demonstrations, and such other federal and state funds as may be provided for the improvement of the administration and facilities of education in the public schools of Arkansas at the elementary, secondary, and collegiate levels.~~

SECTION 20. Arkansas Code §§ 6-66-110 - 6-66-113 are repealed.

~~6-66-110. Custodian of funds — Payment of bills and accounts.~~

~~(a) The Treasurer of State shall be the custodian of the funds of the Board of Trustees of Henderson State University, and he or she shall pay out the funds of Henderson State University only upon warrant issued by the Auditor of State.~~

~~(b) The Auditor of State shall issue warrants upon vouchers issued by the President of the Board of Trustees of Henderson State University and attested by the Secretary of the Board of Trustees of Henderson State University.~~

~~(c) All bills and accounts against the institution shall be made out and receipted in duplicate, and, when forwarding the payroll and expense list~~

~~each month, the president shall also forward one (1) set of the bills and vouchers to be filed in the office of the Auditor of State and kept for public inspection.~~

~~6-66-111. Limitation of expenditures.~~

~~(a) It is made the duty of the Board of Trustees of Henderson State University to limit the number of teachers and their compensation and all the actual expenses thereof to the aggregate amount appropriated by the General Assembly for that purpose plus donations, bequests, and the income that may be derived from the vested funds of Henderson State University.~~

~~(b) All expenditures made by the board in excess of the funds mentioned in this section are declared unlawful and void.~~

~~6-66-112. Right of eminent domain.~~

~~(a)(1) The right of eminent domain is granted to Henderson State University to condemn property located within not more than one-fourth ($\frac{1}{4}$) mile from the boundaries of the university campus, whenever the acquisition of such property is necessary for the use of the university.~~

~~(2) However, the right of eminent domain shall not apply to any property belonging to and used by any religious or educational organization.~~

~~(b) All suits for condemnation of property under the provisions of this section shall be brought by the university in the name of the State of Arkansas.~~

~~(c)(1) Before any suit may be instituted, it shall be necessary for the Board of Trustees of Henderson State University to pass a resolution to the effect that the acquisition of the property sought to be condemned is necessary for the use and benefit of the university.~~

~~(2) The resolution shall also set forth the purpose for which the lands are to be condemned, together with the legal description of the lands.~~

~~(d)(1) Upon adoption of the resolution, the board is authorized to request the prosecuting attorney of the district in which the lands are situated to assist in instituting proper proceedings for the condemnation of such lands.~~

~~(2) In the event the prosecuting attorney is requested to institute or to assist in instituting such proceedings, it shall then be the~~

~~duty of the prosecuting attorney to comply with the request of the board.~~

~~(e) It shall be the duty of the Attorney General of the State of Arkansas to handle all appeals taken to the Supreme Court of the state from any such actions.~~

~~6-66-113. Report by board of trustees.~~

~~(a) The Board of Trustees of Henderson State University shall biennially make a report to the General Assembly at the beginning of its session.~~

~~(b) The report shall be incorporated in the report of the Commissioner of Elementary and Secondary Education and shall set forth the financial and scholastic condition of Henderson State University, furnish such suggestions as in the judgment of the board are necessary for the improvement of the university, and make any further recommendations that may to the board seem wise and expedient.~~

SECTION 21. Arkansas Code § 25-17-201(4)-(7), concerning the creation of honorary boards for certain institutions, are amended to read as follows:

~~(4) A board of seven (7) members constituting the Board of Trustees of Henderson State University, hereby made and constituted a body politic and corporate;~~

~~(5)~~(4) A board of ~~five (5)~~ seven (7) members to be appointed from the state at large, constituting the Board of Trustees of the Arkansas State University System; and

~~(6)~~(5) A board of (5) five members to be appointed from counties in the Second Agricultural and Mechanical District, constituting the Board of Trustees of Arkansas Tech University.

~~(7) [Repealed.]~~

SECTION 22. TEMPORARY LANGUAGE. DO NOT CODIFY.

The terms of the two (2) additional members of the Board of Trustees of the Arkansas State University System appointed from the state at large by the Governor, by and with the advice and consent of the Senate, and created by this act shall be staggered as follows:

(1) The term of the first additional member shall expire six (6) years from initial appointment; and

(2) The term of the second additional member shall expire five (5) years from initial appointment.

SECTION 23. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that Henderson State University is scheduled for reaffirmation of accreditation based on requirements imposed by the regional Higher Learning Commission and federal regulations; that Henderson State University has already received from the Higher Learning Commission Board of Trustees one (1) extension of accreditation related to its Change of Control application wherein Henderson State University joins the Arkansas State University system; and that this act is immediately necessary because Henderson State University must host a focused visit within a certain timeframe in order to receive reaffirmation of accreditation and become a member institution of the Arkansas State University system. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.