SYNOPSIS: Under existing law enacted in 2010, specified sums of money were appropriated over a period of years from the Educational Trust Fund to the Alabama Prepaid Affordable College Tuition (PACT) Program to make the program fully actuarially funded. Part of that law specifically encouraged the PACT Board to make financially beneficial changes to PACT rules, policies, and procedures as long as those rules did not violate the contractual relationship between a PACT purchaser and the PACT Board. The Alabama Supreme Court held that when it was subsequently determined the 2010 changes did not make the PACT Program fully actuarially funded, this provision prevented the PACT Board from entering into an agreement with PACT purchasers who were part of a class action against the board that would have given the purchaser the right to choose to have the benefits
paid under the program at the 2010 level or have
the amount they had contributed returned.

This bill would amend and supplement the
2010 law and would also repeal related provisions
and would give the PACT Board specific authority to
resolve the actuarial deficit with PACT purchasers
and beneficiaries.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Prepaid Affordable College Tuition
(PACT) Program, to amend Sections 16-33C-16 and 16-33C-20 of
the Code of Alabama 1975, retroactive to their date of
enactment; to add Section 16-33C-23 to the Code of Alabama
1975; to repeal Section 16-33C-17 of the Code of Alabama 1975,
retroactive to its date of enactment; to provide that payments
of tuition and mandatory fees by the PACT Program to instate
public institutions of higher education between the effective
date of Act 2010-725 and the effective date hereof shall be
deemed full payment; to repeal Section 16-33C-19 of the Code
of Alabama 1975, retroactive to its date of enactment; and to
expressly grant the PACT Board all necessary authority to
pursue solutions to any actuarial deficit in the PACT Trust
Fund.
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-33C-16 and 16-33C-20 of the Code of Alabama 1975, are amended to read as follows:

"§16-33C-16.

(a) In addition to the appropriations made in Section 16-33C-14 and Section 16-33C-15, there is annually appropriated from the Education Trust Fund to the PACT Trust Fund the following amounts in the following fiscal years:

"(1) For the fiscal year ending 2016 -- $10,000,000
"(2) For the fiscal year ending 2017 -- $20,000,000
"(3) For the fiscal year ending 2018 -- $20,000,000
"(4) For the fiscal year ending 2019 -- $13,000,000

(b) These appropriations, along with the appropriations made in Section 16-33C-14 and Section 16-33C-15, will make the PACT Program 100 percent fully funded, according to the actuarial professional retained by the PACT board.

"§16-33C-20.

"In the event that the PACT Program's Board of Directors receives an actuarial report certifying that any appropriation made in Section 16-33C-14, Section 16-33C-15, or Section 16-33C-16 is no longer necessary for the PACT Program to be fully funded, the PACT Program's Board of Directors shall certify to the Legislature that no future appropriations are necessary."
Section 2. Section 16-33C-23 is added to the Code of Alabama 1975, to read as follows:

§16-33C-23.

The PACT Board is expressly authorized to negotiate, accept, and implement a legally binding resolution with PACT purchasers and beneficiaries to address any actuarial deficit in the PACT Trust Fund, which includes all powers granted elsewhere in this chapter and all other powers necessary or convenient under this section.

Section 3. Section 16-33C-17 of the Code of Alabama 1975, is hereby repealed. This repeal is declared to be remedial and curative and is retroactive to April 30, 2010; provided, however, any payments of mandatory fees or tuition per credit hour made by the PACT Program to any instate public institutions of higher education between the effective date of Act 2010-725 and the effective date hereof shall be deemed full payment of such mandatory fees or tuition per credit hour on behalf of the beneficiary of the PACT Contract.

Section 4. Section 16-33C-19 of the Code of Alabama 1975, is hereby repealed. This repeal is declared to be remedial and curative and is retroactive to April 30, 2010.

Section 5. The foregoing amendments of Sections 16-33C-16 and 16-33C-20 of the Code of Alabama 1975, are declared remedial and curative and are retroactive to April 30, 2010.
Section 6. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.