

1 SB295
2 127920-2
3 By Senators Dunn, Marsh, Waggoner, Blackwell, Ross, Singleton,
4 Beasley, Irons, Smitherman, Orr, Brewbaker, Fielding, Bedford,
5 Keahey, Figures, Reed, Coleman, Sanders, Smith, Allen, Dial,
6 Whatley and Ward
7 RFD: Children, Youth Affairs, and Human Resources
8 First Read: 29-MAR-11

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To establish the Individual Development Account
12 Program in the Department of Human Resources; to authorize
13 certain persons with low income to enter into agreements
14 developed with a fiduciary organization for the establishment
15 of an individual development account; to require the agreement
16 to provide for the amount of savings deposits, match fund
17 rates, asset goals and financial literacy education classes to
18 be completed, additional training specific to the asset, and
19 financial counseling the individual will attend, as well as
20 other services designed to increase the financial independence
21 of the person; to provide that the funds in the account shall
22 be matched under certain circumstances; to provide that money
23 may be withdrawn from the account for certain qualified
24 purposes; to allow money to be withdrawn from the account if
25 money is withdrawn for emergencies; to remove a person from
26 the program if money is withdrawn for other purposes; to
27 require the account holder to fulfill certain requirements

1 before the withdrawal of money from the account; to provide
2 that money deposited in the account shall not be considered
3 gross income for income tax purposes; to provide that money
4 withdrawn from the account for qualified purposes shall not be
5 considered gross income for income tax purposes; to provide
6 for the selection of fiduciary organizations to administer the
7 program; to provide for the duties of financial institutions
8 holding individual development accounts; to provide that an
9 account owner's savings and matching funds shall not affect
10 his or her eligibility for any means-tested public benefits;
11 and for related purposes.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

16 (2) ELIGIBLE INDIVIDUAL or FAMILY MEMBER. A person
17 whose household income is equal to or less than 80 percent of
18 the median household income for the state or less than 200
19 percent of the federal poverty guidelines, whichever is
20 greater.

21 (3) EMERGENCY. Payments for necessary medical
22 expenses of the account owner or family member, expenses to
23 avoid the eviction of the account owner from the account
24 owner's primary residence, and for necessary living expenses
25 following a loss of income

26 (4) FIDUCIARY ORGANIZATION. Any nonprofit,
27 fund-raising organization that is exempt from taxation under

1 Section 501(c)(3) of the Internal Revenue Code, as amended;
2 any certified community development financial institution; any
3 credit union chartered under federal or state law; or any
4 Indian tribe as defined in Section 4(12) of the Native
5 American Housing Assistance and Self-Determination Act of 1996
6 (25 U.S.C §4103(12)), and includes any trial subsidiary,
7 subdivision, or wholly owned tribal entity.

8 (5) FINANCIAL INSTITUTION. A federally insured bank,
9 trust company, savings bank, building and loan association,
10 savings and loan company or association, or credit union
11 authorized to do business in this state.

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

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

18 b. The holder of the account is a qualified
19 financial institution.

20 c. The assets of the account may not be commingled
21 with other property except in a common trust fund or common
22 investment fund.

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

26 (7) PARALLEL ACCOUNT. A separate parallel account
27 for all matching funds and earnings dedicated to individual

1 development account owners, the sole holder of which is a
2 qualified financial institution, a qualified fiduciary
3 organization, or an Indian tribe.

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

7 a. Securing postsecondary education, including, but
8 not limited to, community college courses, courses at a
9 four-year college or university, or postcollege, graduate
10 courses for the account owner or any member of the account
11 owner's family.

12 b. Securing postsecondary occupational training,
13 including, but not limited to, vocational or trade school
14 training for the account owner or any training authorized
15 under the Workforce Investment Act through the Department of
16 Economic and Community Affairs.

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

20 d. Costs for major repairs or improvement to a
21 primary residence.

22 e. Business capitalization.

23 f. Purchasing of an automobile necessary to
24 transport the account owner or family member to a place of
25 employment or education.

26 g. Assistive technology for people with
27 disabilities.

1 h. Any other activity based on a plan approved by
2 the department.

3 Section 2. A person who is eligible to become an
4 individual development account owner may enter into an
5 agreement developed with a fiduciary organization for the
6 establishment of an individual development account. The
7 agreement shall provide for the amount of the savings
8 deposits, the match fund rate, the asset goal, and the
9 financial literacy classes to be completed, any additional
10 training specific to the asset, and financial counseling the
11 individual will attend, as well as other services designed to
12 increase the independence of the person through the
13 achievement of the account's approved purpose.

14 Section 3. Once the account owner has saved for a
15 minimum of six months, has reached his or her savings goal,
16 and has fulfilled all financial literacy education components
17 in accordance with federal guidelines, the appropriate
18 matching funds shall be transferred from the parallel account
19 directly to the vendor or service provider of the approved
20 asset.

21 Section 4. (a) If an emergency occurs, an account
22 owner may withdraw all or part of the account owner's deposits
23 to an individual development account with the approval of the
24 fiduciary organization.

25 (b) The account owner shall reimburse his or her
26 individual development account for the amount withdrawn under
27 this section within 12 months after the date of the

1 withdrawal. Failure of the account owner to make a timely
2 reimbursement to the account will remove the account owner
3 from the Individual Development Account Program. Until the
4 reimbursement has been made in full, an account owner may not
5 withdraw any matching funds or accrued interest on matching
6 funds from the account.

7 (c) If an account owner withdraws money from an
8 individual development account for other than a qualified
9 purpose, the fiduciary organization shall remove the account
10 owner from the program.

11 Section 5. Before becoming eligible to receive
12 matching funds to pay for qualified purposes, individual
13 development account owners shall complete a financial literacy
14 education course offered by a qualified financial institution,
15 a qualified fiduciary organization, an Indian tribe, or a
16 governmental entity in accordance with federal guidelines.

17 Section 6. (a) Deposits to individual development
18 accounts made by the account owner shall come from earned
19 income, including, but not limited to, wages, earned income
20 tax credit returns, child support payments, supplemental
21 security income (SSI), disability benefits, community service
22 under TANF, AmeriCorps stipends, VISTA stipends, and job
23 training programs.

24 (b) Eligible individuals shall certify that their
25 deposits do not exceed their income. A cap on deposits made by
26 the account owner is set at two thousand dollars (\$2,000).

1 Section 7. Money deposited into individual
2 development accounts shall not be included in gross income for
3 income tax purposes. Any amount withdrawn from a parallel
4 account, matching funds, may not be includable in an eligible
5 individual's gross income. Money withdrawn from an individual
6 development account shall only be included in gross income if
7 used for a purpose other than a qualified purpose.

8 Section 8. The department shall select fiduciary
9 organizations through competitive processes. In making the
10 selections, the department may consider factors including, but
11 not limited to, the following:

12 (1) The ability of the fiduciary organization to
13 implement and administer the individual development account
14 program, including the ability to verify account owner
15 eligibility, certify that matching funds are used only for
16 qualified purposes, and exercise general fiscal
17 accountability.

18 (2) The capacity of the fiduciary organization to
19 provide or raise matching funds for the deposits of account
20 owners.

21 (3) The capacity of the fiduciary organization to
22 provide, or to arrange for the provisions of, financial
23 counseling, financial literacy education and training specific
24 to the assets the account owners will be purchasing, and other
25 related services to account owners.

26 (4) The links the fiduciary organization has to
27 other activities and programs designed to increase the

1 independence of this state's low-income households and
2 individuals through education and training, home ownership,
3 small business capitalization, and other asset-building
4 programs.

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

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

20 (b) A fiduciary organization may act in partnership
21 with other entities, including businesses, government
22 agencies, corporations, nonprofit organizations, community
23 action programs, community development corporations, housing
24 authorities and faith-based entities, to assist in the
25 fulfillment of its responsibilities under this act.

26 (c) A fiduciary organization may use a reasonable
27 portion of money allocated by the Legislature to the

1 Individual Development Account Program for administration,
2 operation and research, and evaluation purposes. A fiduciary
3 organization may not expend more than 15 percent of allocated
4 funds for those purposes.

5 (d) A fiduciary organization selected by the
6 department to administer funds allocated by the State of
7 Alabama for Individual Development Account purposes shall
8 provide the department an annual report based on regularly
9 collected data of the fiduciary organization's Individual
10 Development Account Program activity. The report shall be
11 filed not later than 90 days after the end of the fiscal year.
12 The report shall include, but is not limited to, the
13 following:

14 (1) The number of individual development accounts
15 administered by the fiduciary organization.

16 (2) The amount of deposits and matching funds for
17 each account.

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

19 (4) The number of withdrawals made.

20 (5) Any other information the department may require
21 for the purpose of determining whether the Individual
22 Development Account Program is achieving the purposes for
23 which it was established.

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

1 (f) Financial institutions holding individual
2 development accounts, at a minimum, shall:

3 (1) Keep the account in the name of the account
4 owner.

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

6 (3) Require the account to earn a market rate of
7 interest.

8 (4) Maintain the individual development accounts as
9 fee free.

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

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

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

25 Section 11. The Department of Human Resources shall
26 not be obligated to fund individual development parallel
27 accounts or be obligated to enter into contracts with

1 fiduciary organizations unless the Legislature appropriates
2 funding to the department for the establishment of an
3 Individual Development Account Program, nor shall the
4 department be obligated to spend funds on an Individual
5 Development Account Program above the amount appropriated by
6 the Legislature for such a program.

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

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Senate

Read for the first time and referred to the Senate
committee on Children, Youth Affairs, and Human
Resources..... 29-MAR-11

Read for the second time and placed on the calen-
dar 1 amendment..... 14-APR-11

Read for the third time and passed as amended 05-MAY-11

Yeas 24
Nays 3
Abstaining 1

Patrick Harris
Secretary