

1 HB123
2 115352-2
3 By Representatives Wren, Baker (A), Clouse, Curtis, Ford,
4 Gaston, Fincher, Ison and Grimes
5 RFD: Education Appropriations
6 First Read: 12-JAN-10
7 PFD: 01/07/2010

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8 SYNOPSIS: Under current law, the Wallace-Folsom
9 College Savings Investment Plan consists of both
10 the Alabama Prepaid Affordable College Tuition
11 (PACT) Program and the Alabama College Education
12 Savings (ACES) Program. Both the PACT and ACES
13 Programs are governed by the same ten-member board
14 of directors.

15 This bill would provide that the PACT
16 Program would be governed by its own board of
17 directors and would also provide for the
18 composition and duties of such board of directors.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To provide that the Alabama Prepaid Affordable
25 College Tuition (PACT) Program would be governed by its own
26 board of directors and to provide for the composition and
27 duties of such board of directors.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 16-33C-3, 16-33C-4, 16-33C-5,
3 16-33C-6, 16-33C-7, 16-33C-8, 16-33C-10, 16-33C-11, and
4 16-33C-12 of the Code of Alabama 1975, are amended to read as
5 follows:

6 "§16-33C-3.

7 The following terms as used in this chapter shall
8 have the meanings ascribed to them, unless the context clearly
9 indicates otherwise:

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

12 (2) ACES BOARD. The board of directors and trustees
13 of the ACES Trust Fund.

14 ~~(2)~~ (3) ACES PROGRAM. The Alabama College Education
15 Savings Program created under subsection (a) of Section
16 16-33C-10.

17 ~~(3)~~ (4) ACES TRUST FUND. The fiduciary trust fund
18 created in Section 16-33C-10.

19 ~~(4)~~ (5) ADMINISTRATIVE COST. Any expense of
20 administering the PACT or ACES Programs, including, but not
21 limited to, the costs associated with administering the
22 programs throughout the State Treasurer's office, and any
23 records administration expense.

24 ~~(5)~~ (6) ADMINISTRATIVE FEE. Any fee or penalty
25 required by the board to be paid by a participant in the plan.

26 ~~(6) BOARD. The board of directors of the plan and~~
27 ~~trustees of the PACT and ACES Trust Funds.~~

1 (7) CONTRACT PAYMENT. Any amount paid to the PACT
2 Trust Fund toward the purchase of a PACT contract.

3 (8) CONTRIBUTION. Any amount paid to the ACES Trust
4 Fund for deposit into an ACES savings account.

5 (9) CONTRIBUTOR. Any person who contributes money to
6 an ACES Program savings account on behalf of a designated
7 beneficiary and who is listed as the owner of the savings
8 account.

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

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

19 (12) INVESTMENT COST. Any expense of the PACT or
20 ACES Trust Funds, including, but not limited to, investment
21 manager fees, actuary fees, custodial fees, brokerage
22 commissions, and transactional costs.

23 (13) LEGISLATURE. The Legislature of Alabama.

24 (14) PACT BOARD. The board of directors of the plan
25 and trustees of the PACT Trust Fund.

1 ~~(14)~~ (15) PACT PROGRAM. The Alabama Prepaid
2 Affordable College Tuition Program created in subsection (a)
3 of Section 16-33C-6.

4 ~~(15)~~ (16) PACT TRUST FUND. The fiduciary trust fund
5 created in subsection (b) of Section 16-33C-6.

6 ~~(16)~~ (17) PACT ADMINISTRATIVE FUND. The PACT
7 Administrative Fund created in subsection (c) of Section
8 16-33C-6.

9 ~~(17)~~ (18) PACT CONTRACT. A contract entered into by
10 the board and a participant in the PACT Program.

11 ~~(18)~~ (19) PLAN. The Wallace-Folsom College Savings
12 Investment Plan created under Section 16-33C-2.1 that consists
13 of the PACT Program and the ACES Program.

14 ~~(19)~~ (20) PURCHASER. A person who is obligated to
15 make contract payments in accordance with a PACT contract
16 entered into pursuant to this chapter.

17 ~~(20)~~ (21) QUALIFIED HIGHER EDUCATION COST. Any
18 higher education expense permitted under Section 529 of the
19 Internal Revenue Code of 1986, as amended, and required for
20 the enrollment or attendance of a designated beneficiary at an
21 eligible educational institution. These expenses include
22 tuition, fees, books, supplies, equipment, and, subject to
23 certain limits, room and board.

24 ~~(21)~~ (22) SAVINGS ACCOUNT. An individual ACES Trust
25 Fund account established by a contributor pursuant to this
26 chapter on behalf of a designated beneficiary in order to

1 apply distributions from the account toward qualified higher
2 education costs at eligible educational institutions.

3 ~~(22)~~ (23) SAVINGS AGREEMENT. An agreement entered
4 into between the board and a contributor establishing a
5 savings account.

6 ~~(23)~~ (24) STATE TREASURER. The State Treasurer of
7 Alabama.

8 "§16-33C-4.

9 (a) The ACES board shall consist of 10 members as
10 follows:

11 (1) The Lieutenant Governor, or his or her designee.

12 (2) The Executive Director of the Alabama Commission
13 on Higher Education (ACHE), or his or her designee.

14 (3) The State Treasurer.

15 (4) The Chancellor of the Alabama Department of
16 Postsecondary Education, or his or her designee.

17 (5) One person appointed by the Council of College
18 and University Presidents.

19 (6) One person appointed by the Speaker of the House
20 of Representatives.

21 (7) One person appointed by the Lieutenant Governor.

22 (8) One person appointed by the State Treasurer.

23 (9) Two persons appointed by the Governor.

24 (b) Members shall serve for terms of office of four
25 years and shall be eligible for reappointment, and shall serve
26 until a successor is appointed. Any person appointed to fill a

1 vacancy on the ACES board shall be appointed in a like manner
2 and shall serve for only the unexpired term.

3 (c) Each person so appointed shall possess
4 knowledge, skill, and experience in business or financial
5 matters commensurate with the duties and responsibilities of
6 the plan. No person holding a full-time office or position of
7 employment with the state, any county or municipality in the
8 state, any educational institution, or any instrumentality,
9 agency, or subdivision of the foregoing, shall be eligible for
10 appointment to the ACES board.

11 (d) Members of the ACES board shall serve without
12 compensation, but may be reimbursed for each day's official
13 duties of the ACES board at the same per diem and travel rate
14 as is paid the employees of the state.

15 (e) The State Treasurer shall be the chair and
16 presiding officer of the ACES board, and the State Treasurer
17 may appoint such other officers as the ACES board may deem
18 advisable or necessary. A majority of the members of the ACES
19 board shall constitute a quorum for the transaction of the
20 business of the plan.

21 "§16-33C-5.

22 In addition to the powers granted by any other
23 provision of this chapter, the ACES board and PACT board shall
24 have, as agents of the State of Alabama, the powers necessary
25 or convenient to carry out the purposes and provisions of this
26 chapter and the powers delegated by any other law of the state

1 or any executive order thereof including, but not limited to,
2 the following express powers:

3 (1) To adopt and amend bylaws.

4 (2) To adopt the rules and regulations necessary to
5 implement the provisions of this chapter either with or
6 without compliance with the state Administrative Procedure
7 Act.

8 (3) To invest as ~~it deems~~ they deem appropriate any
9 funds in the PACT Trust Fund and ACES Trust Fund in any
10 instrument, obligation, security, or property that constitutes
11 legal investments for public funds in the state, including
12 legal investments for the State Treasurer and the Alabama
13 Trust Fund, and to name and use depositories for its
14 investments and holdings.

15 (4) To execute contracts and other necessary
16 instruments.

17 (5) To contract with a purchaser under the PACT
18 Program.

19 (6) To enter into savings agreements under the ACES
20 Program.

21 (7) To contract for necessary goods and services, to
22 employ necessary personnel, and to engage the services of
23 qualified persons and entities for administrative and
24 technical assistance in carrying out the responsibilities of
25 the plan, including the PACT Trust Fund and ACES Trust Fund,
26 under terms and conditions that the PACT board or ACES board
27 deems reasonable and appropriate. All such contracts awarded

1 by the PACT board or ACES board may be for periods not
2 exceeding five years, except that professional services
3 contracts awarded by the board for the ACES Program may be for
4 periods not exceeding ten years.

5 (8) To solicit and accept gifts, including
6 bequeathments or other testamentary gifts made by will, trust
7 or other disposition, grants, loans, and other aids from any
8 personal source for deposit into the PACT or ACES Trust Fund
9 as designated by the donor, or if no such designation is made,
10 into either as determined by the PACT board or ACES board, or
11 to participate in any other way in any federal, state, or
12 local governmental programs in carrying out the purposes of
13 this chapter.

14 (9) To define the terms and conditions of and enter
15 into PACT contracts and ACES savings agreements.

16 (10) To delegate to the State Treasurer the
17 responsibilities of the day-to-day administration of the plan.

18 (11) To establish other policies, procedures, and
19 criteria necessary to implement and administer the provisions
20 of this chapter.

21 (12) To authorize the State Treasurer to approve
22 marketing material produced for the plan. Neither the state,
23 the State Treasurer, the PACT board, nor the ACES board is
24 liable for misrepresentation by a marketing agent.

25 "§16-33C-6.

26 (a) The PACT Program is established as one college
27 savings alternative under the plan whereby purchasers enter

1 into PACT contracts for the future payment of tuition and
2 mandatory fees at eligible educational institutions. The PACT
3 Program includes the PACT Trust Fund and the PACT
4 Administrative Fund created pursuant to this chapter.

5 (b) The official location of the trust fund shall be
6 the State Treasurer's office, and the facilities of the State
7 Treasurer shall be used and employed in the administration of
8 the fund including, but without limitation thereto, the
9 keeping of records, the management of bank accounts and other
10 investments, the transfer of funds, and the safekeeping of
11 securities evidencing investments. The PACT Trust Fund is
12 hereby created as the source for payment of the PACT Program's
13 obligations under PACT contracts. The amounts on deposit in
14 the PACT Trust Fund shall not constitute property of the
15 state, and the state may have no claim or interest in them.
16 Payments which are received by the PACT Program from any
17 public or private source, except those which are payments of
18 administrative fees, shall be prudently placed in the PACT
19 Trust Fund. In order to provide funds to enable the PACT
20 Program to pay amounts due under the terms of its PACT
21 contracts, there is irrevocably pledged to that purpose from
22 the PACT Trust Fund the monies necessary to pay those amounts.
23 A PACT contract and any other contract entered into by or on
24 behalf of the trust, does not constitute a debt or obligation
25 of the state, and no participant is entitled to any benefits
26 except those for which he or she contracted.

1 (c) Payments received by the PACT board from
2 purchasers on behalf of designated beneficiaries or from any
3 other source, public or private, shall be placed in the trust
4 fund, and the fund may be divided into separate accounts as
5 may be determined by the PACT board. The PACT Administrative
6 Fund is hereby created as a separate fund within the State
7 Treasurer's office for the purpose of administering the PACT
8 Program. All administrative fees received by the PACT Program
9 shall be deposited into the PACT Administrative Fund. All
10 funds in the PACT Administrative Fund are hereby irrevocably
11 pledged to the payment of administrative costs of the PACT
12 Program. Funds in the PACT Administrative Fund may be invested
13 by the State Treasurer in any investment facility allowed by
14 this chapter. Any interest and earnings from the investment of
15 funds in the PACT Administrative Fund shall be deposited to,
16 and become a part of, the PACT Administrative Fund for use as
17 authorized by this chapter. All funds in the PACT
18 Administrative Fund at the end of each fiscal year of the
19 State of Alabama shall remain in the PACT Administrative Fund
20 and be automatically carried forward and available to be
21 appropriated by the Alabama Legislature for the administration
22 of the PACT Program.

23 (d) Gross earnings on PACT Trust Fund principal may
24 be directly used by the PACT board to satisfy investment costs
25 of the PACT Trust Fund and to supplement balances in the PACT
26 Administrative Fund to cover outstanding administrative costs
27 of the PACT Program as the board deems necessary. Gross

1 earnings on the principal of the PACT Trust Fund remaining
2 after payment of investment costs and deposits into the PACT
3 Administrative Fund as authorized herein shall be deposited
4 into, and become a part of, the principal of the PACT Trust
5 Fund. In acquiring, investing, reinvesting, exchanging,
6 retaining, selling, and managing property of the PACT Trust
7 Fund, the PACT board and any person or investment manager to
8 whom the PACT board delegates any of its investment authority
9 shall exercise the judgment and care under the circumstances
10 then prevailing which persons of prudence, discretion, and
11 intelligence exercise in the management of their own affairs,
12 not in regard to speculation but to permanent disposition of
13 funds, considering the probable income as well as the safety
14 of their capital. When acting within this standard of care, no
15 PACT board member, or any person or investment manager to whom
16 the PACT board delegates any of its investment authority,
17 shall be held personally liable for losses suffered by the
18 PACT Program on investments made pursuant to this chapter.

19 (e) The PACT board shall obtain appropriate
20 actuarial assistance to establish, maintain, and certify a
21 fund sufficient to defray the obligation of the PACT Trust
22 Fund, and shall annually evaluate or cause to be evaluated,
23 the actuarial soundness of the PACT Trust Fund. After that
24 determination has been made, all monies on deposit in the PACT
25 Trust Fund, up to and including the amount of the future
26 obligations, shall remain on deposit in the PACT Trust Fund.
27 If the PACT board perceives a need for additional assets in

1 order to preserve actuarial soundness of the PACT Trust Fund,
2 it may adjust the terms of subsequent prepaid tuition
3 contracts to ensure the soundness.

4 (f) Property and income of the PACT Trust Fund and
5 PACT Administrative Fund shall be exempt from all taxation by
6 the state and by all of its political subdivisions.

7 "§16-33C-7.

8 (a) Each PACT contract shall include, but shall not
9 be limited to, the following terms:

10 (1) The amount and the number of contract payments
11 required from a purchaser on behalf of a designated
12 beneficiary.

13 (2) The terms and conditions under which purchasers
14 shall remit contract payments, including, but not limited to,
15 the date or dates upon which each contract payment shall be
16 due.

17 (3) Provisions for late payment charges and for
18 default.

19 (4) Provisions for withdrawal from the PACT Program,
20 including refunds and any penalty therefor.

21 (5) The name and date of birth of the designated
22 beneficiary on whose behalf a contract is drawn.

23 (6) Terms and conditions under which another person
24 may be subsequently substituted for the designated beneficiary
25 originally named.

26 (7) The name of the person entitled to terminate the
27 PACT contract, the terms and conditions under which a PACT

1 contract may be terminated, and the name of the person
2 entitled to any refund due as a result of termination of a
3 PACT contract.

4 (8) The period of time during which the designated
5 beneficiary must claim benefits through the PACT Program.

6 (9) The number of credit hours contracted for by the
7 purchaser.

8 (10) All other rights and obligations of the
9 purchaser and the PACT Program.

10 (11) Such other terms, conditions, and provisions as
11 the board considers in its sole discretion to be necessary or
12 appropriate.

13 (b) In the event a designated beneficiary is
14 accepted by and elects to attend a college or university
15 outside the State of Alabama, the PACT board shall, upon
16 receipt of evidence of admission to said college or
17 university, remit contract benefits pursuant to the terms of
18 the PACT contract.

19 (c) A PACT contract shall also specifically provide
20 that, if after ten years following the designated
21 beneficiary's college entrance date or the actual entrance
22 date of a designated beneficiary who is an accelerated
23 student, neither the PACT contract has been terminated nor the
24 designated beneficiary's rights under the contract exercised,
25 the PACT board, after making reasonable effort to locate the
26 purchaser, shall presume the contract purchase amount
27 unclaimed and abandoned property, and thereafter administered

1 in accordance with the Alabama Uniform Disposition of
2 Unclaimed Property Act, Article 2 of Chapter 12 of Title 35.

3 (d) Nothing in this chapter, nor in a PACT contract
4 entered into pursuant to this chapter, shall be construed as a
5 promise or guarantee by the PACT board or the state that: A
6 person shall be admitted to a particular college or
7 university; or that a person shall be allowed to continue to
8 attend a college or university after having been admitted; or
9 that a person shall be graduated from a college or university;
10 or that Alabama resident status shall be conferred. Each state
11 college or university shall establish its own residency
12 requirements for matriculation.

13 (e) The state or any state agency, or any county, or
14 municipality, or any other employer in the state is hereby
15 authorized, by contract, or otherwise, to agree with any
16 employee to remit contract payments through payroll deduction
17 made by the appropriate official of the state, state agency,
18 political subdivision, or other employer under the terms of an
19 accepted PACT contract.

20 "§16-33C-8.

21 In addition to any other requirements of this
22 chapter, the PACT board shall:

23 (1) Make available summary information on the
24 financial condition of the PACT Program to all purchasers of
25 PACT contracts.

26 (2) Prepare, or cause to be prepared, an annual
27 ~~accounting~~ report of the PACT Program and transmit a copy of

1 same to the Governor, the Lieutenant Governor, ~~and~~ the Speaker
2 of the House of Representatives, and the Chair of the Alabama
3 PACT Program Advisory Task Force. Such report shall be
4 submitted not later than the fifth legislative day of the
5 regular legislative session. Additionally, such report shall
6 be presented during annual legislative budget hearings.

7 (3) Make all necessary and appropriate arrangements
8 with colleges and universities in order to fulfill its
9 obligations under PACT contracts.

10 (4) Submit, before any PACT-related investment or
11 administrative contract is duly executed, a Request for
12 Proposals (RFP).

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

16 (6) Prepare, or cause to be prepared, a quarterly
17 report detailing the current projected funding status of the
18 PACT Program and transmit a copy of the same to the Governor,
19 the Lieutenant Governor, the Speaker of the House of
20 Representatives, and the Chair of the Alabama PACT Program
21 Advisory Task Force.

22 (7) Establish specific investment guidelines that
23 include failsafe measures designed to limit future
24 susceptibility of PACT investments to extreme market
25 fluctuations.

26 "§16-33C-10.

1 (a) The ACES Program is established as one college
2 savings alternative under the plan whereby contributors open
3 savings accounts according to savings agreements for the
4 payment of qualified higher education costs for a designated
5 beneficiary at eligible educational institutions. The ACES
6 Program includes the ACES Trust Fund, the ACES Administrative
7 Fund, and the ACES Opportunity Enhancement Fund created
8 pursuant to this chapter.

9 (b) The ACES Trust Fund is hereby created and shall
10 be comprised of separate savings accounts held in segregated
11 accounts as established by savings agreements. Funds
12 contributed to the savings accounts established pursuant to
13 the ACES Program are held in trust by the ACES board for the
14 sole benefit of the contributor and designated beneficiary.
15 Contributions and investment earnings to the savings account
16 may be used for any qualified higher education costs of the
17 designated beneficiary. The amounts on deposit in the ACES
18 Trust Fund shall not constitute property of the state, and the
19 state may have no claim or interest in them. Contributions
20 which are received by the ACES Program from any public or
21 private source, except those which are payments of
22 administrative fees, shall be placed in the ACES Trust Fund. A
23 savings agreement, or any other agreement entered into by or
24 on behalf of the ACES Program or ACES Trust Fund, does not
25 constitute a debt or obligation of the state, and no
26 contributor is entitled to any amounts except for those

1 amounts on deposit in or accrued to the respective savings
2 account.

3 (c) The ACES Administrative Fund is hereby created
4 as a separate fund within the State Treasurer's office for the
5 purpose of administering the ACES Program. The ACES
6 Administrative Fund shall accept, deposit, and disburse funds
7 for the purpose of administering the ACES Program. All funds
8 in the ACES Administrative Fund are hereby irrevocably pledged
9 to the payment of the administrative costs of the ACES
10 Program. Funds in the ACES Administrative Fund may be invested
11 by the State Treasurer in any investment facility allowed by
12 this chapter. Any interest and earnings from the investment of
13 funds in the ACES Administrative Fund shall be deposited to,
14 and become a part of, the ACES Administrative Fund for use as
15 authorized by this chapter. All funds in the ACES
16 Administrative Fund at the end of each fiscal year of the
17 State of Alabama shall remain in that administrative fund and
18 be automatically carried forward and available to be
19 appropriated by the Alabama Legislature for the administration
20 of the ACES Program.

21 (d) The State Treasurer is authorized to retain the
22 services of one or more persons as staff members in order to
23 implement and manage the ACES Program. Any expenses incurred
24 shall be paid from the ACES Administrative Fund.

25 (e) Gross earnings on ACES Trust Fund corpus may be
26 directly used by the ACES board to satisfy investment costs of
27 the ACES Trust Fund and to supplement balances in the ACES

1 Administrative Fund to cover outstanding administrative costs
2 of the ACES Program as the ACES board deems necessary. Gross
3 earnings on the principal of the ACES Trust Fund remaining
4 after payment of investment costs and deposits into the ACES
5 Administrative Fund as authorized herein shall be deposited
6 into, and become a part of, the corpus of the ACES Trust Fund.
7 In acquiring, investing, reinvesting, exchanging, retaining,
8 selling, and managing property of the ACES Trust Fund, the
9 ACES board, and any person or investment manager to whom the
10 ACES board delegates any of its investment authority, shall
11 exercise the judgment and care under the circumstances then
12 prevailing which persons of prudence, discretion, and
13 intelligence exercise in the management of their own affairs,
14 not in regard to speculation but to permanent disposition of
15 funds, considering the probable income as well as the safety
16 of their capital. When acting within this standard of care, no
17 ACES board member, or any person or investment manager to whom
18 the ACES board delegates any of its investment authority,
19 shall be held personally liable for losses suffered by the
20 ACES Program on investments made pursuant to this chapter.

21 (f) Property and income of the ACES Trust Fund, ACES
22 Administrative Fund, and the ACES Opportunity Enhancement Fund
23 shall be exempt from all taxation by the state and by all of
24 its political subdivisions.

25 (g) The ACES Opportunity Enhancement Fund is created
26 as a separate fund within the State Treasurer's office for the
27 purpose of enhancing and providing higher education

1 opportunities and programs, as the ACES board deems necessary
2 and appropriate. The fund may receive contributions from
3 individuals, private business entities, public corporations,
4 and contractual agreements with service providers. The funds
5 shall be utilized in the discretion and solely at the
6 direction of the ACES board. The amounts on deposit in the
7 fund shall not constitute property of the state, and the state
8 shall have no claim or interest in them.

9 "§16-33C-11.

10 (a) Each savings agreement made pursuant to the ACES
11 Program shall include, but shall not be limited to, the
12 following terms and provisions:

13 (1) The maximum and minimum contributions allowed on
14 behalf of a designated beneficiary.

15 (2) Provisions for withdrawals, refunds, transfers,
16 and any penalties.

17 (3) The terms and conditions for remitting
18 contributions, including, but not limited to, that
19 contributions may be made in cash only.

20 (4) The name, address, date of birth, and Social
21 Security number of the designated beneficiary on whose behalf
22 the savings account is opened.

23 (5) Terms and conditions for designation of a
24 substitute beneficiary.

25 (6) Terms and conditions for termination of the
26 account, including any refunds, withdrawals, or transfers, and
27 applicable penalties, the name of the person entitled to any

1 refund due as a result of termination, and the name of the
2 person entitled to terminate the account.

3 (7) The time period during which the designated
4 beneficiary is required to use benefits from the ACES Program.

5 (8) All other rights and obligations of the
6 contributor and the ACES Program.

7 (9) Any other terms and conditions which the board
8 deems necessary or appropriate, including those necessary to
9 conform the ACES Program and ACES Trust Fund to the
10 requirements of Section 529 of the Internal Revenue Code of
11 1986, as amended, or other applicable federal law.

12 (b) Each savings agreement made pursuant to this
13 chapter shall provide all of the following:

14 (1) If, after the specified time period determined
15 by the ACES board under which the designated beneficiary is
16 required to use benefits from the ACES Program, the savings
17 agreement has not been terminated nor the designated
18 beneficiary's rights exercised, the ACES board, after making
19 reasonable effort to contact the contributor, shall presume
20 the savings account monies unclaimed and abandoned property,
21 and thereafter administered in accordance with the Alabama
22 Uniform Disposition of Unclaimed Property Act, Article 2 of
23 Chapter 12 of Title 35.

24 (2) Participation in the ACES Program does not
25 guarantee that sufficient funds will be available to cover
26 qualified higher education expenses of a designated
27 beneficiary.

1 (3) Contributions shall be made exclusively for the
2 purpose of meeting the qualified higher education expenses of
3 a designated beneficiary at eligible educational institutions.

4 (c) Nothing in this chapter shall make any
5 provisions or warranties except as provided in savings
6 agreements, including that a person shall be admitted to,
7 allowed to continue in, graduated from a college or
8 university, or conferred Alabama resident status.

9 (d) The state or any state agency, county,
10 municipality, or any other employer in the state is hereby
11 authorized, by contract, or otherwise, to agree with any
12 employee to remit contributions through payroll deduction made
13 by the appropriate official of the state, state agency,
14 political subdivision, or other employer under the terms of a
15 savings agreement in the ACES Program.

16 "§16-33C-12.

17 In addition to any other requirements of this
18 chapter, the ACES board shall:

19 (1) Make available summary information on the ACES
20 Program to all contributors to savings agreements.

21 (2) Prepare, or cause to be prepared, an annual
22 accounting of the ACES Program and transmit a copy of same to
23 the Governor, the Lieutenant Governor, and the Speaker of the
24 House of Representatives.

25 (3) Make all necessary and appropriate arrangements
26 with colleges and universities in order to fulfill its
27 obligations under savings agreements.

1 Section 2. Section 16-33C-4.1 is hereby added to the
2 Code of Alabama 1975, to read as follows:

3 §16-33C-4.1.

4 (a) The PACT board shall consist of 15 members as
5 follows:

6 (1) The Director of Finance.

7 (2) The State Treasurer.

8 (3) Two persons appointed by the Governor.

9 (4) One person appointed by the Speaker of the House
10 of Representatives.

11 (5) One person appointed by the Lieutenant Governor.

12 (6) One person appointed by the Senate President Pro
13 Tempore.

14 (7) The Chair of the Alabama PACT Program Advisory
15 Task Force.

16 (8) The President of the Council of College and
17 University Presidents or his or her designee.

18 (9) The Chancellor of the Alabama Community College
19 System or his or her designee.

20 (10) The Executive Director of the Alabama
21 Commission on Higher Education.

22 (11) One member of the House of Representatives
23 appointed by the Speaker of the House of Representatives.

24 (12) One member of the Senate appointed by the
25 Lieutenant Governor.

26 (13) The Chief Executive Officer of the Retirement
27 Systems of Alabama or his or her designee.

1 (14) The President of the Alabama Association of
2 Independent Colleges and Universities or his or her designee.

3 (b) Members shall serve for terms of office of four
4 yeas and shall be eligible for reappointment, and shall serve
5 until a successor is appointed. Any person appointed to fill a
6 vacancy on the PACT board shall be appointed in a like manner
7 and shall serve for only the unexpired term.

8 (c) With the exception of those members serving on
9 the PACT board by virtue of their respective offices, a person
10 appointed to the PACT board shall be an expert in the field of
11 investments, market analysis, or financial planning, or on
12 similar matters commensurate with the duties and
13 responsibilities of the plan. Additionally, all members of the
14 PACT board have the fiduciary responsibility to devise and
15 implement an investment strategy designed to maximize
16 investment returns in a manner that correlates with future
17 projected benefit payouts.

18 (d) Members of the PACT board shall serve without
19 compensation, but may be reimbursed for each day's official
20 duties of the PACT board at the same per diem and travel rate
21 as is paid the employees of the state.

22 (e) The State Treasurer shall be the chair and
23 presiding officer of the PACT board, and the State Treasurer
24 may appoint such other officers as the PACT board may deem
25 advisable or necessary. A majority of the members of the PACT
26 board shall constitute a quorum for the transaction of the
27 business of the plan.

1 Section 3. The provisions of this act are severable.
2 If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

5 Section 4. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.