

PACT STUDENTS DESERVE ACTION BY LEGISLATURE

Media Release: by Kay Ivey, State Treasurer, May 13, 2009

On behalf of PACT purchasers, Parents, Grandparents and the PACT Board I come to underscore the work by many Legislators and Senators that continues -- it just must be completed for PACT by Friday.

To keep PACT functioning to pay tuition for students currently enrolled in PACT, the Senate (and Legislature) has to pass some form of official authorization Thursday or Friday so the PACT Board has another option to consider when it meets May 20, 1 pm, State Capitol, 2nd Floor, Archives Room.

The PACT was created by the Alabama Legislature and only it can change the PACT Law.

The Pact Board operates only within the current--though outdated -- law that originated PACT in 1990 and the rules and regulations that govern 529 college savings plans. Absent authorization by the legislature, the PACT Board will be extraordinarily limited in its options, even though at its March 24, 2009 Board Meeting the Board members--all of us--voted unanimously to "keep Pact open". Lt. Gov. Folsom 5 times stated the Senate would fix this.

There are two actions the Legislature can take during the final two days of this Legislative Session: 1. Amend/Substitute HB747 to provide just a funding mechanism for PACT with no appropriations to be made in 2010; appropriations to be made in Oct, 2011; or 2. Pass a strongly worded Resolution that strongly expresses the firm intent and support of the Legislature to find a solution during the 2010 Legislative Session. (Copy of recommended language available).

Absent legislation this session being passed or the absence of this empowerment to the Pact Board in the form of a strongly worded resolution, the PACT Board under current law has but few options.

In a May 11 Associated Press Article, Senators admit they have not been able to pass a bill (six bills have been before the Senate; only one is active, HB747), maybe they could pass a resolution. This same article stated even

Governor Riley last week supported passing a resolution as maybe a fail safe back-up plan.

Resolutions are not legally binding; nor do they carry the weight of the law; but maybe, just maybe the courts will be lenient and accept a strongly worded resolution from the Alabama Legislature stating its strong support and intent that the Pact Program be continued and that the Legislature of the State of Alabama deems this course of action to be prudent in accord with the statutory responsibility of the PACT Board.

Even Monday May 11, in a conference call of Pact Committee: Lt. Gov. Folsom, Treasurer Ivey, and Chancellor Byrne, Lt. Gov. Folsom assured us he and Senator Bedford are still actively working on amendments and/or substitutions for HB747; there is still time, and this bill can pass. We are working to pass something this session he stated.

The Senate is fully capable of achieving what it wishes to achieve. When the Senate wants a certain bill to pass or die, it does. If the Senate truly wants the Pact program to survive, even on life support, it will take action May 14 and May 15. It's important for parents and PACT purchasers and PACT Board to know the Senate leadership is working hard.

It is amazing that so many influential state officials, the Governor, the Lt. Governor, the Speaker, Senate Sponsors, and House sponsors of bills, all have repeatedly stated, "This is a moral obligation."

And yet, many say, "there's plenty of money in the Pact account; just liquidate assets to pay the tuition costs as needed; and later, maybe the Legislature will pass legislation in the next regular session of the Legislature".

The Pact Board which is legally responsible for the proper administration of PACT must and does operate within the law, the prudent man rule, and other financially binding rules and regulations. It does not have the flexibility of just hoping, waiting and maybe...The Board has to treat all PACT enrollees fairly.

Therefore, absent Legislation, and absent maybe a strongly worded Resolution, the Pact Board has few choices to

consider May 20. The Alabama Legislature can and should
TAKE ACTION NOW to provide more options for the PACT
Program. I am optimistic they can and will.

I trust this update and call to action is also helpful to
Parents and PACT purchasers.