

SB31 ENGROSSED



1 SB31

2 YS9ZN26-2

3 By Senators Waggoner, Smitherman, Allen, Jones, Livingston,

4 Bell, Shelnutt, Barfoot, Melson, Chesteen, Price, Williams,

5 Sessions, Kelley, Stewart, Gudger, Chambliss, Butler, Carnley,

6 Hovey, Weaver

7 RFD: Finance and Taxation Education

8 First Read: 06-Feb-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to education; to amend Sections 1 through 6 of Act 2023-560 of the 2023 Regular Session, now appearing as Sections 16-65A-1 through 16-65A-6, Code of Alabama 1975, as the Distressed Institutions of Higher Education Revolving Loan Program; to state the purpose of the program; to change the administrator of the program to the Alabama Commission on Higher Education; to more specifically define eligible institutions to which loans shall be made; and to establish certain terms and conditions of loans to eligible institutions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 1 through 6 of Act 2023-560 of the 2023 Regular Session, now appearing as Sections 16-65A-1 through 16-65A-6, Code of Alabama 1975, are amended to read as follows:

"§16-65A-1

There is created the Distressed Institutions of Higher Education Revolving Loan Program to be administered by the ~~State Treasurer~~Executive Director of the Alabama Commission on Higher Education.



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29 "§16-65A-2

30 (a) The term "eligible institution" as used in this
31 section shall mean any public or private college or university
32 in Alabama, including any state-related college or university,
33 that meets all of the following criteria:

34 (1) Has been operating for more than 50 years in
35 Alabama.

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

38 (3) Is experiencing financial hardship that could lead
39 to closure of the institution.

40 (4) Whose governing body has adopted a resolution
41 authorizing the application for a loan from this program to
42 maintain operations as it replenishes its endowment through
43 private gifts.

44 (5) Has assets sufficient to pledge as collateral to
45 secure the amount of the requested loan. Collateral shall be
46 deemed sufficient if a college or university provides an
47 opinion letter from a bank that is not a current creditor of
48 the college or university making application and that is
49 registered to do business in the State of Alabama and is
50 regulated by the State Banking Department which states that
51 the collateral offered by the college or university is
52 sufficient to secure the requested amount of the loan.

53 (b) An eligible institution seeking a loan from this
54 program shall make application on forms prescribed by the
55 ~~State Treasurer~~ Executive Director of the Alabama Commission on
56 Higher Education. The institution shall certify that it meets



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57 all criteria provided by this section.

58 (c) The ~~State Treasurer~~Executive Director of the
59 Alabama Commission on Higher Education shall review all
60 applications for loans and shall make a careful and thorough
61 investigation of the ability of each applicant to repay a loan
62 under the program. Any institution applying for a loan shall
63 provide any information requested by the ~~State~~
64 ~~Treasurer~~Executive Director of the Alabama Commission on
65 Higher Education relevant to the determination of ability to
66 repay. Before awarding a loan to any applicant, the
67 ~~Treasurer~~Executive Director of the Alabama Commission on
68 Higher Education shall require the applicant to submit a
69 written financial restructuring plan documenting the
70 applicant's ability to repay the loan. The restructuring plan
71 shall include specific facts demonstrating the applicant's
72 ability to repay the loan as determined by the bank that is
73 approving the restructuring plan.

74 (d) Any loan made pursuant to this program shall
75 require the recipient to pay interest at the published rate
76 for the State Revolving Loan Fund at the time the loan is
77 made. Any loan made pursuant to this program shall be paid
78 back within 20 years. Any loan made pursuant to this program
79 must be secured by a first perfected security interest in all
80 assets pledged as collateral for the loan.

81 ~~(d) The State Treasurer may establish the terms and~~
82 ~~conditions of any loan made pursuant to this program,~~
83 ~~including: the amount of private funds committed prior to loan~~
84 ~~funds being drawn; the timing and amounts of disbursements;~~



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85 ~~and the terms of repayment. Any loan made pursuant to this~~
86 ~~program shall require the recipient to pay interest. Any loan~~
87 ~~made pursuant to this program shall be secured by a first~~
88 ~~perfected security interest in all collateral assets.~~

89 (e) The ~~State Treasurer may~~Executive Director of the
90 Alabama Commission on Higher Education may award a loan to any
91 eligible institution that meets the requirements provided in
92 this section upon approval of the loan within 30 days of the
93 date the institution submits its application and shall be
94 responsible for the administration of the loan, subject to
95 this section. The 30-day period to reach a decision on the
96 approval of a loan may not be extended for any reason. Once a
97 loan is approved, funds shall be transferred to the applicant
98 within a reasonable period of time. In administering a loan,
99 the ~~Treasurer~~Executive Director of the Alabama Commission on
100 Higher Education shall release funds to the recipient only
101 pursuant to a written financial restructuring plan, submitted
102 by the recipient to the ~~Treasurer~~Executive Director of the
103 Alabama Commission on Higher Education, that includes specific
104 steps the recipient must take to achieve financial soundness
105 and specific benchmarks the recipient ~~must~~intends to meet to
106 receive loan funds.

107 (f) As a condition of approval by the ~~State Treasurer~~
108 Executive Director of the Alabama Commission on Higher
109 Education of a loan under the program, each applicant shall
110 enter into a written contract with the ~~State~~
111 ~~Treasurer~~Executive Director of the Alabama Commission on
112 Higher Education. Breach of contract by the recipient shall



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113 make the recipient immediately liable for the unpaid balance
114 of the loan.

115 (g) The ~~State Treasurer~~ Executive Director of the
116 Alabama Commission on Higher Education shall forward copies of
117 executed loan contracts to the Chairs of the Senate Finance
118 and Taxation-Education Committee and the House Ways and
119 Means-Education Committee, the Finance Director, and the
120 Legislative Fiscal Officer.

121 "§16-65A-3

122 Annually, on or before the first day of December, the
123 ~~State Treasurer~~ Executive Director of the Alabama Commission on
124 Higher Education shall file a report regarding the operation
125 of the program, including all loans issued and the status of
126 any repayments, to the Governor, Lieutenant Governor, Speaker
127 of the House of Representatives, President Pro Tempore of the
128 Senate, the minority leaders of the Alabama Senate and House
129 of Representatives, the Chairs of the Senate Committee on
130 Finance and Taxation-Education and the House Ways and
131 Means-Education Committee, the Legislative Fiscal Officer, and
132 the Finance Director.

133 "§16-65A-4

134 The Distressed Institutions of Higher Education Loan
135 Program Fund is created in the State Treasury to receive
136 appropriations from the Legislature for the funding of loans
137 and to be administered by the ~~State Treasurer~~ Executive
138 Director of the Alabama Commission on Higher Education, as
139 provide by this section. Proceeds from loan repayments shall
140 be deposited into this fund and may be used in the same manner



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141 as any other funds provided for this program. Any monies
142 remaining in the fund, including any interest earned or any
143 contributions from other sources, at the end of a fiscal year
144 shall not revert but shall remain in the fund and are
145 reappropriated for the purposes authorized by this section.
146 Any monies appropriated into the fund pursuant to Act 2023-560
147 that remain in the fund on the effective date of this act,
148 shall be reallocated to the Alabama Commission on Higher
149 Education for the purposes authorized by this section. The
150 expenses of making and administering loans, including legal,
151 consultant, and administrative expenses, shall be payable from
152 the fund.

153 "§16-65A-5

154 The Attorney General, upon request of the ~~State~~
155 ~~Treasurer~~ Executive Director of the Alabama Commission on
156 Higher Education, shall institute proceedings in the name of
157 the state for the purpose of recovering any amount due the
158 state under this section. All proceedings involving default or
159 dispute of the contract shall be brought in the appropriate
160 court of jurisdiction in Montgomery County, Alabama.

161 "§16-65A-6

162 In addition to the powers granted by any other
163 provision of this chapter, the ~~State Treasurer~~ Executive
164 Director of the Alabama Commission on Higher Education shall
165 have the powers necessary and convenient to carry out the
166 purposes and provisions of this chapter, including the power
167 to enter into and execute contracts, agreements, and other
168 instruments."



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169 Section 2. This act shall become effective immediately.

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173 Senate

174 Read for the first time and referred06-Feb-24
175 to the Senate committee on Finance
176 and Taxation Education
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178 Read for the second time and placed28-Feb-24
179 on the calendar:
180 1 amendment
181
182 Read for the third time and passed05-Mar-24
183 as amended
184 Yeas 22
185 Nays 5
186 Abstains 0
187
188

189 Patrick Harris,
190 Secretary.
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