

1 SB295  
2 127920-1  
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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8 SYNOPSIS: Existing law does not provide for the  
9 establishment of an Individual Development Account  
10 Program in the Department of Human Resources.

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

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

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

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



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16 may be withdrawn from the account for certain qualified  
17 purposes; to allow money to be withdrawn from the account if  
18 money is withdrawn for emergencies; to remove a person from  
19 the program if money is withdrawn for other purposes; to  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.