

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

*As Engrossed: S3/11/99 S3/17/99*

# A Bill

Act 1217 of 1999  
SENATE BILL 803

5 By: Senator Bradford  
6 By: Representative Booker  
7

## For An Act To Be Entitled

10 "AN ACT TO CREATE THE FAMILY SAVINGS INITIATIVE ACT;  
11 AND FOR OTHER PURPOSES."

### Subtitle

14 "TO CREATE THE FAMILY SAVINGS INITIATIVE  
15 ACT."

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20 SECTION 1. This act shall be known and may be cited as the "Family  
21 Savings Initiative Act".

23 SECTION 2. The purpose of the Family Savings Initiative Act is to  
24 provide for the establishment of individual development accounts designed to:

25 (1) Provide individuals and families with limited means an opportunity  
26 to accumulate assets;

27 (2) Facilitate and mobilize savings;

28 (3) Promote home ownership, microenterprise development, education,  
29 saving for retirement, and automobile purchase; and

30 (4) Stabilize families and build communities.

31  
32 SECTION 3. The Legislature hereby finds that:

33 (1) Americans of most economic classes are having increasing  
34 difficulty climbing the economic ladder. Fully half of all Americans have  
35 negligible or no investable assets just as the price of entry to the economic  
36 mainstream, such as the cost of a house, starting a business, an adequate

1 education, establishing a retirement account, or purchasing an automobile, is  
2 increasing;

3 (2) Economic well-being does not come solely from income, spending, and  
4 consumption, but also requires savings, investment, and accumulation of  
5 assets, since assets can improve economic stability, connect people with a  
6 viable and hopeful future, stimulate development of human and other capital,  
7 enable people to focus and specialize, yield personal and social dividends,  
8 and enhance the welfare of offspring;

9 (3) There is an urgent need for new means for Americans to navigate the  
10 labor market and to provide incentives and means for employment, upgrading,  
11 mobility, and retention;

12 (4) The household savings rate of the United States lags far behind  
13 other industrial nations, presenting a barrier to economic growth. The State  
14 of Arkansas should develop policies, such as individual development accounts,  
15 that promote higher rates of personal savings and net private domestic  
16 investment;

17 (5) In the current fiscal environment, the State of Arkansas should  
18 invest existing resources in high-yielding initiatives. There is reason to  
19 believe that the financial returns, including increased income, tax revenue,  
20 and decreased welfare cash assistance, of individual development accounts will  
21 far exceed the cost of investment;

22 (6) Hundreds of thousands of Arkansans continue to live in poverty.  
23 Poverty is a loss of human resources, an assault on human dignity, and a drain  
24 on social and fiscal resources of this state. Traditional public assistance  
25 programs, concentrating on income and consumption, have rarely been successful  
26 in promoting and supporting the transition to economic self-sufficiency; and

27 (7) Income-based social policy should be complemented with asset-based  
28 social policy, because while income-based policies ensure that consumption  
29 needs, including food, child care, rent, clothing, and health care, are met,  
30 asset-based policies provide the means to achieve economic self-sufficiency  
31 and climb the economic ladder.

32  
33 SECTION 4. As used in this act:

34 (1) "Administrative Costs" includes, but is not limited to, soliciting  
35 matching funds, processing fees charged by the fiduciary organization or  
36 financial institution, and traditional overhead costs. Administrative costs

1 shall be limited to no more than ten percent (10%) of the contract.

2 (2) "Department" means the Department of Human Services;

3 (3) "Eligible educational institution" means the following:

4 (A) an institution described in 20 U.S.C., Section 1088(a)(1) or  
5 1141(a), as such sections are in effect on January 1, 2000;

6 (B) an area vocational education school, as defined in 20 U.S.C.,  
7 Section 2471(4), subparagraph (C) or (D), as such section is in effect on  
8 January 1, 2000; and

9 (C) any other accredited education or training organization.

10 (4) "Federal poverty level" means the poverty income guidelines  
11 published for a calendar year by the United States Department of Health and  
12 Human Services;

13 (5) "Fiduciary organization" means the organization that will serve as  
14 an intermediary between an individual account holder and a financial  
15 institution holding account funds. A fiduciary organization shall be a not-  
16 for-profit organization described in Section 501(c)(3) of the Internal Revenue  
17 Code of 1986, 26 U.S.C., Section 501(c)(3), as in effect on January 1, 2000;

18 (6) "Financial institution" means an organization authorized to do  
19 business under state or federal laws relating to financial institutions, and  
20 includes but is not limited to a bank, trust company, savings bank, building  
21 and loan association, savings and loan company or association, or credit  
22 union;

23 (7) "Individual development account" or "IDA" means an account created  
24 pursuant to this act exclusively for the purpose of paying the expenses of an  
25 eligible individual or family for the purposes set forth in Section 7 of this  
26 act;

27 (8) "Net worth" means the aggregate market value of all assets that are  
28 owned in whole or in part by any member of the household, less the obligations  
29 or debts of any member of the household;

30 (9) "Operating costs" includes, but is not limited to, costs of  
31 training IDA participants in economic and financial literacy and IDA uses,  
32 marketing participation, counseling participants and conducting required  
33 verification and compliance activities;

34 (10) "Postsecondary educational expenses" means:

35 (A) tuition and fees required for the enrollment or attendance of  
36 an IDA account holder or immediate family member thereof who is a student at

1 an eligible educational institution; and

2 (B) fees, books, supplies, and equipment required for courses of  
3 instruction for an IDA account holder or immediate family member thereof who  
4 is a student at an eligible educational institution;

5 (11) "Qualified acquisition costs" means:

6 (A) the costs of acquiring, constructing, or reconstructing a  
7 residence to be occupied by an IDA account holder or an immediate family  
8 member thereof, including, but not limited to, any usual or reasonable  
9 settlement, financing, or other closing costs; and

10 (B) the costs of acquiring or repairing a motor vehicle to be  
11 used by an IDA account holder or an immediate family member thereof, including  
12 but not limited to any taxes, insurance, or registration costs incurred in  
13 acquiring a motor vehicle;

14 (12) "Qualified business" means any business that does not contravene  
15 any law or public policy;

16 (13) "Qualified business capitalization expenses" means qualified  
17 expenditures for the capitalization of a qualified business pursuant to a  
18 qualified plan;

19 (14) "Qualified emergency withdrawals" means a withdrawal by an  
20 eligible individual that is a withdrawal of only those funds, or a portion of  
21 those funds, deposited by the individual in the individual development account  
22 of the individual, and is permitted by a fiduciary organization on a case-by-  
23 case basis in accordance with the rules established by the Department.

24 (15) "Qualified expenditures" means expenditures included in a  
25 qualified plan, including but not limited to capital, plant, equipment,  
26 working capital, and inventory expenses;

27 (16) "Qualified first time home buyer" means an individual who has no  
28 ownership interest in a principal residence during the three (3) year period  
29 ending on the date of acquisition of the principal residence to which this act  
30 applies;

31 (17) "Qualified plan" means a plan for the operation of a business by  
32 an IDA account holder or an immediate family member thereof which:

33 (A) is approved by a financial institution, or by a nonprofit  
34 microenterprise program or loan fund, having demonstrated business expertise;

35 (B) includes a description of services or goods to be sold, a  
36 marketing plan, and projected financial statements; and

1           (C) may require the eligible individual to obtain the assistance  
2 of an experienced entrepreneurial advisor.

3           (18) "Qualified principal residence" means a principal residence within  
4 the meaning of Section 1034 of the Internal Revenue Code of 1986, 26 U.S.C.,  
5 Section 1034, as in effect on January 1, 2000, of an IDA account holder or an  
6 immediate family member thereof, the qualified acquisition costs of which do  
7 not exceed the average area purchase price applicable to such residence,  
8 determined in accordance with paragraphs (2) and (3) of Section 143(e) of the  
9 Internal Revenue Code, 26 U.S.C., Section 143(e)(2) and (3), as in effect on  
10 January 1, 2000.

11  
12           SECTION 5. (a) The Department of Human Services shall enter into  
13 contracts with one or more fiduciary organizations pursuant to the provisions  
14 of this section in such a manner that different regions of the state are  
15 served by one (1) or more fiduciary organizations. An organization based in  
16 this state which desires to enter into such a contract shall submit a proposal  
17 to the Department for the right to be approved as a fiduciary organization.  
18 Such proposals shall be made upon forms prescribed by the Department and shall  
19 contain such information as the Department may require.

20           (b) Organizations' proposals shall be evaluated and contracts awarded  
21 by the Department on the basis of such items as geographic diversity and an  
22 organization's:

23           (1) Ability to market the project to potential account holders;  
24           (2) Ability to leverage additional matching and operating funds;  
25           (3) Ability to provide safe and secure investments for individual  
26 accounts;

27           (4) Overall administrative capacity, including but not limited to  
28 the certifications or verifications required to assure compliance with  
29 eligibility requirements, authorized uses of the accounts, matching  
30 contributions by individuals or businesses, and penalties for unauthorized  
31 distributions;

32           (5) Capacity to provide financial counseling and other related  
33 service to potential participants;

34           (6) Capacity to provide other activities designed to increase the  
35 independence of individuals and families through home ownership, small  
36 business development, enhanced education and training, saving for retirement,

1 and automobile purchase, or to provide links to such other activities; and  
2 (7) Operating costs.

3 (c) For each contract entered into pursuant to the provisions of this  
4 section, the contract shall begin no later than October 1 of each year. The  
5 fiduciary organization shall use not less than seventy percent (70%) for  
6 matching funds and not more than thirty percent (30%) for operating and  
7 administrative costs. Administrative costs shall be limited to ten percent  
8 (10%) of the contract.

9 (d) Responsibilities of a fiduciary organization shall include, but not  
10 be limited to, marketing participation, soliciting matching contributions,  
11 counseling project participants, conducting basic economic and financial  
12 literacy training and IDA use training for project participants, and  
13 conducting required verification and compliance activities. Neither a  
14 fiduciary organization nor an employee of, or person associated with a  
15 fiduciary organization, shall receive anything of value, other than  
16 compensation for services, for any act performed in connection with the  
17 establishment of an IDA or in furtherance of the provisions of this act.

18  
19 SECTION 6. (a) An individual who is a resident of this state may  
20 submit an application to open an individual development account to a fiduciary  
21 organization approved by the Department of Human Services pursuant to the  
22 provisions of Section 5 of this act. The fiduciary organization shall approve  
23 the application only if:

24 (1) the individual has gross household income from all sources  
25 for the calendar year preceding the year in which the application is made  
26 which does not exceed one hundred eighty-five percent (185%) of the federal  
27 poverty level; and

28 (2) individual's household net worth at the time the IDA account  
29 is opened does not exceed ten thousand dollars (\$10,000) disregarding the  
30 primary dwelling and one motor vehicle owned by the household.

31 (b) An individual opening an IDA shall be required to enter into an IDA  
32 agreement with the fiduciary organization.

33 (c) The fiduciary organization shall be responsible for coordinating  
34 arrangements between the individual and a financial institution to open the  
35 individual's IDA.

36 (d)(1) Each fiduciary organization shall provide written notification

1 to each of its eligible IDA account holders of the amount of matching funds  
2 provided by the fiduciary to which each such IDA account holder is entitled.  
3 Such notification shall be made at such intervals as the fiduciary  
4 organization deems appropriate, but shall be required to be made at least once  
5 each calendar year. The amount of such matching funds for each IDA account  
6 holder shall be three dollars (\$3.00) for each one dollar (\$1.00) contributed  
7 to the IDA by the IDA account holder during the preceding calendar year. The  
8 amount of such matching funds shall not exceed two thousand dollars (\$2,000)  
9 per IDA account holder or four thousand dollars (\$4,000) per household.

10 (2) If the amount of matching funds available are insufficient to  
11 disburse the maximum amounts specified in this subsection, amounts of  
12 disbursements shall be reduced proportionately based upon available funds.

13 (e) If an IDA account holder has gross household income from all  
14 sources for a calendar year which exceeds one hundred eighty-five percent  
15 (185%) of the federal poverty level, the IDA account holder shall not be  
16 eligible to receive funds pursuant to the provisions of subsection (d) of this  
17 section in the following year.

18 (f) In the event of an IDA account holder's death, the account may be  
19 transferred to the ownership of a contingent beneficiary or beneficiaries. An  
20 account holder shall name a contingent beneficiary or beneficiaries at the  
21 time the account is established and may change such beneficiary or  
22 beneficiaries at any time. If the named beneficiary or beneficiaries are  
23 deceased or cannot otherwise accept the transfer, the monies shall be  
24 transferred to the fiduciary organization to redistribute as matching funds.

25  
26 SECTION 7. (a) Individual development accounts may be used for any of  
27 the following qualified purposes:

28 (1) Qualified acquisition costs with respect to a qualified principal  
29 residence for a qualified first time home buyer, or the costs of major repairs  
30 or improvements to a qualified principal residence, if paid directly to the  
31 persons to whom the amounts are due;

32 (2) Amounts paid directly to a business capitalization account which is  
33 established in a federally insured financial institution and is restricted to  
34 use solely for qualified business capitalization expenses consistent with a  
35 qualified plan;

36 (3) Postsecondary educational expenses paid directly to an eligible

1 educational institution;

2 (4) Amounts paid directly to an individual retirement account or  
3 education IRA established pursuant to federal law in the name of the IDA  
4 account holder or an immediate family member thereof;

5 (5) Qualified acquisition costs with respect to purchase of an  
6 automobile, or costs of repair of an automobile, if paid directly to a  
7 licensed automobile dealer or repair shop. Such a purpose cannot be the sole  
8 purpose of the IDA. Participants must also save for another approved purpose;  
9 and

10 (6) Qualified emergency withdrawals.

11 (b) However, Federal Temporary Assistance For Needy Families  
12 matching funds shall only be used for the purposes set forth in sections  
13 (a)(1) through (3).

14  
15 SECTION 8. (a) If the fiduciary organization receives evidence that  
16 monies withdrawn from IDAs are withdrawn under false pretenses or are used for  
17 purposes other than for the approved purposes indicated at the time of the  
18 withdrawal, the fiduciary organization shall make arrangements with the  
19 financial institution to impose a penalty of loss of matches and may, at its  
20 discretion, close the account. All penalties collected by fiduciary  
21 organizations shall remain with the fiduciary organization to distribute as  
22 matching funds to other eligible individuals.

23 (b) The fiduciary organization shall establish a grievance committee  
24 and a procedure to hear, review, and decide in writing any grievance made by  
25 an IDA account holder who disputes a decision of the operating organization  
26 that a withdrawal is subject to penalty.

27 (c) Each fiduciary organization shall establish such procedures as are  
28 necessary, including prohibiting eligibility for further matching funds, to  
29 ensure compliance with this section.

30  
31 SECTION 9. (a) Any individual, business, organization, or other entity  
32 may contribute matching funds to a fiduciary organization. The funds shall be  
33 designated to the fiduciary organization to allocate to all its participants  
34 on a proportionate basis.

35 (b) A credit shall be allowed against the income tax liability imposed  
36 by the Arkansas Income Tax Act, beginning at Arkansas Code § 26-51-101, for



1 any Arkansas taxpayer who contributes to a fiduciary organization created  
 2 pursuant to this act in an amount equal to fifty percent (50%) of the amount  
 3 of matching funds contributed to a fiduciary organization during the calendar  
 4 year.

5 (c) The amount of the credit that may be used by a taxpayer for a  
 6 taxable year shall not exceed the lesser of twenty-five thousand dollars  
 7 (\$25,000) or the amount of individual or corporate income tax otherwise due.  
 8 Any unused credit may be carried over for a maximum of three (3) years up to a  
 9 total tax credit allowed in the amount of twenty-five thousand dollars  
 10 (\$25,000).

11 (d)(1) To claim the benefits of this section, a taxpayer must notify  
 12 the fiduciary organization that the taxpayer intends to make a contribution  
 13 and the amount of the contribution. The fiduciary organization shall then  
 14 notify the department and request a certification from the department  
 15 certifying the amount of the tax credit to which the taxpayer is entitled.  
 16 The fiduciary organization shall deliver the certification to the taxpayer  
 17 upon receipt of the contribution.

18 (2) A taxpayer must file the certificate with the taxpayer's  
 19 income tax return for the first year in which the taxpayer claims a tax credit  
 20 under this subchapter.

21 (e) The total amount of tax credits certified under this act shall not  
 22 exceed one hundred thousand dollars (\$100,000) per calendar year.

23 (f) The Department of Finance and Administration shall promulgate any  
 24 regulations necessary to carry out the provisions of this section.

25  
 26 SECTION 10. Arkansas Code § 26-51-404(b) pertaining to exemptions from  
 27 gross income is amended by adding the following new subsection to the end  
 28 thereof to be appropriately numbered by the Arkansas Code Revision Commission:  
 29 "Interest or dividends earned on an IDA account and matching funds  
 30 deposited in an IDA account."

31  
 32 SECTION 11. Each fiduciary organization shall provide quarterly to the  
 33 Department the following information:

34 (1) The number of individuals making deposits into an IDA;

35 (2) The amounts deposited in the IDA;

36 (3) The amounts not yet allocated to IDA's;

1       (4) The amounts withdrawn from the individual development accounts and  
2 the purposes for which the amounts were withdrawn;

3       (5) The balances remaining in the IDA's; and

4       (6) The service configurations (such as peer support, structured  
5 planning exercises, mentoring, and case management) which increased the rate  
6 and consistency of participation in the demonstration project and how such  
7 configurations varied among different populations or communities.

8       (7) The number of grievances filed, the resolution of the grievances,  
9 and any penalties imposed.

10  
11       SECTION 12. The Department shall prepare a written report annually  
12 regarding the implementation of the Family Savings Initiative Act and shall  
13 make recommendations for improving the program. The report shall be  
14 transmitted to the General Assembly on or before August 1 of each year.

15  
16       SECTION 13. The Department shall be responsible for implementation of  
17 this act and shall promulgate rules as necessary in accordance with the  
18 provisions of this act.

19  
20       SECTION 14. (a) There is hereby created on the books of the Treasurer  
21 of State, Auditor of State and the Chief Fiscal Officer of the State a trust  
22 fund for the Department of Human Services to be designated the "Individual  
23 Development Account Trust Fund".

24       (b) This fund shall consist of Transitional Employment Assistance  
25 Program funds.

26       (c) It shall be used for the purposes set forth in this act.

27  
28       SECTION 15. Funds deposited in an IDA, shall not be counted as income,  
29 assets or resources of the individual in determining financial eligibility for  
30 assistance or services pursuant to any federal, federally assisted, state, or  
31 municipal program based on need.

32  
33       SECTION 16. This act shall become effective July 1, 1999.

34  
35       SECTION 17. All provisions of this act of a general and permanent  
36 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

1 Code Revision Commission shall incorporate the same in the Code.

2

3 SECTION 18. If any provision of this act or the application thereof to  
4 any person or circumstance is held invalid, such invalidity shall not affect  
5 other provisions or applications of the act which can be given effect without  
6 the invalid provision or application, and to this end the provisions of this  
7 act are declared to be severable.

8

9 SECTION 19. All laws and parts of laws in conflict with this act are  
10 hereby repealed.

11

12 SECTION 20. EMERGENCY CLAUSE. It is hereby found and determined by the  
13 Eighty-second General Assembly that the first individuals to be affected by  
14 the two (2) year lifetime limit on Transitional Employment Assistance will  
15 soon reach that limit. This act will help those individuals to make the  
16 transition from welfare to long-term economic self-sufficiency. Therefore, an  
17 emergency is declared to exist and this act being immediately necessary for  
18 the preservation of the public peace, health and safety shall become effective  
19 on the date of its approval by the Governor. If the bill is neither approved  
20 nor vetoed by the Governor, it shall become effective on the expiration of the  
21 period of time during which the Governor may veto the bill. If the bill is  
22 vetoed by the Governor and the veto is overridden, it shall become effective  
23 on the date the last house overrides the veto.

24

*/s/ Bradfor*

*APPROVED: 4/7/1999d*