

1 HB228
2 114606-3
3 By Representatives Ford and Taylor
4 RFD: Education Appropriations
5 First Read: 12-JAN-10

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8 SYNOPSIS: The Prepaid Affordable College Tuition
9 program which was enacted in 1989 has provided an
10 opportunity for the purchase of PACT contracts to
11 provide for future college tuition payments to be
12 made. The program has provided these payments for
13 each year since inception. The PACT Board has
14 suspended new entrants into the program and has
15 expressed concerns about the ability to meet the
16 contractual obligations for those participants
17 still in the program. Since the PACT program was
18 enacted by the Legislature and the PACT Board is an
19 agency of the state, the payment of contractual
20 obligations of this state agency is an issue that
21 should be addressed by this Legislature. This bill
22 will provide for the funding to offset any
23 shortfall if the assets of the program are
24 insufficient to meet the obligations.

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26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To provide for additional funds to be appropriated
4 from the Education Trust Fund to the Prepaid Affordable
5 College Tuition program under certain conditions until there
6 are sufficient funds to meet the future obligations for
7 existing PACT contracts and to repeal Section 16-33c-9 Code of
8 Alabama 1975 as amended relating to the disposition of funds
9 upon the dissolution of the PACT Program.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Definitions:

12 APSCA -- The Alabama Public School and College
13 Authority, a corporation authorized by Section 16-16-3 Code of
14 Alabama 1975 as amended to issue bonds for educational
15 purposes in Alabama.

16 Base Year Debt Service -- The debt service for the
17 fiscal year ending September 30, 2013 for bonds issued by the
18 APSCA which are paid from certain tax receipts which accrue to
19 the Education Trust Fund. This amount for Fiscal Year 2013
20 according to the current debt service schedule is
21 \$189,515,980.00.

22 Current Debt Service Schedule -- The schedules for
23 debt service for bonds issued by the APSCA as such schedules
24 existed on January 1, 2010. It does not include any additional
25 payments which might be due to any refinanced bonds or
26 additional bonds issued after January 1, 2010 which are to be
27 repaid from a tax source which accrues to the Education Trust

1 Fund. It also does not include the debt service for any bonds
2 described under Section 16-16-14 Code of Alabama 1975 as
3 amended and commonly referred to as "pool bonds."

4 PACT Program -- The Prepaid Affordable College
5 Tuition program established under Section 16-33c-6 Code of
6 Alabama 1975 as amended whereby purchasers enter into
7 contracts for the future payment of tuition and mandatory fees
8 at eligible educational institutions. The PACT program
9 includes the PACT Trust Fund which is the source of payments
10 of the obligations of the PACT program under the PACT
11 contracts.

12 Section 2. The Legislature hereby declares that the
13 PACT program which is administered by an agency created by the
14 Legislature has been a successful program providing a valuable
15 service for those individuals trying to prepare for future
16 higher educational expenses. However, the PACT Trust Fund may
17 have insufficient assets to meet all future obligations. Since
18 the obligations of the PACT program were authorized by
19 statute, those obligations should be honored by the State of
20 Alabama.

21 Section 3. Beginning in the fiscal year ending
22 September 30, 2014 there is hereby annually appropriated from
23 the Education Trust Fund to the PACT Trust Fund an amount
24 equal to the difference between APSCA base year debt service
25 and the APSCA debt service for the then current fiscal year.
26 If the difference between the base year debt service and the
27 then current fiscal year debt service is less than zero then

1 no appropriation shall be made. These funds shall be invested
2 by the PACT Board and used to meet tuition and fee obligations
3 of the PACT Trust Fund. The appropriations shall continue from
4 year to year until the PACT fund has sufficient assets to meet
5 all of the obligations for existing PACT contracts only. The
6 PACT board shall not reopen the program for new participants
7 and no funds appropriated herein may be used for contracts not
8 in existence on the effective date of this act.

9 Section 4. The PACT Board shall continue to provide
10 for an annual audit of the assets and obligations of the PACT
11 fund. In any year in which the actuarial audit of the PACT
12 fund demonstrates that the assets are sufficient to fund the
13 remaining benefits obligations, the PACT Board shall issue a
14 certification to the Legislature stating that sufficient
15 assets are in the fund and that additional appropriations are
16 no longer required. Upon the receipt of the certification the
17 appropriation requirement in Section 2 above shall terminate
18 for any subsequent fiscal year. Any funds in the PACT Trust
19 Fund remaining after the payment of all of the obligations of
20 the fund shall be transferred to the Education Trust Fund in
21 the fiscal year immediately following the year in which the
22 last obligations are met.

23 Section 5. Section 16-33c-9 Code of Alabama 1975 is
24 hereby repealed.

25 Section 6. The provisions of this act are severable.
26 If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part
2 which remains.

3 Section 7. This act shall become effective
4 immediately upon its passage and approval by the Governor or
5 upon its otherwise becoming a law.