

**THE ALABAMA PREPAID AFFORDABLE COLLEGE TUITION PROGRAM  
MEETING OF THE BOARD OF DIRECTORS**

February 24, 2010

12:30 p.m.

**MINUTES**

**Present:**

Chairman Kay Ivey  
Mr. Garry Sasnette for Lt. Governor Jim Folsom  
Mr. Don Edwards for Chancellor Freida Hill  
Dr. Gregory Fitch  
Mr. Willie Huff  
Mr. Tom Broughton  
Mr. Daniel Hughes

**Others Present include:**

Ms. Daria Story, Assistant Treasurer  
Ms. Brenda Emfinger, College Savings Programs Director  
Ms. Pam Stevenson, Assistant Director, College Savings Programs  
Mr. Mike Manasco, Treasury Legal Counsel  
Ms. Annoesjka West, Callan Associates  
Mr. Wade Sansbury, Mauldin & Jenkins

Pursuant to written and public notice, a meeting of the Board of Directors of the PACT Program was held in the Auditorium in the State Capitol February 24, 2010.

**Agenda Item I.**

The meeting was called to order by Chairman Kay Ivey at 12:30 p.m. Roll was taken and a quorum was present. Chairman Ivey requested moving the "decision items" on the Agenda to be presented before the executive session. It was the consensus of the Board to do so.

**Agenda Item II.**

The minutes of the December 29, 2009, Board meeting were presented. A motion was made by Mr. Hughes, seconded by Mr. Huff for approval. The minutes were unanimously approved.

**Agenda Item IV. (F)**

Mr. Hughes reported for the Task Force that progress had been made working for a solution to provide PACT funding to pay benefits for all beneficiaries. He stated that many people had come together in a bipartisan effort to work towards legislation that provided a solution. He commended the Legislature and the Savealabamapact group for devoting their time and effort. Mr. Hughes offered a resolution which endorses the efforts and legislation to meet payment of PACT benefits for all participants. A motion was made by Mr. Broughton, seconded by Mr. Huff for approval. With Dr. Fitch abstaining, the motion carried.

**Agenda Item V. (A.)**

Chairman Ivey provided information for the board's consideration concerning the selection of a provider for payment processing services. She explained that a Request for Proposal had been issued and evaluated. She provided information prepared by staff with an analysis of proposals received from Regions, Compass, Sterling and BB&T. It was noted by Mr. Hughes that Regions had the lowest bid and had performed satisfactorily in the past. He then made a motion to approve the resolution to contract with Regions Bank for payment processing services. The motion was seconded by Mr. Huff with unanimous approval.

Mr. Sasnette asked for consideration of a request from Lt. Governor Folsom. He stated that Governor Folsom asked for the Board to consider placing the savealabamapact.com information on regularly scheduled PACT mailings. Ms. Ivey asked Mr. Manasco if the Attorney General's

opinion allowed for this. Mr. Manasco explained that the opinion had stated that the Board could make a decision to do so if they believed that it would serve a good public purpose. After discussion, a motion was made by Mr. Sasnette to include savealabamapact.com information on future PACT mailings. Mr. Hughes seconded the motion. Dr. Fitch then offered an amendment to the motion that would state that savealabamapact's website address would be provided on future PACT mailings as long as this was not associated with extra materials or increased cost. A motion was then made by Mr. Hughes to approve the motion as amended. It was seconded by Mr. Broughton with unanimous approval.

### **Agenda Item III.**

Mr. Hughes made a motion to enter into Executive Session to discuss pending litigation. The motion was seconded by Mr. Broughton and on voice vote, all members voted affirmative. Mr. Manasco, legal counsel, advised that there could be no deliberations during executive session and advised the Chair of the need to announce whether the Board would reconvene following executive session. Chairman Ivey stated that the Board would reconvene at approximately 1:30 p.m.

At 1:30 p.m. the Board reconvened the meeting.

### **Agenda Item IV. (A.)**

Ms. Emfinger provided summary program information.

### **Agenda Item IV. (B.)**

Mr. Sansbury, representing Mauldin & Jenkins, provided a review of the 2009 audited financial statements. He noted that it was a clean opinion with no findings. The report is attached for reference.

### **Agenda Item IV. (C.)**

Callan consultant, Annoesjka West, discussed investment performance and asset allocation. Ms. West began with an overview of Callan's 2010 10-year capital market expectations. She stated that the past decade had been difficult for investors with two recessions, the last being the worst since the Great Depression. This has impacted long term performance causing most returns to be negative or just slightly positive. However, there has been improvement since 2008. Unemployment and the housing market continue to be issues even though technically with two quarters of positive GDP growth, we are out of the recession. Because of these problems, Callan believes that it will take longer for the economy to recover. Returns were very good in 2009 which diminishes Callan's expectations for returns going forward.

Ms. West explained that the newly adopted target asset allocation would be reflected in the next quarterly report as most of the changes were implemented at the end of 2009. The newly adopted target asset allocation is based on the Board's decision to reduce equity exposure to 20%.

The return for the quarter was 2.75% against the benchmark of 3.75%. Most of the difference in results was due to the transition of assets to the new allocation during the 3<sup>rd</sup> week of December. Over the previous year, the return was 24.13% where managers as a group added value. She gave the value of trust fund assets as \$503,790,790, down from the previous quarter of \$526,070,455 due to withdrawals to pay tuition benefits and other program expenses. Mr. Hughes asked how the trust fund compared to other similar funds within the Callan database. Ms. West explained that the PACT Trust Fund outperformed 83% of the other public funds in Callan's database in 2009.

Ms. West then reviewed manager performance, noting that the number of fund managers had been reduced from nine to four. Rhumblin, the indexed equity manager, slightly underperformed due to the change in their benchmark from the Russell 1000 to the Russell 3000. Principal Global Investors outperformed the benchmark by 50 basis points. Both Sterne Asset Management and Western Asset Management outperformed their indexes. The report is attached for reference.

Ms. West then provided updated performance information. She stated that the market value was slightly reduced because of the withdrawal of funds to pay benefits and expenses. She also reminded the Board that Sterne and Western had two separate accounts with different mandates.

**Agenda Item IV. (D.)**

Mr. Manasco reviewed the pending legislation, which is attached for reference. He stated that HB228 and SB 162 seemed to be the most viable. Mr. Hughes agreed and discussed with the board, the PACT Actuary's analysis of this bill on the funded status of the Trust Fund. The study is attached for reference.

**Agenda Item IV. (E.)**

Mr. Manasco discussed the pending law suits. The Perdue case is on mandamus appeal to the Supreme Court. The Green case is staid, pending the outcome of the Supreme Court decision. The Yerby Battle case was dismissed voluntarily with prejudice.

Mr. Manasco then discussed the Risk Management Appeal for increased liability coverage for the Board. He informed the Board that he had received a letter from Risk Management denying the request and did not grant a hearing. After discussion, Dr. Fitch made a motion to have legal counsel continue pursuit of the appeal with each board member signing the request. The motion was seconded by Mr. Sasnette with unanimous approval.

There being no further business, the meeting adjourned at 2:15 p.m.

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Kay Ivey, Chairman

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Brenda Emfinger, Recording Secretary

**THE ALABAMA PREPAID AFFORDABLE COLLEGE TUITION PROGRAM  
MEETING OF THE BOARD OF DIRECTORS**

June 16, 2010

1:00 p.m.

**MINUTES**

**Present:**

Chairman Kay Ivey  
Mr. Bill Newton  
Chancellor Freida Hill  
Dr. Gregory Fitch  
Mr. Tom Broughton  
General Paul Hankins  
Dr. William Meehan  
Mr. Marc Green  
Dr. Richard Huckaby  
Representative Craig Ford  
Mr. James Stubbs  
Senator Roger Bedford

**Others Present include:**

Ms. Daria Story, Assistant Treasurer  
Ms. Brenda Emfinger, College Savings Programs Director  
Ms. Pam Stevenson, Assistant Director, College Savings Programs  
Ms. Annoesjka West, Callan Associates  
Mr. Daniel Sherman, Buck Consultants  
Mr. George Beck, Capell Howard  
Mr. Richard Allen, Capell Howard  
Mr. Chad Bryan, Capell Howard

Pursuant to written and public notice, the first meeting of the new Board of Directors created pursuant to Title 16, Section 16-33C-4.1, Code of Alabama, 1975 (as last amended) of the PACT Program was held in the Board Room of the RSA Headquarters on June 16, 2010.

**Agenda Item I.**

The meeting was called to order by Chairman Kay Ivey at 1:00 p.m. Each board member was introduced. Roll was taken with a quorum present.

**Agenda Item II.**

The minutes of the May 24, 2010 Called Board meeting were presented. Ms. Emfinger noted a correction under Agenda Item III changing the name "Mr. Hill" to "Mr. Edwards". With the correction, a motion was made by Senator Bedford, seconded by Representative Ford with unanimous approval.

Chairman Ivey called the Board's attention to the Agenda. The following items were added to Agenda Item VI.: Discussion of Liability Coverage for Board Members and Executive Session to discuss pending litigation.

**Agenda Item III. (A.)**

Chairman Ivey called on Ms. Emfinger for a discussion of proposed Bylaws. Ms. Emfinger reviewed each section with the Board. The Board suggested several changes and revisions. Staff will incorporate the changes and present the revised Bylaws at the next regular meeting for discussion and approval. The Draft Bylaws discussed are attached for reference.

**Agenda Item III. B. (1.)**

Ms. Emfinger asked for consideration of the Resolution to appoint a RFP Committee to assist with the Request for Proposals that have been issued for investment managers and custodians to be considered at the August Board meeting.

The third WHEREAS was changed to read as follows: **WHEREAS**, the PACT Board has approved the creation of a RFP Committee; and,” Representative Ford, Mr. Green and Dr. Fitch volunteered to be on the committee With the changes and addition, a motion was made by Senator Bedford, seconded by Dr. Meehan for approval. The motion received unanimous approval

**Agenda Item III. C.**

Chairman Ivey announced a change in the August meeting date to August 26<sup>th</sup> . The Board agreed that 1:00 p.m. was a preferred starting time.

**Agenda Item IV. A.**

Chairman Ivey called on Ms. Emfinger for the Program Report. Ms. Emfinger provided program statistics, a listing of Board members, contact information for Treasury staff, financial statements, securities lending information, program information and a listing of PACT Contract Providers. Mr. Newton asked for an explanation of the \$8.7 million in liabilities in the PACT financial statements. Ms. Emfinger explained that these were liabilities attributable to the TBA securities held by Western Asset Management.

Ms. Emfinger informed the board that administrative cost were approximately 36 basis points of assets. She also explained the scope of services for records administration being provided by HDI of Auburn. The information is attached for reference.

**Agenda Item IV. B. (1.)**

Chairman Ivey called on Ms. West for the Callan Quarterly Investment Report. Ms. West began with an overview of the market explaining that performance was strong in the first quarter as some consumer confidence returned. However, April and May were volatile months with problems in Greece and Europe. June is more positive but with slow recovery.

Dr. Huckaby asked for discussion of the asset allocation changes made by the Board in November. Ms. West discussed the asset liability study, stating that at that time, there was no additional funding for the program and the Board wanted to preserve capital and prevent further losses to maintain an amount required to refund all contract holders should that be required. She explained the various scenarios considered by the board and the ultimate selection of the current asset mix.

In discussing the current asset allocation, Ms. West pointed out that the current allocation is overweighted in equities and underweighted in cash. Mr. Newton asked what procedure was in place to rebalance the portfolio. Ms. West explained that due to the recent payment of invoices and market returns, the allocation was out of balance but would be corrected after the asset liability study that would be presented in August.

Ms. West stated that the market value of assets at the end of March was \$482,660,155 with a quarterly return of 2.43% against that index of 2.12%. She explained that the drop in asset value since December of 2009 was directly related to the withdrawal of \$33 million to pay tuition benefits.

Fixed income performed well with assistance from active management. Mr. Newton asked Ms. West to prepare summarized information for future meetings to show each manager's performance against the index with an explanation for the difference. Ms. West asked the Board to provide input concerning the type of information they would like to see in future reports.

Mr. Newton asked Ms. West how the Board could react to market fluctuations. Ms. West explained that the managers actively manage the accounts and their roles are to react to market changes. She explained that the recent performance above the index was a result of that active management.

Ms. West then gave a review of each manager's performance. Rhumblin, the indexed equity manager returned 5.88% against the index of 5.7%. Principal, the international equity manager's performance was 2.18% against the index of 1.58%, ranking them in the top third quartile of their peers. Sterne Agee, the core fixed income manager had stellar performance of 4.55% against the index of 1.78%.

Mr. Newton asked about the evaluation of manager's performance. Ms. West explained that the Investment Policy guides the monitoring process which generally allows a full market cycle for evaluation. She explained that Callan monitors and makes recommendations to the Board concerning placing managers on a watch list or in terminating managers. She also informed the Board that following the asset liability study, the Board would review and adopt a new Investment Policy. Dr. Fitch explained that in the past the Board had diligently reviewed performance and had acted on recommendations concerning manager changes.

Ms. West then explained that due to the recent change in asset allocation, the two fixed income managers had two different mandates against different indexes. Both managers underperformed due to the timing of the transition of these assets.

Western Asset Management, the core plus fixed income manager had excellent performance of 3.28% against their index of 1.78%.

The report is attached for reference.

Ms. West then provided copies of the May Flash report to update the Board on recent performance. The monthly return for May was negative 2.08% vs the index of negative 1.15%.

Ms. West discussed in detail with the Board the need for an asset liability study. She explained that with the recent change in asset allocation, the closing of PACT enrollment, and the continuing reduction in assets to pay benefits made this study necessary. Going forward, a study of cash flow needs and more current data on the program would also be taken into account in the study. She informed the Board that this study would be presented at the August Board meeting.

#### **Agenda Item IV. C.**

Chairman Ivey introduced Dan Sherman of Buck Consultants as the PACT Actuary. Mr. Sherman discussed with the board the actuarial study that he prepared in December to assist the Legislature with the analysis of the funding. He also explained the actuarial assumptions that were used in the report and that he would be providing quarterly reports in the future. Mr. Newton asked about the analysis of the assets and liabilities and expressed concern that the fund would not be able to meet obligations with current assets and the timed schedule of funding payments. Dr. Huckaby noted that it was not only the unprecedented market decline, but also tuition increases that put the program in jeopardy. Dr. Huckaby expressed concern over future tuition increases; Mr. Sherman explained that he would also provide a sensitivity analysis that would show the impact of variations in increases. Dr. Fitch informed the Board that at the end of July he would have the tuition increases for all college and universities and that he expected it to be significant.

The report is attached for reference.

**Agenda Item V. A.**

Chairman Ivey called on Ms. Emfinger for a discussion of the proposed changes to the PACT Rules. Ms. Emfinger began by explaining that there were proposed changes necessitated by the recently passed legislation and others that were in keeping with the spirit of the legislation that encouraged the Board to make Rule changes to assist in making the fund financially stable.

She began with a discussion of a proposed change to Section 7.01 Beneficiary Substitutions, stating that this change was one that was keeping with the spirit of the legislation. Ms. Emfinger informed the Board that in early years, no substitution was allowed if any benefits had been utilized but later, changes were made to allow for this with varying hours as a requirement. She provided examples of multiple substitutions and stated that it was never the intent for this to be abused. She stated that the recommended change would allow only one substitution during the life of the contract with a provision that at least 64 semester hours be remaining at the time of transfer. Mr. Newton asked if this could be made more stringent. Dr. Huckaby questioned whether or not this was a change in the contract. Ms. Emfinger explained that the "Contract" actually consisted of the application, participation and payment schedule, and the MasterPACT which was subject to the Rules as amended from time to time. After discussion, a motion was made by Representative Ford for approval of the change as presented. General Hankins seconded with approval; Dr. Huckaby voted "no" and Dr. Fitch abstained. The motion carried.

Ms. Emfinger then called the Board's attention to Section 1.07 Redemption Value. She explained that in the early years, no interest was given on refunds but that this had also been changed in subsequent years with varying amounts of interest refunded up to the current amount of 1%. She explained that this was another change in keeping with the spirit of the legislation.

Ms. Emfinger then explained the changes in Section 1.03, 1.06, and 1.10 which were necessitated by the language in the recently passed legislation. She provided an example of the implementation of the new definitions in the computing of tuition to be paid going forward. After discussion, Chairman Ivey called the Board's attention to the Resolution for approval of the Proposed Changes. A motion was made by General Hankins, seconded by Mr. Stubbs for approval as presented. With Mr. Newton voting "no", the motion carried. Chairman Ivey informed the Board that based on the requirement in the Act, the Rule Changes would be submitted to the Legislative Council for approval.

**Agenda Item VI.**

Chairman Ivey provided information for the Board on personal liability. She explained that Risk Management, a division of the State Finance Office, provides liability coverage for members for up to \$1 million per occurrence. There was discussion about the immunity provided in the recently passed statute. It was agreed that further clarification was needed concerning this coverage.

Chairman Ivey called on Mr. George Beck of Capell Howard for a review of pending litigation. Mr. Beck discussed the Perdue case and the Green case with the summary attached for reference. Senator Bedford then made a motion to enter into Executive Session to further discuss the lawsuits. Representative Ford seconded the motion. Ms. Emfinger took a roll call vote with all members voting "yes". Chairman Ivey informed the board that consulting with counsel was an appropriate statutory reason to enter executive session. She advised that there could be no deliberations during executive session. She then announced that the Board would reconvene in regular session in approximately 40 minutes.

**Agenda Item VII.**

Chairman Ivey called the Board's attention to copies of all four Requests For Proposals that had been issued as well as a copy of the recent Statute making changes to PACT.

There being no further business, the meeting was adjourned at 5:30 p.m.

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Chairman, Kay Ivey

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Recording Secretary, Brenda Emfinger

**Resolution by the  
PACT Board of Trustees at its meeting on June 16, 2010  
Topic: PACT RFP Committee**

**WHEREAS**, the Legislature has created the Wallace-Folsom College Savings Investment Plan (the "Plan") pursuant to Title 16, Chapter 33C of the *Code of Alabama*, 1975 (the "Act"); and,

**WHEREAS**, the Board of Trustees ("Board") is created and charged with the oversight of the PACT Trust Fund by Section 16-33C-4, with powers enumerated in Section 16-33C-5(1)-(12); and,

**WHEREAS**, the PACT Board has approved the creation of a RFP Committee; and,

**WHEREAS**, PACT has contracts for investment management and custodial services that will soon expire and require immediate attention and issuance of a Request for Proposals;

**NOW THEREFORE BE IT RESOLVED**, that the following Board members are appointed for a term of one calendar year of service on the RFP Committee:

Representative Craig Ford  
Mr. Marc Green  
Dr. Greg Fitch

I certify that the foregoing Resolution is a true and accurate copy of the Resolution of the Board of Directors of PACT as adopted at its meeting on June 16, 2010.

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Brenda Emfinger, Board Secretary

**Adopted Resolution by the  
PACT Board of Trustees at its meeting on June 16, 2010  
Topic: Revisions to the PACT Rules**

**WHEREAS**, the Legislature has created the Wallace-Folsom College Savings Investment Plan pursuant to Title 16, Chapter 33C of the Code of Alabama, 1975 in recognition that the advancement of higher education in the State of Alabama is a proper governmental function and purpose of the State of Alabama and,

**WHEREAS**, Section 16-33C-2.1 of the Act provides that the State Treasurer of the State of Alabama (the "Treasurer") shall administer the PACT Program in accordance with the provisions of the Act and the rules, regulations, and guidelines ("Program Rules") established by the Board of Trustees (the "Board"); and,

**WHEREAS**, the Board annually reviews the Program Rules to revise and update; and

**WHEREAS**, The Legislature has strongly encouraged the PACT Board to make any financially beneficial changes to Program Rules to the extent that the PACT Board is authorized or permitted to make such changes and to the extent that such changes would not violate the contractual relationship existing between a PACT contract holder and the PACT Board; and,

**WHEREAS**, the Board desires to comply with the Legislature and has considered and discussed the recommended revisions to the Program Rules as attached; and,

**WHEREAS**, the Board at its meeting on December 29, 2009 adopted Rule changes contingent on Court approval given the situation at that time, and the question of the viability of those proposed rule changes is still pending in Court; and,

**WHEREAS**, the Alabama Legislature in the last regular session enacted a statute that provides funding for PACT and mitigates the need for these previous proposed changes;

**NOW THEREFORE, BE IT RESOLVED**, that the Board revokes and withdraws the proposed Rule changes adopted at the December 29, 2009 meeting and approves the proposed 2010 PACT Program Rules in substantially the form as presented in the attached document and directs staff to submit the proposed Program Rules to the Legislative Council for approval; and,

**BE IT FURTHER RESOLVED** that the 2010 Program Rule amendments shall not take effect, and will not be implemented, until approved by the Alabama Legislative Council.

I certify that the foregoing Resolution is a true and accurate copy of the Resolution of the Board of Directors of PACT as adopted at its meeting on June 16, 2010.

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Brenda Emfinger, Board Secretary

**THE ALABAMA PREPAID AFFORDABLE COLLEGE TUITION PROGRAM  
MEETING OF THE BOARD OF DIRECTORS**

August 26, 2010

1:00 p.m.

**MINUTES**

**Present:**

Chairman Kay Ivey  
Mr. Bill Newton  
Leigh Grogan for Chancellor Freida Hill  
General Paul Hankins  
Dr. William Meehan  
Mr. Marc Green  
Dr. Richard Huckaby  
Mr. James Stubbs  
Senator Roger Bedford  
Ms. Patti Lambert  
Ms. Gwen Appling

**Others Present include:**

Ms. Daria Story, Assistant Treasurer  
Ms. Brenda Emfinger, College Savings Programs Director  
Ms. Pam Stevenson, Assistant Director, College Savings Programs  
Mr. Mike Manasco, Board Legal Counsel  
Ms. Vicki Locke, Deputy Treasurer  
Ms. Annoesjka West, Callan Associates  
Mr. Jay Kloepfer, Callan Associated  
Mr. Daniel Sherman, Buck Consultants  
John Villela, Principal and Barbara McKenna, Managing Principal -Longfellow Investment Management  
James Ramsay, Chief Fixed Income Strategist and Therese Hernandez, Managing Director - Mackay Shields  
Jim Keegan, CEO and Samuel Zona, Director of Client Servicing - Seix Investment Advisors

Pursuant to written and public notice, the first meeting of the Board of Directors of the PACT Program was held in the Board Room of the RSA Headquarters on August 26, 2010.

**Agenda Item I.**

The meeting was called to order by Chairman Kay Ivey at 1:00 p.m. New board members Ms. Patti Lambert and Ms. Gwen Appling were introduced. Roll was taken with a quorum present.

**Agenda Item II.**

The minutes of the June 16, 2010 board meeting were presented. A motion was made by Dr. Meehan, seconded by General Hankins, with unanimous approval.

Chairman Ivey called the Board's attention to the Agenda. Ms. Ivey requested moving Item VII.(B.) to follow Item III. (C.). There was no objection.

**Agenda Item III.**

Chairman Ivey presented the proposed Bylaws with the changes requested by the Board. A motion was made by Dr. Meehan to approve the resolution adopting the Bylaws. The motion was seconded by Mr. Stubbs with unanimous approval. The Resolution is attached for reference.

**Agenda Item VII. (B.)**

Chairman Ivey called the Board's attention to the Rules as approved by the Board and the Legislative Council. Mr. Newton asked for consideration of an additional Rule change. He stated that as Finance Director he was compelled to be responsible with tax dollars; and that since the Legislature had provided state funds for the program, he wanted to propose a change that would not impair the contract, but further restrict the use of benefits. He provided a resolution calling for an additional change to Rule 7.01 which would require that a beneficiary substitution be allowed only if no benefits had been utilized. Dr. Huckaby asked for further clarification from Mr. Manasco concerning the impairment issue. Mr. Manasco stated that this would be a Rule change and that all contracts were subject to the Rules and therefore, this would not impair the contract. Dr. Huckaby read from an early PACT brochure that had the requirement that no benefits be utilized for a substitution. Ms. Emfinger explained that this Rule had changed over the years but that for the first years of the program, a substitution was not allowed unless no benefits had been utilized. After discussion, it was the consensus of the Board to table the resolution and have a revision of the Rule for consideration at the next meeting.

**Agenda Item IV. (A.)**

Chairman Ivey called on Ms. Emfinger for the Program Report. Ms. Emfinger provided information on program statistics, contract cancellations and financials. The information is attached for review. Ms. Emfinger then informed the Board that during July, the securities lending portfolio was liquidated with no loss. She explained that given the short duration for Trust Fund assets, the Consultant felt it prudent to discontinue the program.

**Agenda Item IV. (B.)**

Chairman Ivey called on Ms. West for the quarterly Investment Report. The Report is attached for reference. Ms. West provided summary information as the Board had requested at the previous board meeting. She stated that the market value of trust fund assets at the end of June was \$472,706,372. This reflected a decrease from the previous quarter due to the negative performance by the equity markets and the withdrawal of funds for tuition payments. She then discussed manager performance. Rhumbline and Principal, the equity managers had negative performance but were in line with their benchmarks. Sterne Agee and Western both underperformed in their core and core plus fixed income strategies; however, both outperformed in their intermediate mandate. For the quarter ending June 30, the return was negative.84.

**Agenda Item IV. B. (2.)**

Ms. Ivey introduced Mr. Jay Kloepfer from Callan for a discussion of the Asset/Liability study. Mr. Kloepfer began with an explanation of the reason for the study. He stated that since the additional funding for the program would not be available until 2015, trust fund assets would be depleted in the interim and would require a different strategy. He discussed capital market expectations and the current asset allocation. Currently, the fund is invested in 73% domestic fixed income, 7% cash, 14% domestic equity and 6% international equity. He discussed the need for a more conservative approach to both earn a return and reduce the risk. He explained that the asset liability study was based on the market value of assets on June 30, 2010 and the projection of expected tuition payments and receipts through 2015. He then went through the recommended asset allocation options. Four options were presented which included the current target, a 100% defensive with no equity and short duration fixed income, a roll down of the fixed income assets with no equities and no aggregate, a roll down fixed with aggregate, and a roll down equity where the equity allocation is rolled down gradually to all fixed. Mr. Kloepfer stated that given the short time duration for the fund, they recommended the 100% defensive strategy. Board members discussed the various strategies and stated that they did not want to immediately eliminate the equities because of the difficulty of getting back into the equity markets if the economy continued to improve. After discussion, a motion was made by Dr. Meehan and seconded by General Hankins to adopt the roll down equity strategy for an Asset Allocation. The motion was unanimously approved. The report and Resolution are attached for reference. Mr. Kloepfer informed the board that Callan would provide a plan for implementation of this strategy.

**Agenda Item IV. (C.)**

Chairman Ivey called on Mr. Sherman for an Actuarial Report. Mr. Sherman began by providing an update to the 2010 legislative study. He stated that the same assumptions were used with the updated program information which produced a funded status of 100.9% at the end of June 2010. He further explained that the board had asked for an additional analysis using a 1% increase in the tuition assumption from 7.5% to 8.5%. He stated that using the 8.5% assumption for tuition inflation would result in a funded status of 94.7%.

Mr. Sherman then discussed the actuarial assumptions to be used in the annual 9/30 Trust Fund Actuarial Valuation. He stated that the two most important and impactful assumptions were tuition inflation and rate of return. He began with a discussion of tuition inflation, stating that he would look to the board for guidance since there were so many factors affecting tuition increases in the state of Alabama. Several board members expressed concern over the double digit increases announced for the 2010.2011 year. Although the recently passed legislation capped tuition increases at colleges at 2.5% for all institution except the University of Alabama and Auburn University systems, 64% of t PACT payments are made to these two systems. After discussion, it was the consensus of the board to use 13% for the current year graded down over the next five years to 7.5%.

Mr. Sherman stated that he would use the rate of return assumption based on the roll down equity strategy adopted by the board which would be 2.38%, 3%, 3.07%, 2.45% and 3% thereafter.

Mr. Sherman then discussed and provided recommendations for assumptions on death/disability cancellations, benefit usage, credit hours utilized, cancellations, participation levels and benefit payouts. All assumptions were incorporated in the Resolution that was presented for consideration.

A motion was made by Mr. Stubbs, seconded by Ms. Appling for approval of the Resolution. The motion was unanimously approved. The Resolution and information are attached for reference.

**Agenda Item IV. (D.)**

Chairman Ivey called on Mr. Marc Green to present the RFP Committee report. Mr. Green informed the Board that the committee met on August 10 to review information on the proposals submitted for Trust Fund managers and a Custodian. Minutes were provided from the meeting and are attached for reference. Mr. Green stated that the Committee was recommending retaining Rhumblin Advisors as the Domestic Core Indexed Equity manager and BNYMellon as the Trust Fund Custodian. Mr. Green also stated that based on Callan's recommendation, they had requested presentations from three Domestic Intermediate Fixed Income managers for a selection by the Board.

**Agenda Item IV. (E.)****Agenda Item VI.**

Chairman Ivey called on Mr. Manasco for the legal report. Mr. Manasco informed the Board that the initial Green V. Ivey case had been dismissed in September 2009. He discussed the Green V. Ivey (Green II) case, explaining that this case was seeking class action certification and some of the plaintiffs through an additional lawyer had filed a Motion to declare unconstitutional Act 2010-725, the new legislation that provides future funding to PACT. A motion has been filed to dismiss the constitutional challenge. He informed the Board that PACT had deposed the plaintiffs in Green II and that plaintiffs had deposed Brenda Emfinger, Director of College Savings Division. The Motion to Dismiss for hearing before Judge Hardwick on September 8, 2010 at 8:00 in courtroom 4A of the Montgomery County Courthouse.

Finally, Perdue v. Ivey (the case where board members have been sued personally) has been restored to the active docket at the Alabama Supreme Court following failure of settlement during

the mediation approved by the Supreme Court. Nothing further will happen in this case until the Supreme Court issues a ruling on the mandamus petition filed on behalf of the Board. It is anticipated the Supreme Court will likely grant the mandamus and return this case to the trial court for further proceedings.

**Agenda Item V. (A.)**

Chairman Ivey called on Ms. Emfinger for a discussion of the selection of a Trust Fund Custodian. Ms. Emfinger informed the Board that fees were being negotiated with BNYMellon, pending the adoption of an asset allocation. She called the Board's attention to the analysis provided to the RFP Committee. A motion was then made by Mr. Stubbs to adopt the Resolution hiring BNYMellon as the Custodian. The motion was seconded by Dr. Meehan with unanimous approval. The Resolution is attached for reference.

**Agenda Item V. B. (1.)**

Chairman Ivey called on Ms. West for a discussion of the proposals for domestic equity management. Ms. West informed the board that the current contract for this manager was expiring and an RFP was issued. Two proposals were received for the Domestic Core Indexed manager. She stated that after review it was the recommendation of Callan and the RFP Committee to retain Rhumblin Advisors. A motion was made by Dr. Meehan and seconded by Mr. Stubbs to adopt the Resolution approving Rhumblin as the Domestic Core Indexed Equity Manager. The Resolution is attached for reference.

**Agenda Item V. B. (2.)**

Ms. West explained that the current contracts for fixed income management were expiring and that based on the pending change in asset allocation, Callan was recommending a change in the fixed income mandate to an intermediate mandate.

Ms. West then shared with the Board information on the three managers recommended by Callan and the RFP Committee for Domestic Intermediate Fixed Income management.

Ms. West introduced John Villela, Principal and Barbara McKenna, Managing Principal for Longfellow Investment Management Company. Information was presented and discussed, and is attached for reference.

Ms. West then introduced James Ramsay, Chief Fixed Income Strategist and Therese Hernandez, Managing Director of Mackay Shields. Information was presented and discussed, and is attached for reference.

Ms. West introduced Jim Keegan, CEO and Samuel Zona, Director of Client Servicing for Seix Investment Advisors for their presentation. Information was presented and discussed, and is attached for reference.

After discussion of the three managers presenting and based on Callan's recommendation, a motion was made by Dr. Meehan and seconded by Mr. Stubbs to adopt the Resolution hiring Longfellow and Mackay Shields as the Domestic Intermediate Fixed Income Managers. The Resolution is attached for reference.

**Agenda Item VI.**

Chairman Ivey called on Mr. Manasco for the legal report. Mr. Manasco informed the Board that the Green V. Ivey case had been dismissed. He provided information on the attorney fees and the approval of Capell & Howard as Legal Counsel. He then discussed the Green V. Ivey (Green II) case, explaining that this case was seeking class certification. He informed the Board that depositions had been taken with a Hearing expected in late September.

**Agenda Item VII.**

Chairman Ivey called the Board's attention to contact information for all Board members and then informed the Board that the next regular meeting was scheduled for December 1, 2010.

There being no further business, the meeting adjourned at 5:00 p.m.

**THE ALABAMA PREPAID AFFORDABLE COLLEGE TUITION PROGRAM  
MEETING OF THE BOARD OF DIRECTORS**

December 1, 2010

1:00 p.m.

**MINUTES**

**Present:**

Chairman Kay Ivey  
Mr. Bill Newton  
Dr. Greg Fitch  
Chancellor Freida Hill  
General Paul Hankins  
Dr. William Meehan  
Mr. Marc Green  
Dr. Richard Huckaby  
Mr. James Stubbs  
Ms. Patti Lambert  
Senator Roger Bedford

**Others Present include:**

Ms. Daria Story, Assistant Treasurer  
Ms. Brenda Emfinger, College Savings Programs Director  
Ms. Pam Stevenson, Assistant Director, College Savings Programs  
Mr. Mike Manasco, Board Legal Counsel  
Ms. Vickie Locke, Deputy Treasurer  
Mr. Bud Pellecchia, Callan Associates  
Ms. Annoesjka West, Callan Associates  
Mr. Dan Sherman, Buck Consultants  
Mr. Marcus Cleary, Buck Consultants  
Mr. Chad Bryan, Capell Howard

Pursuant to written and public notice, the regularly scheduled meeting of the Board of Directors of the PACT Program was held in the Board Room of the RSA Headquarters on December 1, 2010.

**Agenda Item I.**

The meeting was called to order by Chairman Kay Ivey at 1:00 p.m. Roll was taken with a quorum present. Chairman Ivey introduced Treasurer-Elect Young Boozer and welcomed him as the incoming Board Chairman.

**Agenda Item II.**

Chairman Ivey called for election of a Vice Chairman as required by the Bylaws adopted at the August board meeting. A motion was made by Mr. Newton, seconded by Dr. Meehan for nomination of General Hankins. There were no further nominations and General Hankins was unanimously elected Vice Chairman.

**Agenda Item III.**

The minutes of the August 26, 2010 board meeting were presented. A motion for approval was made by Dr. Meehan and seconded by Mr. Stubbs. The minutes were unanimously approved.

Chairman Ivey informed the Board that Mr. Newton needed to leave early and requested a change in the order of Agenda items. Because Mr. Newton had requested a Rule change, she asked that Agenda Item V. (A.) be considered before the reports. There were no objections.

### **Agenda Item V. (A.)**

Mr. Newton explained that he wanted to make the Rule regarding beneficiary substitution more restrictive, as it was at program inception, in order to save as many state funds as possible. He further explained that since the Legislature had provided funding, it was the Board's responsibility to do so. He stated that the Rule change would require that a beneficiary substitution not be allowed if any contract benefits had been utilized as opposed to the current Rule requiring 32 hours remaining for a substitution. Ms. Lambert expressed her opinion that this was a contract issue and that it would invite further litigation. She then asked about the financial impact of substitutions. Mr. Sherman, PACT Actuary, explained that of the 926 contracts where beneficiary substitutions had been made with fewer than 32 hours remaining, if you assumed 16 hours on each, the impact at the current rate of tuition per hour would be around \$3 million.

Dr. Huckaby then expressed his opinion that the Board still needed legal guidance on the difference between the Contract and the Rules. Dr. Fitch also expressed his opinion that if a beneficiary only went to college one semester and dropped out, the only benefit realized would be in canceling the contract and receiving a refund. At this point, Ms. Lambert made a motion to table the issue. The motion was seconded by Dr. Huckaby. With Ms. Lambert, Dr. Huckaby and Dr. Fitch voting yes, the motion failed by a majority vote of 5 voting no.

Ms. Lambert asked for an explanation of the Rule. Ms. Emfinger explained that from 1990 to 1998, the Rules did not allow a beneficiary substitution if any benefits had been utilized; and that over the years the Rule had changed to allow substitutions if 15 semester hours were remaining, then if one hour was remaining, then back to 15 and currently 32 hours. Mr. Manasco then reminded the Board that the current assets in the Trust Fund were assets from purchaser contributions and that no state funds would be in the Fund until 2015.

Chairman Ivey called the Board's attention to the Resolution approving the Rule change. After further discussion, a second motion was made by Dr. Huckaby and seconded by Ms. Lambert to table the issue in order to get more information. With 4 yes votes and 7 no votes, the motion failed.

The Resolution was then brought back for consideration. General Hankins offered an amendment to the last paragraph of the Resolution to say that the Rule would not take effect until 2015 when the first transfer was made from the Education Trust Fund. Chairman Ivey expressed her opinion that the Board should try to keep as much of the Fund assets as possible to assist with the state funding, and that this Rule change would do that. Senator Bedford expressed his opinion that all contract holders and the Legislature needed to be informed of the current status and the Rule change. Mr. Manasco was asked about the impact of litigation and Dr. Huckaby expressed his opinion that the Board should be more concerned about the Actuarial Report and should not make any further Rule changes unless they would have a significant cost savings without impairing the contract.

After further discussion, Dr. Fitch offered the following amendment to the Resolution in the last paragraph:

**BE IT FURTHER RESOLVED** that the 2010 Rule amendment shall not take effect until October 1, 2014 and only if the Trust Fund has sufficient funds to give refunds to all contract holders or the Trust Fund has sufficient funds to pay all benefits. Staff is directed to provide the Rules to the Council for consideration at its next meeting, and if approved, provide proper notification to all contract holders and the Legislature.

General Hankins withdrew his amendment and seconded Dr. Fitch's amendment and motion for approval of the Resolution as amended. Dr. Huckaby, Ms. Lambert, Mr. Stubbs voted no, Dr. Hill abstained, and Chairman Ivey, General Hankins, Dr. Meehan, Mr. Green, Dr. Fitch, Mr. Newton, and Senator Bedford voted yes. The motion adopting the amended Resolution was approved and is attached for reference.

**Agenda Item IV. (A.)**

Chairman Ivey called on Ms. Emfinger for the Program Report. Ms. Emfinger provided information on program statistics, contract cancellations and financials. She then informed the Board that based on the recently adopted asset allocation, assets had been successfully transitioned to the new managers, MacKayShields and Longfellow. She also discussed annual program information as well as PACT's procedure for processing invoices from the colleges/universities. The information is attached for review.

**Agenda Item IV. (B.)**

Chairman Ivey introduced Mr. Pellechia from Callan noting that he had worked with PACT in the recent past and was now part of the consulting team. She then called on him for the quarterly Investment Report. The Report is attached for reference. Mr. Pellechia provided summary information on managers and trust fund performance. He stated that the market value of trust fund assets at the end of September was \$487,290,736. This reflected an increase from the previous quarter. For the quarter ending September 30, the fund returned 5.12% with an annual return of 9.69% vs the target benchmark of 10.6%.

Mr. Pellechia then explained that the market value of assets on September 30, 2009 was \$526 million. The current balance of \$487.3 million resulted from liquidations to pay benefits and refunds of \$85.6 million with a positive investment return of \$46.9 million.

He then discussed asset allocation stating that asset allocation was slightly off versus the target asset allocation; equities were overweighted and fixed income underweighted, which had worked to the fund's advantage during the past quarter. Mr. Green asked about rebalancing and Mr. Pellechia explained that because of liquidations to pay benefits, rebalancing occurred with these withdrawals.

Mr. Pellechia then discussed quarterly manager performance. He stated that Rhumblin, the indexed equity manager performed in line with the index with a return of 11.54%. Principal, the international equity manager, had a quarterly return of 16.89% against the index of 16.58%. Western Asset had returns of 3.6% in the core fixed income mandate and 2.89% in the intermediate fixed income mandate. Sterne Agee returned 3.28% in the core mandate and 2.03% in the intermediate. The core fixed income benchmark returned 2.48% and the intermediate fixed income benchmark returned 2.44% for the quarter.

Mr. Pellechia provided performance information for the month of October stating that the Fund was up \$7.9 million with \$3.3 million liquidated to pay benefits. The rate of return was 1.63% vs the index of 1.14%.

Mr. Pellechia offered to answer any questions about previous decisions pertaining to the investments or asset allocation.

**Agenda Item IV. B (2.)**

Mr. Pellechia asked Ms. West to discuss the proposed changes to the Investment Policy. Ms. West explained that with the newly adopted asset allocation, changes were needed and that going forward, annual changes would be necessary to accommodate the roll down equity strategy. She provided a summary of the changes along with a marked copy of the policy, which is attached for reference. She also discussed changes in manager guidelines that had been requested by the new fixed income managers, MacKayShields and Longfellow. Mr. Pellechia explained Callan's process for reviewing requests from managers for changes to the guidelines.

Dr. Fitch asked if we should still be in an 80% allocation to fixed income and 20% to equities. Ms. West explained that because of the short time horizon for the Fund before assets would be depleted, it was necessary to focus on preserving the principal and maintain a more conservative asset allocation. After discussion of the proposed changes, a motion was made by General Hankins to adopt the resolution approving the December 2010 Investment Policy and Guidelines

as presented. The motion was seconded by Mr. Stubbs with unanimous approval. The Investment Policy and Manager Guidelines are attached for reference.

**Agenda Item IV. (C.)**

Chairman Ivey called on Mr. Sherman for the 2010 Actuarial Report. The report is attached for reference.

Mr. Sherman stated that as of September 30, 2010, the PACT Trust Fund had a deficit of \$268.8 million with a funded status of 77.5%. He began with a discussion of the change in the funded status from the September 30, 2009 report. On September 30, 2009, the deficit was \$345.7 million. The growth of that deficit based on interest was an increase of \$29.6 million and the additional funding from the Legislature mitigated the deficit by \$407.6 million. The unusually large tuition increase added a loss of \$132.4 million and the change in the actuarial assumptions accounted for a loss of \$148 million. A loss from other experience (eg. matriculation and cancellations) was \$24.6 million. The only other positive was an investment gain of \$3.9 million.

Mr. Sherman explained that the decrease in funded status from the June quarterly report of 100% was due to the realized tuition increases at the Auburn University and University of Alabama institutions, as well as the adoption of new assumptions for investment return and future tuition increases adopted by the Board at the August meeting. He further explained that the investment return assumption had been changed from 8.55%, in June 5%, to an annual average of 3% until the fund is expected to be depleted. The annual tuition assumption was changed from 7.45% to reflect annual increases at the two systems of 13%, 12%, 11%, 10%, 9%, 8%, and 7.5% thereafter. Mr. Sherman also noted that the majority of PACT students have been attending the Auburn and Alabama institutions.

Mr. Sherman explained the term "Current Tuition Value (CTV)" as the annual weighted average of tuition at the four year public universities, weighted by resident headcount. He stated that with the passage of Act 2010-725, the computation of the CTV was limited to the four year public universities, excluding the Auburn and University of Alabama institutions. Because of this, the rate per semester hour would not increase for several years.

Dr. Huckaby asked Mr. Sherman what had changed since the funding was provided by the Legislature which was to make the program fully funded. Mr. Sherman explained that the combination of double digit tuition increases at the Auburn University and the University of Alabama systems coupled with the new assumptions had outpaced the inflow of the future funding. He then stated that the only practical solutions would be to control tuition at all institutions or find additional funding or limit the payments to the beneficiaries.

Mr. Sherman provided information on the number of active contracts and explained the cash flow analysis. Based on the current market value of assets, the Trust fund will run out of funds in 2016. He then reviewed the analysis of benefit payments to the various categories of institutions.

General Hankins asked Mr. Sherman if he had considered other scenarios that might bring the fund back to a fully funded status. Mr. Sherman explained that several had been considered, including capping tuition at the Auburn University and University of Alabama systems. With a 7.5% cap on tuition at these institutions, the unfunded liability decreases to \$141 million and with a 5% cap, to \$14 million. The Board discussed their role as fiduciary, or a regulatory or political role. Senator Bedford stated that he did not see the Board in a political role but as a fiduciary with a responsibility to report and communicate with the Legislature. Dr. Meehan asked what cap would be necessary if all institutions had the same limitation and Mr. Sherman stated that it would be somewhere around 4%. The Board requested Mr. Sherman to run scenarios where the tuition would be capped at the same rate for all institutions and compute the loss to the institutions based on their standard nondiscounted published tuition. Dr. Hill also asked for an analysis of the impact if all students were required to attend a two-year college for the first two years. Dr. Huckaby asked Mr. Sherman to determine the potential loss of tuition income to

Auburn and Alabama if they were limited to a 4% increase in tuition. Mr. Sherman gave an estimate and agreed to come back with a more precise number.

**Agenda Item IV. (D.)**

Chairman Ivey informed the Board that Board Attorney and Treasury Legal Counsel Mike Manasco would be retiring in February. The Board expressed appreciation to Mr. Manasco for his service.

Chairman Ivey then called on Chad Bryan from Capell Howard for a legal report.

Mr. Bryan stated that the Perdue case in which Board members had been sued individually, had reached an amicable resolution on November 17 for a court approved settlement. He further stated that funds from Risk Management would be paid into the Court and that the case would be dismissed with prejudice.

He then explained that Green II was a class action lawsuit with a decision pending on class certification. He stated that most likely one class would be certified with sub classes and that once the certification was approved, all contract purchasers would be notified by postcard and via the website. He stated that discovery would begin in December and January.

He then briefed the board on the pending suit challenging the constitutionality of Act 2010-725, stating that no hearing had been held but a motion had been filed to dismiss.

Senator Bedford expressed his concern over legal cost and asked for an executive session at the February board meeting to discuss the status of the lawsuits.

Mr. Manasco added that the Green case had shifted from a concern over tuition to mandatory fees in terms of how they were defined and which were paid or not paid.

**Agenda Item IV. B. (2.)**

Mr. Manasco called the board's attention to information asking to submit a request for an Attorney General's opinion to interpret certain provisions in Act 2010-725. He explained that Troy University had sent a letter to the Treasurer with an Attorney General's Opinion concerning the determination of the Fall 2009 tuition rates. He explained that the issue arose because Troy University froze their tuition rates for PACT students at the 2008 rates. Because the rate was frozen in 2009, Troy requested the opinion to be able to base their Fall 2009 rates on the "standard, nondiscounted, published" tuition rates rather than the discounted rate that was charged to PACT students.

Mr. Manasco then reviewed the issues to be addressed in an Opinion which included the definition of tuition, establishment of tuition rates when the funding status falls below 90% and the determination of fees to be paid. The information is attached for reference.

Chairman Ivey called the Board's attention to the Resolution approving the submission of the request. She requested that the last word in the Resolution, "immediately", be struck. With no objection to the striking of "immediately", a motion was made by Senator Bedford to adopt the Resolution. The motion passed unanimously.

Ms. Emfinger asked for direction concerning the payment of the Fall 2010 invoice for Troy University. It was the consensus of the Board to make the payment at the PACT 2009 rates pending receipt of the Attorney General's Opinion.

**Agenda Item V. (B.)**

Chairman Ivey called on Ms. Emfinger to discuss the proposed changes to the Disclosure Statement. Ms. Emfinger discussed the changes, noting that most changes resulted from Act 2010-725 and the addition of disclosure of risk. The documents are attached for reference. General Hankins asked if legal counsel had reviewed and was told that it had been a joint effort with Mr. Manasco. A motion was made by Senator Bedford, seconded by General Hankins for approval of the Disclosure Statement as presented. The motion unanimously passed.

**Agenda Item VI.**

Chairman Ivey called the Board's attention to information provided by the College Savings Plans Network, as well as board meeting dates for 2011.

Senator Bedford expressed appreciation to Treasurer Ivey for her service on the Board, and congratulated her on her election as Lieutenant Governor.

There being no further business, the meeting was adjourned at 4:10 p.m.

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Brenda Emfinger, Recording Secretary

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Young Boozer, Chairman