



ACT #2023 - 560

- 1 1FKNLL-3
- 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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Relating to education; to create the Distressed
Institutions of Higher Education Revolving Loan Program to be
administered by the State Treasurer; to define "eligible
institutions"; to authorize the State Treasurer to establish
terms and conditions of loans; to require reporting of
contract terms and on the operation of the program; to
establish the Distressed Institutions of Higher Education Loan
Program Fund in the State Treasury to receive appropriations
from the Legislature for funding loans and loan repayments;
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. Before awarding a loan to
43 any applicant, the Treasurer shall require the applicant to
44 submit a written financial restructuring plan documenting the
45 applicant's ability to repay the loan. The restructuring plan
46 shall include specific facts demonstrating the applicant's
47 ability to repay the loan.

48 (d) The State Treasurer is authorized to establish the
49 terms and conditions of any loan made pursuant to this
50 program, including: the amount of private funds committed
51 prior to loan funds being drawn; the timing and amounts of
52 disbursements; and the terms of repayment. Any loan made
53 pursuant to this program shall require the recipient to pay
54 interest. Any loan made pursuant to this program must be
55 secured by a first perfected security interest in all
56 collateral assets.

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57 (e) The State Treasurer may, in his or her judgment,
58 award a loan to any eligible institution that meets the
59 requirements provided in this section and shall be responsible
60 for the administration of the loan, subject to the provisions
61 of this section. In administering any loan made pursuant to
62 this program, the Treasurer shall release funds to the
63 recipient only prusuant to a written financial restructuring
64 plan, submitted by the recipient to the Treasurer, that
65 includes specific steps the recipient must take to achieve
66 financial soundness and specific benchmarks the recipient must
67 meet to receive loan funds.

68 (f) As a condition of approval by the State Treasurer
69 of a loan under the program, each applicant shall enter into a
70 written contract with the State Treasurer. Breach of contract
71 by the recipient shall make the recipient immediately liable
72 for the unpaid balance of the loan.

73 (g) The State Treasurer shall forward copies of
74 executed loan contracts to the Chairs of the Senate Finance
75 and Taxation-Education Committee and the House Ways and
76 Means-Education Committee, the Finance Director, and
77 Legislative Fiscal Officer.

78 Section 3. Annually, on or before the first day of
79 December, the State Treasurer shall file a report regarding
80 the operation of the program, including all loans issued and
81 the status of any repayments, to the Governor, Lieutenant
82 Governor, Speaker of the House of Representatives, President
83 Pro Tempore of the Senate, the minority leaders of the Alabama
84 Senate and House of Representatives, the Chairs of the Senate



85 Committee on Finance and Taxation-Education and the House Ways
86 and Means-Education Committee, the Legislative Fiscal Officer,
87 and the Finance Director.

88 Section 4. The "Distressed Institutions of Higher
89 Education Loan Program Fund" is created in the State Treasury
90 to receive appropriations from the Legislature for the funding
91 of loans and to be administered by the State Treasurer, as
92 provide by this section. Proceeds from loan repayments shall
93 be deposited into this fund and may be used in the same manner
94 as any other funds provided for this program. Any monies
95 remaining in the fund at the end of a fiscal year shall not
96 revert but shall remain in the fund and are reappropriated for
97 the purposes authorized by this section. The expenses of
98 making and administering loans, including legal, consultant,
99 and administrative expenses, shall be payable from the fund.

100 Section 5. The Attorney General of Alabama, upon
101 request of the State Treasurer, shall institute proceedings in
102 the name of the state for the purpose of recovering any amount
103 due the state under the provisions of this section. All
104 proceedings involving default or dispute of the contract shall
105 be brought in the appropriate court of jurisdiction in
106 Montgomery County, Alabama.

107 Section 6. In addition to the powers granted by any
108 other provision of the bill, the Treasurer shall have the
109 powers necessary and convenient to carry out the purposes and
110 provisions of this bill, including the power to enter into and
111 execute contracts, agreements, and other instruments.

112 Section 7. No loans may be authorized pursuant to this



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113 act after January 18, 2027; however, this provision shall not
114 effect any loans issued prior to this date. Any funds in the
115 Distressed Institutions of Higher Education Loan Program Fund
116 on this date shall be transferred to the Education Trust Fund

117 Section 8. This act shall become effective immediately
118 upon its passage and approval by the Governor, or its
119 otherwise becoming law.



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[Handwritten Signature]

President and Presiding Officer of the Senate

[Handwritten Signature]

Speaker of the House of Representatives

SB278

Senate 04-May-23

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

Senate 06-Jun-23

I hereby certify that the within Act originated in an passed the Senate, as amended by Executive Amendment.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 25-May-23

House of Representatives
Passed: 06-Jun-23, as amended by Executive Amendment.

By: Senator Waggoner

APPROVED 6-16-2023

TIME 12:30 pm

[Handwritten Signature: Kay Ivey]
GOVERNOR

Alabama Secretary Of State

Act Num....: 2023-560
Bill Num....: S-278

Recv'd 06/16/23 01:53pmSLF

SQR

Patricia Harris
SPONSORS

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SENATE ACTION

DATE: 5-2-2023
RD 1 RFD FATE

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.
PATRICK HARRIS,
Secretary

This Bill was referred to the Standing Committee of the Senate on FATE
and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report
w/amd(s) _____ w/sub _____ w/eng sub _____
years 10 nays 0 abstain 0
this 30 day of May, 2023
Patricia Harris, Chairperson

DATE: S-3 2023
RF FAU RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 278
years 33 nays 0 abstain 1
PATRICK HARRIS,
Secretary

DATE: 5-4-23 RD 3 at length
PASSED PASSED AS AMENDED
years 33 nays 0 abstain 1
And was ordered sent forthwith to the House.
PATRICK HARRIS,
Secretary

HOUSE ACTION

DATE: 5-4 2023
RD 1 RFD KLD MRC

REPORT OF STANDING COMMITTEE
This bill having been referred by the House to its standing committee on _____
Ways & Means Education
was acted upon by such Committee in session, and returned therefrom to the House with the recommendation that it be Passed,
w/amd(s) _____ w/sub _____
this 24th day of May, 20 23.
Danny Sawtelle, Chairperson

DATE: 5-24 2023
RF _____ RD 2 CAL

DATE: _____
RE-REFERRED RE-COMMITTED
COMMITTEE _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 278.
YEAS 76 NAYS 17
JOHN TREADWELL,
Clerk