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

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

Also under existing law, the various boards of trustees of the public four-year institutions of higher education and the State Department of Postsecondary Education, under the governance of the State Board of Education, for the public two-year institutions of higher education in the state establish the total cost of tuition and fees for their respective institutions.
This bill would repeal the limit on the cost of tuition for certain PACT plan contract participants.

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

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

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

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

A BILL

TO BE ENTITLED

AN ACT

Relating to the Alabama Prepaid Affordable College Tuition (PACT) Program and public two-year and four-year institutions of higher education; to restore the PACT Program and permit the program to reopen enrollment; to amend Sections
16-33C-3, 16-33C-8, and 16-33C-18, Code of Alabama 1975, to define tuition and mandatory fees; to extend tuition caps to include any college or university in the state; to require all public institutions to limit annual fee increases; to limit investments to a certain mix of equity and fixed income investments; to provide the state is committed to pay obligations; and to repeal Section 16-33C-17, Code of Alabama 1975, relating to limits on the cost of tuition for certain PACT plan contract participants.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§16-33C-3.

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

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

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

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

"(4) ACES TRUST FUND. The fiduciary trust fund created in Section 16-33C-10."
"(5) ADMINISTRATIVE COST. Any expense of administering the PACT or ACES Programs, including, but not limited to, the costs associated with administering the programs throughout the State Treasurer's office, and any records administration expense.

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

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

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

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

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

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

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

"(13) LEGISLATURE. The Legislature of Alabama.

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

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

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

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

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

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

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

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

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

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

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

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

"§16-33C-8.

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

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

"(2) Prepare, or cause to be prepared, an annual report of the PACT Program, including details regarding the actuarial soundness of the program, and transmit a copy of same to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives. Such report shall be
submitted not later than the fifth legislative day of the regular legislative session. Additionally, such report shall be presented during annual legislative budget hearings.

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

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

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

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

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

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

"(c) The State of Alabama is committed to pay all obligations to PACT participants.
"(d) The PACT Board shall limit future investments in the PACT portfolio of not more than 60 percent equity holdings and not more than 40 percent income holdings.

"§16-33C-18.

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

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

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

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