

1 HB181
2 135691-1
3 By Representative Ford
4 RFD: Ways and Means Education
5 First Read: 07-FEB-12

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8 SYNOPSIS: Pursuant to Act 2010-725, the Prepaid
9 Affordable College Tuition (PACT) Program was
10 extensively amended to ensure financial stability
11 for the program. A new separate PACT Board was
12 created and appropriations from the Education Trust
13 Fund were made to the program for fiscal years
14 ending September 30, 2015, and, if necessary,
15 extending through fiscal year ending 2027.

16 Existing law limits the cost of tuition for
17 certain PACT plan contracts.

18 Also under existing law, the various boards
19 of trustees of the public four-year institutions of
20 higher education and the State Department of
21 Postsecondary Education, under the governance of
22 the State Board of Education, for the public
23 two-year institutions of higher education in the
24 state establish the total cost of tuition and fees
25 for their respective institutions.

1 This bill would repeal the limit on the cost
2 of tuition for certain PACT plan contract
3 participants.

4 This bill would define the term tuition and
5 mandatory fees for the PACT program, to be the same
6 rate of the current semester the student is
7 enrolled, thereby tying PACT program payments to
8 fluctuation in tuition and fees expenses.

9 This bill would extend tuition caps to all
10 colleges and universities in the state.

11 This bill would require all public
12 institutions to limit annual increases in fees to
13 the average percentage amount such fees were
14 increased over the past 10 years.

15 This bill would restore the state's
16 commitment to pay all benefits promised to program
17 participants. PACT investments would be limited to
18 no more than 60 percent equity investments.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 Relating to the Alabama Prepaid Affordable College
25 Tuition (PACT) Program and public two-year and four-year
26 institutions of higher education; to restore the PACT Program
27 and permit the program to reopen enrollment; to amend Sections

1 16-33C-3, 16-33C-8, and 16-33C-18, Code of Alabama 1975, to
2 define tuition and mandatory fees; to extend tuition caps to
3 include any college or university in the state; to require all
4 public institutions to limit annual fee increases; to limit
5 investments to a certain mix of equity and fixed income
6 investments; to provide the state is committed to pay
7 obligations; and to repeal Section 16-33C-17, Code of Alabama
8 1975, relating to limits on the cost of tuition for certain
9 PACT plan contract participants.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 16-33C-3, 16-33C-8, and
12 16-33C-18, Code of Alabama 1975, are amended to read as
13 follows:

14 "§16-33C-3.

15 "The following terms as used in this chapter shall
16 have the meanings ascribed to them, unless the context clearly
17 indicates otherwise:

18 "(1) ACES ADMINISTRATIVE FUND. The ACES
19 Administrative Fund created in Section 16-33C-10.

20 "(2) ACES BOARD. The board of directors and trustees
21 of the ACES Trust Fund.

22 "(3) ACES PROGRAM. The Alabama College Education
23 Savings Program created under subsection (a) of Section
24 16-33C-10.

25 "(4) ACES TRUST FUND. The fiduciary trust fund
26 created in Section 16-33C-10.

1 "(5) ADMINISTRATIVE COST. Any expense of
2 administering the PACT or ACES Programs, including, but not
3 limited to, the costs associated with administering the
4 programs throughout the State Treasurer's office, and any
5 records administration expense.

6 "(6) ADMINISTRATIVE FEE. Any fee or penalty required
7 by the board to be paid by a participant in the plan.

8 "(7) CONTRACT PAYMENT. Any amount paid to the PACT
9 Trust Fund toward the purchase of a PACT contract.

10 "(8) CONTRIBUTION. Any amount paid to the ACES Trust
11 Fund for deposit into an ACES savings account.

12 "(9) CONTRIBUTOR. Any person who contributes money
13 to an ACES Program savings account on behalf of a designated
14 beneficiary and who is listed as the owner of the savings
15 account.

16 "(10) DESIGNATED BENEFICIARY. The person designated
17 at the time the PACT contract is entered into or ACES savings
18 account opened as the person who benefits from payments of
19 qualified higher education costs at eligible educational
20 institutions, or that person's replacement.

21 "(11) ELIGIBLE EDUCATIONAL INSTITUTION. An
22 institution defined in Section 529 of the Internal Revenue
23 Code of 1986, as amended, and in Section 481 of the Higher
24 Education Act of 1965 (20 U.S.C. 1988) which is eligible to
25 participate in a program under Title IV of the act.

26 "(12) INVESTMENT COST. Any expense of the PACT or
27 ACES Trust Funds, including, but not limited to, investment

1 manager fees, actuary fees, custodial fees, brokerage
2 commissions, and transactional costs.

3 "(13) LEGISLATURE. The Legislature of Alabama.

4 "(14) PACT BOARD. The board of directors and
5 trustees of the PACT Trust Fund.

6 "(15) PACT PROGRAM. The Alabama Prepaid Affordable
7 College Tuition Program created in subsection (a) of Section
8 16-33C-6.

9 "(16) PACT TRUST FUND. The fiduciary trust fund
10 created in subsection (b) of Section 16-33C-6.

11 "(17) PACT ADMINISTRATIVE FUND. The PACT
12 Administrative Fund created in subsection (c) of Section
13 16-33C-6.

14 "(18) PACT CONTRACT. A contract entered into by the
15 board and a participant in the PACT Program.

16 "(19) PLAN. The Wallace-Folsom College Savings
17 Investment Plan created under Section 16-33C-2.1 that consists
18 of the PACT Program and the ACES Program.

19 "(20) PURCHASER. A person who is obligated to make
20 contract payments in accordance with a PACT contract entered
21 into pursuant to this chapter.

22 "(21) QUALIFIED HIGHER EDUCATION COST. Any higher
23 education expense permitted under Section 529 of the Internal
24 Revenue Code of 1986, as amended, and required for the
25 enrollment or attendance of a designated beneficiary at an
26 eligible educational institution. These expenses include

1 tuition, fees, books, supplies, equipment, and, subject to
2 certain limits, room and board.

3 "(22) SAVINGS ACCOUNT. An individual ACES Trust Fund
4 account established by a contributor pursuant to this chapter
5 on behalf of a designated beneficiary in order to apply
6 distributions from the account toward qualified higher
7 education costs at eligible educational institutions.

8 "(23) SAVINGS AGREEMENT. An agreement entered into
9 between the board and a contributor establishing a savings
10 account.

11 "(24) STATE TREASURER. The State Treasurer of
12 Alabama.

13 "(25) TUITION AND MANDATORY FEES. For PACT tuition
14 and mandatory fees, shall equal the actual amount of the
15 tuition and fees at the in-state institution of higher
16 education.

17 "§16-33C-8.

18 "(a) In addition to any other requirements of this
19 chapter, the PACT board shall:

20 "(1) Make available summary information on the
21 financial condition of the PACT Program to all purchasers of
22 PACT contracts.

23 "(2) Prepare, or cause to be prepared, an annual
24 report of the PACT Program, including details regarding the
25 actuarial soundness of the program, and transmit a copy of
26 same to the Governor, the Lieutenant Governor, and the Speaker
27 of the House of Representatives. Such report shall be

1 submitted not later than the fifth legislative day of the
2 regular legislative session. Additionally, such report shall
3 be presented during annual legislative budget hearings.

4 "(3) Make all necessary and appropriate arrangements
5 with colleges and universities in order to fulfill its
6 obligations under PACT contracts.

7 "(4) Submit, before any PACT-related investment or
8 administrative contract is duly executed, a request for
9 proposals (RFP).

10 "(5) Require, before any PACT-related investment or
11 administrative contract is duly executed, such contract to be
12 approved by a majority vote of the PACT board.

13 "(6) Prepare, or cause to be prepared, a quarterly
14 report detailing the current projected funding status of the
15 PACT Program, with a copy of such report transmitted to the
16 Governor, the Lieutenant Governor, and the Speaker of the
17 House of Representatives.

18 "(7) Establish specific investment guidelines that
19 include failsafe measures designed to limit future
20 susceptibility of PACT investments to extreme market
21 fluctuations.

22 "(b) The PACT Board is authorized to enroll new
23 eligible families in the PACT program.

24 "(c) The State of Alabama is committed to pay all
25 obligations to PACT participants.

1 "(d) The PACT Board shall limit future investments
2 in the PACT portfolio of not more than 60 percent equity
3 holdings and not more than 40 percent income holdings.

4 "§16-33C-18.

5 "On behalf of all current and future postsecondary
6 students, the Legislature ~~strongly encourages~~ mandates all
7 public institutions of higher education to limit any annual
8 percentage increases in mandatory fees and tuition to the
9 average percentage amount such fees and tuition were annually
10 increased over the previous 10-year period, to the extent such
11 limitation is possible."

12 Section 2. All tuition caps shall apply to all
13 institutions of higher education including those under the
14 oversight of the board of trustees established in Sections 264
15 and 266 of the Official Recompilation of the Constitution of
16 Alabama of 1901, as amended.

17 Section 3. All laws or parts of laws which conflict
18 with this act are repealed, and specifically Section 16-33C-17
19 of the Code of Alabama 1975, is repealed.

20 Section 4. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.