

1 HB774
2 120669-1
3 By Representative Ball
4 RFD: Government Appropriations
5 First Read: 25-MAR-10

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8 SYNOPSIS: Existing law does not provide for the
9 establishment of an Individual Development Account
10 Program in the Office of the Commissioner of the
11 Alabama Department of Human Resources.

12 This bill would establish an Individual
13 Development Account Program in the Office of the
14 Commissioner of the Department of Human Resources.

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

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

1 This bill would provide that the funds in
2 the account shall be matched under certain
3 circumstances and provide that money may be
4 withdrawn from the account for certain qualified
5 purposes.

6 This bill would allow money to be withdrawn
7 from the account if money is withdrawn for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9 program if money is withdrawn for other purposes.

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

16 This bill would provide that money withdrawn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

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

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

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
5

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

1 gross income for income tax purposes; to provide for the
2 selection of fiduciary organizations to administer the
3 program; to provide for the duties of financial institutions
4 holding individual development accounts; to provide that an
5 account owner's savings and matching funds shall not affect
6 his or her eligibility for any means-tested public benefits;
7 and for related purposes.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 (1) COMMISSIONER. The Commissioner of the Department
12 of Human Resources.

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

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

23 (4) FIDUCIARY ORGANIZATION. Any nonprofit,
24 fund-raising organization that is exempt from taxation under
25 Section 501(c) (3) of the Internal Revenue Code, as amended;
26 any certified community development financial institution; any
27 credit union chartered under federal or state law; or any

1 Indian tribe as defined in Section 4(12) of the Native
2 American Housing Assistance and Self-Determination Act of 1996
3 (25 U.S.C §4103(12)), and includes any tribal subsidiary,
4 subdivision, or wholly owned tribal entity.

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

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

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

15 b. The holder of the account is a qualified
16 financial institution.

17 c. The assets of the account may not be commingled
18 with other property except in a common trust fund or common
19 investment fund.

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

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

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

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

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

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

17 d. Costs for major repairs or improvement to a
18 primary residence.

19 e. Business capitalization.

20 f. Purchasing of an automobile necessary to
21 transport the account owner or family member to a place of
22 employment or education.

23 g. Assistive technology.

24 h. Any other activity based on a plan approved by
25 the commissioner.

26 Section 2. A person who is eligible to become an
27 individual development account owner may enter into an

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

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

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

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

1 withdraw any matching funds or accrued interest on matching
2 funds from the account.

3 (c) If an account owner withdraws money from an
4 individual development account for other than a qualified
5 purpose, the fiduciary organization shall remove the account
6 owner from the program.

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

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

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

24 Section 7. Money deposited into individual
25 development accounts shall not be included in gross income for
26 income tax purposes. Any amount withdrawn from a parallel
27 account, matching funds, may not be includable in an eligible

1 individual's gross income. Money withdrawn from an individual
2 development account shall only be included in gross income if
3 used for a purpose other than a qualified purpose.

4 Section 8. The commissioner shall select fiduciary
5 organizations through competitive processes. In making the
6 selections, the commissioner may consider factors including,
7 but not limited to, the following:

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

14 (2) The capacity of the fiduciary organization to
15 provide or raise matching funds for the deposits of account
16 owners.

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

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

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

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

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

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

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

10 (1) The number of individual development accounts
11 administered by the fiduciary organization.

12 (2) The amount of deposits and matching funds for
13 each account.

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

15 (4) The number of withdrawals made.

16 (5) Any other information the commissioner may
17 require for the purpose of determining whether the Individual
18 Development Account Program is achieving the purposes for
19 which it was established.

20 (e) The commissioner shall make all reasonable and
21 necessary rules to ensure the fiduciary organization's
22 compliance with this act.

23 (f) Financial institutions holding individual
24 development accounts, at a minimum, shall:

25 (1) Keep the account in the name of the account
26 owner.

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

1 (3) Require the account to earn a market rate of
2 interest.

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

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

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

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

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

1 Development Account Program above the amount appropriated by
2 the Legislature for such a program.

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