

**SB278 ENROLLED**



1 1FKNLL-2  
2 By Senators Waggoner, Smitherman  
3 RFD: Finance and Taxation Education  
4 First Read: 02-May-23  
5 2023 Regular Session



## SB278 Enrolled

1 Enrolled, An Act,

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4 Relating to education; to create the Distressed  
5 Institutions of Higher Education Revolving Loan Program to be  
6 administered by the State Treasurer; to define "eligible  
7 institutions"; to authorize the State Treasurer to establish  
8 terms and conditions of loans; to require reporting of  
9 contract terms and on the operation of the program; to  
10 establish the Distressed Institutions of Higher Education Loan  
11 Program Fund in the State Treasury to receive appropriations  
12 from the Legislature for funding loans and loan repayments;  
13 and to provide for recovery of amounts due.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. There is created the Distressed Institutions  
16 of Higher Education Revolving Loan Program to be administered  
17 by the State Treasurer.

18 Section 2. (a) The term "eligible institution" as used  
19 in this section shall mean any public or private college or  
20 university in Alabama, including any state-related college or  
21 university, that meets all of the following criteria:

22 (1) Has been operating for more than 50 years in  
23 Alabama.

24 (2) Has a significant impact on the community in which  
25 it is located.

26 (3) Is experiencing financial hardship which could lead  
27 to closure of the institution.

28 (4) Whose governing body has adopted a resolution



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29 authorizing the application for a loan from this program to  
30 maintain operations as it replenishes its endowment through  
31 private gifts.

32 (5) Has assets sufficient to pledge as collateral.

33 (b) An eligible institution seeking a loan from this  
34 program shall make application on forms prescribed by the  
35 State Treasurer. The institution shall certify that it meets  
36 all criteria provided by this section.

37 (c) The State Treasurer shall review all applications  
38 for loans and shall make a careful and thorough investigation  
39 of the ability of each applicant to repay a loan under the  
40 program. Any institution applying for a loan shall provide any  
41 information requested by the State Treasurer relevant to the  
42 determination of ability to repay.

43 (d) The State Treasure is authorized to establish the  
44 terms and conditions of any loan made pursuant to this  
45 program, including: the amount of private funds committed  
46 prior to loan funds being drawn; the rate of interest, if any;  
47 the timing and amounts and timing of disbursements; the terms  
48 of repayment; and any necessary collateral.

49 (e) The State Treasurer may, in his or her judgment,  
50 award a loan to any eligible institution that meets the  
51 requirements provided in this section and shall be responsible  
52 for the administration of the loan, subject to the provisions  
53 of this section.

54 (f) As a condition of approval by the State Treasurer  
55 of a loan under the program, each applicant shall enter into a  
56 written contract with the State Treasurer. Breach of contract



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57 by the recipient shall make the recipient immediately liable  
58 for the unpaid balance of the loan.

59 (g) The State Treasurer shall forward copies of  
60 executed loan contracts to the Chairs of the Senate Finance  
61 and Taxation-Education Committee and the House Ways and  
62 Means-Education Committee, the Finance Director, and  
63 Legislative Fiscal Officer.

64 Section 3. Annually, on or before the first day of  
65 December, the State Treasurer shall file a report regarding  
66 the operation of the program, including all loans issued and  
67 the status of any repayments, to the Governor, Lieutenant  
68 Governor, Speaker of the House of Representatives, President  
69 Pro Tempore of the Senate, the minority leaders of the Alabama  
70 Senate and House of Representatives, the Chairs of the Senate  
71 Committee on Finance and Taxation-Education and the House Ways  
72 and Means-Education Committee, the Legislative Fiscal Officer,  
73 and the Finance Director.

74 Section 4. The "Distressed Institutions of Higher  
75 Education Loan Program Fund" is created in the State Treasury  
76 to receive appropriations from the Legislature for the funding  
77 of loans and to be administered by the State Treasurer, as  
78 provide by this section. Proceeds from loan repayments shall  
79 be deposited into this fund and may be used in the same manner  
80 as any other funds provided for this program. Any monies  
81 remaining in the fund at the end of a fiscal year shall not  
82 revert but shall remain in the fund and are reappropriated for  
83 the purposes authorized by this section. The expenses of  
84 making and administering loans, including legal, consultant,



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85 and administrative expenses, shall be payable from the fund.

86 Section 5. The Attorney General of Alabama, upon  
87 request of the State Treasurer, shall institute proceedings in  
88 the name of the state for the purpose of recovering any amount  
89 due the state under the provisions of this section. All  
90 proceedings involving default or dispute of the contract shall  
91 be brought in the appropriate court of jurisdiction in  
92 Montgomery County, Alabama.

93 Section 6. In addition to the powers granted by any  
94 other provision of the bill, the Treasurer shall have the  
95 powers necessary and convenient to carry out the purposes and  
96 provisions of this bill, including the power to enter into and  
97 execute contracts, agreements, and other instruments.

98 Section 7. No loans may be authorized pursuant to this  
99 act after January 18, 2027; however, this provision shall not  
100 effect any loans issued prior to this date. Any funds in the  
101 Distressed Institutions of Higher Education Loan Program Fund  
102 on this date shall be transferred to the Education Trust Fund

103 Section 8. This act shall become effective immediately  
104 upon its passage and approval by the Governor, or its  
105 otherwise becoming law.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB278  
Senate 04-May-23  
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: 25-May-23

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Senate concurred in House amendment 25-May-23

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By: Senator Waggoner