TITLE 56
PUBLIC ASSISTANCE AND WELFARE

CHAPTER 11
IDAHO FAMILY ASSET BUILDING INITIATIVE

56-1101. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Account holder" means a member of a low-income household who is the named depositor of an individual development account.

(2) "Board" means the individual development account advisory board as established pursuant to the provisions of this chapter.

(3) "Fiduciary organization" means a nonprofit, fundraising organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, approved by the state, including any Indian tribe as defined in section 4(12) of the native American housing assistance and self-determination act of 1996 (25 U.S.C. section 4103(12)) and any tribal subsidiary, subdivision, or other wholly owned tribal entity.

(4) "Financial institution" means any state bank, national bank, savings bank, savings and loan association, credit union, insurance company, brokerage firm or other similar entity that insures the deposits of its investors and is authorized to do business in this state.

(5) "Individual development account" means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into the financial institution by the fiduciary organization from private and public contributions made to the fiduciary organization for such purpose, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(6) "Low-income household" means a single person or family whose adjusted annual income is less than two hundred percent (200%) of the annual federal poverty guideline.

[56-1101, added 2002, ch. 149, sec. 1, p. 435.]

56-1102. LEGISLATIVE FINDINGS. The legislature finds that:

(1) The problem of poverty will not be solved solely by government programs and income subsidies.

(2) It is in the best interest of all Idahoans to structure incentives in a way that will result in a greater likelihood that low-income and working-poor individuals will attain self-sufficiency.

(3) It is in the best interest of all Idahoans to encourage low-income individuals, neighborhoods and communities to benefit from the developments achieved through the growth in assets and investments.

(4) Achieving self-sufficiency and assessing economic opportunity for low-income and working-poor individuals can be addressed through public policy that invests in asset accumulation and is supported by private sector philanthropy.

(5) Providing a structured savings situation for low-income and working-poor individuals enhances their chances of fulfilling major life goals and opportunities and incorporates them into the economic mainstream.

(6) The state has an opportunity to take advantage of private and public resources by making the transition to an asset-based antipoverty strategy.

Those resources include, but are not limited to, the assets for independence act (42 U.S.C. section 604) and the workforce investment act (P.L. 105-220).

(7) Investment through an individual development account program will help lower-income households obtain the assets they need to succeed. Communities and this state will experience resultant economic and social benefits accruing from the promotion of job training and higher education, home ownership and small business development.

(8) It is desirable for this state to enact legislation that enables an authorized fiduciary organization sufficient flexibility to receive private, state and federal moneys for individual development accounts. The legislature should periodically review the provisions of this chapter to ensure that this state maximizes the receipt of available federal moneys for individual development accounts.

[56-1102, added 2002, ch. 149, sec. 1, p. 436.]

56-1103. PERSONS QUALIFYING AS ACCOUNT HOLDERS. (1) A person who qualifies to become an account holder may enter into an agreement with a fiduciary organization for the establishment of an individual development account.

(2) A person is qualified to become an account holder if the person is a member of a low-income household.

(3) A person applying to establish an account must enroll in a personal development plan developed by the person and the fiduciary organization. The plan must provide the person with financial training and counseling, career or business planning and other services designed to increase the independence of the person and the person's household through achievement of the account's approved purpose.

[56-1103, added 2002, ch. 149, sec. 1, p. 437.]

56-1104. APPROVED PURPOSE OF ACCOUNT -- EMERGENCY WITHDRAWAL -- REMOVAL OF ACCOUNT HOLDER FROM PROGRAM. (1) A person may establish an individual development account only for a purpose approved by a fiduciary organization. Disbursements from an account for an approved purpose shall be made directly by the fiduciary organization on behalf of the account holder but in no event shall the fiduciary organization make a disbursement for an approved purpose directly to the account holder. Purposes that the fiduciary organization may approve are:

(a) Educational costs for any family member eighteen (18) years of age or older, at an accredited institution of postsecondary education.

(b) The purchase of a primary residence. In addition to payment on the purchase price of the residence, account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs. The account holder must not have owned or held any interest in a residence during the three (3) years prior to making the purchase. However, this three (3) year period shall not apply to displaced homemakers or other individuals who have lost home ownership as a result of divorce.

(c) The capitalization of a small business. Account moneys may be used for capital, plant, equipment and inventory expenses or for working capital pursuant to a business plan. The business plan must have been developed through a financial institution, nonprofit microenterprise program or other qualified agent demonstrating business expertise and have been approved by the fiduciary organization. The business

plan must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

(2) (a) If an emergency occurs, an account holder may withdraw all or part of the account holder's deposits to an individual development account for a purpose not described in subsection (1) of this section. As used in this paragraph, an approved emergency includes making payments for necessary medical expenses, to avoid eviction of the account holder from the account holder's residence and for necessary living expenses following a loss of employment.

(b) The account holder must reimburse the account for the amount withdrawn under this subsection within twelve (12) months after the date of the withdrawal. Failure of an account holder to make a timely reimbursement to the account is grounds for removing the account holder from the individual development account program. Until the reimbursement has been made in full, an account holder shall not be approved for matching funds or accrued interest on matching funds.

(3) If an account holder withdraws, or directs the withdrawal, of moneys from an individual development account for other than an approved purpose, the fiduciary organization may remove the account holder from the program.

(4) If an account holder moves from the area where the program is conducted or is otherwise unable to continue in the program, the fiduciary organization may remove the account holder from the program.

(5) If an account holder is removed from the program under subsection (2), (3) or (4) of this section, the account holder shall retain moneys he or she deposited in the account, including interest earned. In the event of the death of the account holder, moneys deposited in the account by the account holder and interest earned on those deposits shall be distributed to the designated beneficiary of the account and, if there is none, then according to the laws of the state of Idaho as moneys of the estate of the account holder. If the account holder is removed from the program or in the event of the account holder's death, all matching deposits in the account and all interest earned on matching deposits shall revert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a source of matching deposits for other accounts.

[56-1104, added 2002, ch. 149, sec. 1, p. 437.]

56-1105. REQUIRED ACCOUNT FEATURES -- MATCHING MONEYS. (1) The fiduciary organization shall structure the accounts to have the following features:

(a) The fiduciary organization matches amounts deposited by the account holder according to a formula established by the fiduciary organization. The fiduciary organization shall deposit not less than one dollar ($1.00) nor more than five dollars ($5.00) into the account for each one dollar ($1.00) deposited by the account holder.

(b) The matching deposits by the fiduciary organization to the individual development account are placed in a savings account that is controlled by the fiduciary organization and held separately from the savings account of the account holder.

(2) Deposits by a fiduciary organization to an account shall not exceed three thousand dollars ($3,000) in any twelve (12) month period.

(3) The total amount paid into an individual development account during its existence, including amounts from deposits, matching deposits and

interest or investment earnings, may not exceed twenty thousand dollars ($20,000).

(4) Nothing in this chapter shall be construed to create an entitlement to matching moneys. The number of individuals who may receive disbursement of matching philanthropic moneys by sponsoring organizations pursuant to the provisions of this chapter shall necessarily be limited by the amount of philanthropic moneys available in any given year for such purpose.

[56-1105, added 2002, ch. 149, sec. 1, p. 438.]

56-1106. INDIVIDUAL DEVELOPMENT ACCOUNT ADVISORY BOARD -- POWERS AND DUTIES. There is hereby created the individual development account advisory board. The board shall consist of the administrator of the division of financial management or his designee who shall serve as chair, the director of the department of finance or designee, the director of the department of health and welfare or designee, the director of the department of commerce or designee, the chairman of the Idaho state tax commission or designee, and the superintendent of public instruction or designee. A quorum shall be necessary to transact business. Members of the board shall be compensated by their appointing entity. The individual development account board shall:

(1) Develop and administer the individual development account program in a manner consistent with this chapter through the adoption of guidelines and procedures, and rules adopted in compliance with chapter 52, title 67, Idaho Code;

(2) Retain professional services, if necessary, including accountants, auditors, consultants and other experts;

(3) Seek rulings and other guidance, as necessary, from the United States department of the treasury, the internal revenue service and the state tax commission relating to the program;

(4) Make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by section 529 of the Internal Revenue Code of 1986, as amended.

(5) Interpret, in rules, policies, guidelines and procedures, the provisions of this chapter broadly in light of its purpose and objectives; and

(6) Approve fiduciary organizations to implement the individual development account program and administer moneys for individual development account purposes. In making the selections, the board shall consider factors including, but not limited to:

(a) The ability of the fiduciary organization to implement and administer the individual development account program, including the ability to verify account holder eligibility, certify that matching deposits are used only for approved purposes and exercise general fiscal accountability;

(b) The capacity of the fiduciary organization to provide or raise matching funds for the deposits of account holders;

(c) The capacity of the fiduciary organization to provide financial counseling and other related services to account holders;

(d) The links that the fiduciary organization has to other activities and programs designed to increase the independence of this state's lower-income households through education and training, home ownership and small business development; and

(e) The ability to meet criteria established by the federal government relating to individual development account programs.

[56-1106, added 2002, ch. 149, sec. 1, p. 438.]

56-1107. FIDUCIARY ORGANIZATIONS -- AUTHORITY AND DUTIES. (1) Subject to rules of the individual development account advisory board, a fiduciary organization has sole authority over, and responsibility for, the administration of individual development accounts. The responsibility of the fiduciary organization extends to all aspects of the account program, including marketing to participants, soliciting matching contributions, counseling account holders, providing financial training, and conducting required verification and compliance activities. The fiduciary organization may establish program provisions as the organization believes necessary to ensure account holder compliance with the provisions of this chapter.

(2) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, nonprofit organizations, community development corporations, community action programs, housing authorities and congregations to assist in the fulfillment of fiduciary organization responsibilities under this chapter.

(3) A fiduciary organization may use a reasonable portion of moneys allocated to the individual development account program for administration, operation and evaluation purposes.

(4) A fiduciary organization selected to administer moneys for individual development account purposes or to receive tax deductible contributions shall provide the board with an annual report of the fiduciary organization's individual development account program activity. The report shall be filed no later than ninety (90) days after the end of the fiscal year of the fiduciary organization, or November 1 of each year, whichever occurs first. The report shall include, but not be limited to, the following information for the preceding year:

(a) The number of individual development accounts administered by the fiduciary organization;

(b) The amount of deposits and matching deposits for each account;

(c) The purpose of each account;

(d) The amount of withdrawals made for approved purposes, and the amount of withdrawals made for nonapproved purposes;

(e) The determination of whether certain donors are corporations; and

(f) Any other information the board may require for the purpose of making a return on investment analysis.

[56-1107, added 2002, ch. 149, sec. 1, p. 439.]

56-1108. PUBLIC ASSISTANCE -- ELIGIBILITY DETERMINATION. Moneys in an individual development account established pursuant to the provisions of this chapter, or moneys withdrawn from an individual development account on behalf of an account holder for an approved purpose, shall not be counted as an asset of the account holder for the purpose of eligibility determination for any public assistance offered by the state of Idaho or a political subdivision of the state of Idaho.

[56-1108, added 2002, ch. 149, sec. 1, p. 440.]