

1 HB356
2 127920-1
3 By Representative Ball
4 RFD: Ways and Means General Fund
5 First Read: 29-MAR-11

SYNOPSIS: Existing law does not provide for the establishment of an Individual Development Account Program in the Department of Human Resources.

This bill would establish an Individual Development Account Program in the Department of Human Resources.

This bill would authorize certain persons with low income to enter into agreements developed with a fiduciary organization for the establishment of an individual development account.

This bill would require the agreement to provide for the amount of savings deposits, match fund rates, assets goals, financial literacy education classes to be completed, additional training specific to the asset, and financial counseling the individual will attend, as well as other services designed to increase the financial independence of the person.

This bill would provide that the funds in the account shall be matched under certain

1 circumstances and provide that money may be
2 withdrawn from the account for certain qualified
3 purposes.

4 This bill would allow money to be withdrawn
5 from the account if money is withdrawn for
6 emergencies and would remove a person from the
7 program if money is withdrawn for other purposes.

8 This bill would require the account holder
9 to fulfill certain requirements before the
10 withdrawal of money from the account and would
11 provide that money deposited in the account shall
12 not be considered gross income for income tax
13 purposes.

14 This bill would provide that money withdrawn
15 from the account for qualified purposes shall not
16 be considered gross income for income tax purposes
17 and would provide for the selection of fiduciary
18 organizations to administer the program.

19 The bill would provide for the duties of
20 financial institutions holding individual
21 development accounts.

22 This bill would provide that an account
23 owner's savings and matching funds shall not affect
24 his or her eligibility for any means-tested public
25 benefits and for related purposes.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 To establish the Individual Development Account
5 Program in the Department of Human Resources; to authorize
6 certain persons with low income to enter into agreements
7 developed with a fiduciary organization for the establishment
8 of an individual development account; to require the agreement
9 to provide for the amount of savings deposits, match fund
10 rates, asset goals and financial literacy education classes to
11 be completed, additional training specific to the asset, and
12 financial counseling the individual will attend, as well as
13 other services designed to increase the financial independence
14 of the person; to provide that the funds in the account shall
15 be matched under certain circumstances; to provide that money
16 may be withdrawn from the account for certain qualified
17 purposes; to allow money to be withdrawn from the account if
18 money is withdrawn for emergencies; to remove a person from
19 the program if money is withdrawn for other purposes; to
20 require the account holder to fulfill certain requirements
21 before the withdrawal of money from the account; to provide
22 that money deposited in the account shall not be considered
23 gross income for income tax purposes; to provide that money
24 withdrawn from the account for qualified purposes shall not be
25 considered gross income for income tax purposes; to provide
26 for the selection of fiduciary organizations to administer the
27 program; to provide for the duties of financial institutions

1 holding individual development accounts; to provide that an
2 account owner's savings and matching funds shall not affect
3 his or her eligibility for any means-tested public benefits;
4 and for related purposes.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. As used in this act, the following terms
7 shall have the following meanings:

8 (1) DEPARTMENT. The Department of Human Resources.

9 (2) ELIGIBLE INDIVIDUAL or FAMILY MEMBER. A person
10 whose household income is equal to or less than 80 percent of
11 the median household income for the state or less than 200
12 percent of the federal poverty guidelines, whichever is
13 greater.

14 (3) EMERGENCY. Payments for necessary medical
15 expenses of the account owner or family member, expenses to
16 avoid the eviction of the account owner from the account
17 owner's primary residence, and for necessary living expenses
18 following a loss of income

19 (4) FIDUCIARY ORGANIZATION. Any nonprofit,
20 fund-raising organization that is exempt from taxation under
21 Section 501(c)(3) of the Internal Revenue Code, as amended;
22 any certified community development financial institution; any
23 credit union chartered under federal or state law; or any
24 Indian tribe as defined in Section 4(12) of the Native
25 American Housing Assistance and Self-Determination Act of 1996
26 (25 U.S.C §4103(12)), and includes any trial subsidiary,
27 subdivision, or wholly owned tribal entity.

1 (5) FINANCIAL INSTITUTION. A federally insured bank,
2 trust company, savings bank, building and loan association,
3 savings and loan company or association, or credit union
4 authorized to do business in this state.

5 (6) INDIVIDUAL DEVELOPMENT ACCOUNT. An account
6 established for an eligible individual or family member as
7 part of a qualified individual development account program
8 with the following requirements:

9 a. The sole owner of the account is the individual
10 or family member for whom the account was created.

11 b. The holder of the account is a qualified
12 financial institution.

13 c. The assets of the account may not be commingled
14 with other property except in a common trust fund or common
15 investment fund.

16 d. Any amount in the account shall be paid out only
17 for the qualified purposes of the account owner, except if it
18 meets the qualifications of an emergency use.

19 (7) PARALLEL ACCOUNT. A separate parallel account
20 for all matching funds and earnings dedicated to individual
21 development account owners, the sole holder of which is a
22 qualified financial institution, a qualified fiduciary
23 organization, or an Indian tribe.

24 (8) QUALIFIED PURPOSES. The use of the account
25 owner's accumulated savings and matching funds for any of the
26 following purposes:

1 a. Securing postsecondary education, including, but
2 not limited to, community college courses, courses at a
3 four-year college or university, or postcollege, graduate
4 courses for the account owner or any member of the account
5 owner's family.

6 b. Securing postsecondary occupational training,
7 including, but not limited to, vocational or trade school
8 training for the account owner or any training authorized
9 under the Workforce Investment Act through the Department of
10 Economic and Community Affairs.

11 c. Purchasing a home for the first time, defined as
12 not being named on a legally registered home ownership title
13 for a minimum of 36 months.

14 d. Costs for major repairs or improvement to a
15 primary residence.

16 e. Business capitalization.

17 f. Purchasing of an automobile necessary to
18 transport the account owner or family member to a place of
19 employment or education.

20 g. Assistive technology.

21 h. Any other activity based on a plan approved by
22 the department.

23 Section 2. A person who is eligible to become an
24 individual development account owner may enter into an
25 agreement developed with a fiduciary organization for the
26 establishment of an individual development account. The
27 agreement shall provide for the amount of the savings

1 deposits, the match fund rate, the asset goal, and the
2 financial literacy classes to be completed, any additional
3 training specific to the asset, and financial counseling the
4 individual will attend, as well as other services designed to
5 increase the independence of the person through the
6 achievement of the account's approved purpose.

7 Section 3. Once the account owner has saved for a
8 minimum of six months, has reached his or her savings goal,
9 and has fulfilled all financial literacy education components,
10 the appropriate matching funds shall be transferred from the
11 parallel account directly to the vendor or service provider of
12 the approved asset.

13 Section 4. (a) If an emergency occurs, an account
14 owner may withdraw all or part of the account owner's deposits
15 to an individual development account with the approval of the
16 fiduciary organization.

17 (b) The account owner shall reimburse his or her
18 individual development account for the amount withdrawn under
19 this section within 12 months after the date of the
20 withdrawal. Failure of the account owner to make a timely
21 reimbursement to the account will remove the account owner
22 from the Individual Development Account Program. Until the
23 reimbursement has been made in full, an account owner may not
24 withdraw any matching funds or accrued interest on matching
25 funds from the account.

26 (c) If an account owner withdraws money from an
27 individual development account for other than a qualified

1 purpose, the fiduciary organization shall remove the account
2 owner from the program.

3 Section 5. Before becoming eligible to receive
4 matching funds to pay for qualified purposes, individual
5 development account owners shall complete a financial literacy
6 education course offered by a qualified financial institution,
7 a qualified fiduciary organization, an Indian tribe, or a
8 governmental entity.

9 Section 6. (a) Deposits to individual development
10 accounts made by the account owner shall come from earned
11 income, including, but not limited to, wages, earned income
12 tax credit returns, child support payments, supplemental
13 security income (SSI), disability benefits, community service
14 under TANF, AmeriCorps stipends, VISTA stipends, and job
15 training programs.

16 (b) Eligible individuals shall certify, if
17 necessary, that their deposits do not exceed their income. A
18 cap on deposits made by the account owner is set at two
19 thousand dollars (\$2,000).

20 Section 7. Money deposited into individual
21 development accounts shall not be included in gross income for
22 income tax purposes. Any amount withdrawn from a parallel
23 account, matching funds, may not be includable in an eligible
24 individual's gross income. Money withdrawn from an individual
25 development account shall only be included in gross income if
26 used for a purpose other than a qualified purpose.

1 Section 8. The department shall select fiduciary
2 organizations through competitive processes. In making the
3 selections, the department may consider factors including, but
4 not limited to, the following:

5 (1) The ability of the fiduciary organization to
6 implement and administer the individual development account
7 program, including the ability to verify account owner
8 eligibility, certify that matching funds are used only for
9 qualified purposes, and exercise general fiscal
10 accountability.

11 (2) The capacity of the fiduciary organization to
12 provide or raise matching funds for the deposits of account
13 owners.

14 (3) The capacity of the fiduciary organization to
15 provide, or to arrange for the provisions of, financial
16 counseling, financial literacy education and training specific
17 to the assets the account owners will be purchasing, and other
18 related services to account owners.

19 (4) The links the fiduciary organization has to
20 other activities and programs designed to increase the
21 independence of this state's low-income households and
22 individuals through education and training, home ownership,
23 small business capitalization, and other asset-building
24 programs.

25 (5) The feasibility of the fiduciary organization's
26 program design, including match rates and savings goals, to
27 lead to asset purchase.

1 Section 9. (a) Subject to rules promulgated by the
2 department, a fiduciary organization has sole authority over,
3 and responsibility for, the administration of individual
4 development accounts. The responsibility of the fiduciary
5 organization extends to all aspects of the account program,
6 including marketing to all eligible individuals and families,
7 soliciting matching funds, counseling account owners,
8 providing financial literacy education, and conducting
9 required verification and compliance activities. The fiduciary
10 organization may establish program provisions as the
11 organization believes necessary to ensure account owner
12 compliance with this act.

13 (b) A fiduciary organization may act in partnership
14 with other entities, including businesses, government
15 agencies, corporations, nonprofit organizations, community
16 action programs, community development corporations, housing
17 authorities and faith-based entities, to assist in the
18 fulfillment of its responsibilities under this act.

19 (c) A fiduciary organization may use a reasonable
20 portion of money allocated by the Legislature to the
21 Individual Development Account Program for administration,
22 operation and research, and evaluation purposes. A fiduciary
23 organization may not expend more than 15 percent of allocated
24 funds for those purposes.

25 (d) A fiduciary organization selected by the
26 department to administer funds allocated by the State of
27 Alabama for Individual Development Account purposes shall

1 provide the department an annual report based on regularly
2 collected data of the fiduciary organization's Individual
3 Development Account Program activity. The report shall be
4 filed not later than 90 days after the end of the fiscal year.
5 The report shall include, but is not limited to, the
6 following:

7 (1) The number of individual development accounts
8 administered by the fiduciary organization.

9 (2) The amount of deposits and matching funds for
10 each account.

11 (3) The asset purchase goal of each account.

12 (4) The number of withdrawals made.

13 (5) Any other information the department may require
14 for the purpose of determining whether the Individual
15 Development Account Program is achieving the purposes for
16 which it was established.

17 (e) The department shall make all reasonable and
18 necessary rules to ensure the fiduciary organization's
19 compliance with this act.

20 (f) Financial institutions holding individual
21 development accounts, at a minimum, shall:

22 (1) Keep the account in the name of the account
23 owner.

24 (2) Permit deposits to be made in the account.

25 (3) Require the account to earn a market rate of
26 interest.

1 (4) Maintain the individual development accounts as
2 fee free.

3 (5) Permit the account owner, after obtaining the
4 written authorization of the fiduciary organization, to
5 withdraw money from the account for any qualified purpose.

6 Section 10. (a) An account owner's savings and
7 matching funds shall not affect his or her eligibility for any
8 means-tested public benefits, including, but not limited to,
9 Medicaid, state children's health insurance programs, TANF,
10 Supplemental Nutrition Assistance Program, supplemental
11 security income, or government-subsidized foster care and
12 adoption payments, and child care or housing payments.

13 (b) Funds deposited in individual development
14 accounts shall not be counted as income, assets, or resources
15 of the account owner for the purpose of determining financial
16 eligibility for assistance or service pursuant to any federal,
17 federally assisted, state, or municipal program based on need.

18 Section 11. The Department of Human Resources shall
19 not be obligated to fund individual development parallel
20 accounts or be obligated to enter into contracts with
21 fiduciary organizations unless the Legislature appropriates
22 funding to the department for the establishment of an
23 Individual Development Account Program, nor shall the
24 department be obligated to spend funds on an Individual
25 Development Account Program above the amount appropriated by
26 the Legislature for such a program.

1 Section 12. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.