#### SB31 ENGROSSED



- 1 SB31
- 2 YS9ZN26-2
- 3 By Senators Waggoner, Smitherman, Allen, Jones, Livingston,
- 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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5	A BILL
6	TO BE ENTITLED
7	AN ACT
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9	Relating to education; to amend Sections 1 through 6 of
10	Act 2023-560 of the 2023 Regular Session, now appearing as
11	Sections 16-65A-1 through 16-65A-6, Code of Alabama 1975, as
12	the Distressed Institutions of Higher Education Revolving Loan
13	Program; to state the purpose of the program; to change the
14	administrator of the program to the Alabama Commission on
15	Higher Education; to more specifically define eligible
16	institutions to which loans shall be made; and to establish
17	certain terms and conditions of loans to eligible
18	institutions.
19	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
20	Section 1. Sections 1 through 6 of Act 2023-560 of the
21	2023 Regular Session, now appearing as Sections 16-65A-1
22	through 16-65A-6, Code of Alabama 1975, are amended to read as
23	follows:
24	"§16-65A-1
25	There is created the Distressed Institutions of Higher
26	Education Revolving Loan Program to be administered by the
27	State Treasurer Executive Director of the Alabama Commission on
28	Higher Education.



29 "\$16-65A-2

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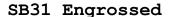
- 30 (a) The term "eligible institution" as used in this 31 section shall mean any public or private college or university 32 in Alabama, including any state-related college or university, 33 that meets all of the following criteria:
- 34 (1) Has been operating for more than 50 years in 35 Alabama.
- 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.
  - (4) Whose governing body has adopted a resolution authorizing the application for a loan from this program to maintain operations as it replenishes its endowment through private gifts.
  - (5) Has assets sufficient to pledge as collateral to secure the amount of the requested loan. Collateral shall be deemed sufficient if a college or university provides an opinion letter from a bank that is not a current creditor of the college or university making application and that is registered to do business in the State of Alabama and is regulated by the State Banking Department which states that the collateral offered by the college or university is sufficient to secure the requested amount of the loan.
  - (b) An eligible institution seeking a loan from this program shall make application on forms prescribed by the State TreasurerExecutive Director of the Alabama Commission on
    Higher Education. The institution shall certify that it meets



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 <b>State</b>
64	Treasurer Executive Director of the Alabama Commission on
65	<u>Higher Education</u> 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	<u>Higher Education</u> 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

- require the recipient to pay interest at the published rate for the State Revolving Loan Fund at the time the loan is made. Any loan made pursuant to this program shall be paid back within 20 years. Any loan made pursuant to this program must be secured by a first perfected security interest in all assets pledged as collateral for the loan.
- (d) The State Treasurer may establish the terms and conditions of any loan made pursuant to this program, including: the amount of private funds committed prior to loan funds being drawn; the timing and amounts of disbursements;





and the terms of repayment. Any loan made pursuant to this

program shall require the recipient to pay interest. Any loan

made pursuant to this program shall be secured by a first

perfected security interest in all collateral assets.

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- (e) The State Treasurer may Executive Director of the Alabama Commission on Higher Education may award a loan to any eligible institution that meets the requirements provided in this section upon approval of the loan within 30 days of the date the institution submits its application and shall be responsible for the administration of the loan, subject to this section. The 30-day period to reach a decision on the approval of a loan may not be extended for any reason. Once a loan is approved, funds shall be transferred to the applicant within a reasonable period of time. In administering a loan, the Treasurer Executive Director of the Alabama Commission on Higher Education shall release funds to the recipient only pursuant to a written financial restructuring plan, submitted by the recipient to the Treasurer Executive Director of the Alabama Commission on Higher Education, that includes specific steps the recipient must take to achieve financial soundness and specific benchmarks the recipient mustintends to meet to 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



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

Alabama Commission on Higher Education shall forward copies of executed loan contracts to the Chairs of the Senate Finance and Taxation-Education Committee and the House Ways and Means-Education Committee, the Finance Director, and the Legislative Fiscal Officer.

"\$16-65A-3

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

133 "\$16-65A-4

The Distressed Institutions of Higher Education Loan
Program Fund is created in the State Treasury to receive
appropriations from the Legislature for the funding of loans
and to be administered by the State Treasurer Executive

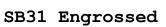
Director of the Alabama Commission on Higher Education, as
provide by this section. Proceeds from loan repayments shall
be deposited into this fund and may be used in the same manner



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 The Attorney General, upon request of the State 154 155 Treasurer Executive Director of the Alabama Commission on Higher Education, shall institute proceedings in the name of 156 157 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 provision of this chapter, the State Treasurer Executive 163 164 Director of the Alabama Commission on Higher Education shall 165 have the powers necessary and convenient to carry out the purposes and provisions of this chapter, including the power 166 to enter into and execute contracts, agreements, and other 167

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instruments."





Section 2. This act shall become effective immediately.





171 172 173 Senate 174 Read for the first time and referred ...........06-Feb-24 to the Senate committee on Finance 175 and Taxation Education 176 177 178 Read for the second time and placed ...........28-Feb-24 on the calendar: 179 180 1 amendment 181 Read for the third time and passed .................05-Mar-24 182 183 as amended Yeas 22 184 Nays 5 185 Abstains 0 186 187 188 189 Patrick Harris, 190 Secretary. 191