

State of Arkansas

77th General Assembly

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HOUSE BILL 1703

By: Representatives Walker, Cunningham, Brown, Mahony

Townsend, McGinnis, McGee, and Matthews

"AN ACT TO PROVIDE FOR THE INVESTMENT FOR EDUCATIONAL PURPOSES OF CERTAIN FUNDS RECEIVED BY INDIVIDUALS THROUGH THE ARKANSAS AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; TO PROVIDE FOR THE ESTABLISHMENT OF THE EDUCATIONAL REINVESTMENT PROGRAM AND FOR ADMINISTRATION THEREOF; AND FOR OTHER PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the 'Arkansas Educational Reinvestment Act.'

SECTION 2. As used in this act, unless the context otherwise requires, the term:

(1) 'Active participating recipient' means a participating recipient who is receiving assistance, on whose behalf payments continue to be remitted by the department to the authority as provided in this act pursuant to an assignment of assistance executed by the recipient, or a participating recipient who chooses to continue as an active participating recipient provided in this act.

(2) 'Assistance' means money payments made to or on behalf of a dependent child pursuant to federal law under Title IV of the Social Security Act, Aid to Families with Dependent Children or AFDC.

(3) 'Authority' means the Arkansas Student Loan Authority created by Ark. Code §§6-81-102 et seq.

(4) 'Board' means the Educational Reinvestment Board of Directors.

(5) 'Child' means a dependent child who is receiving assistance under the Arkansas AFDC program.

(6) 'Department' means the Arkansas Department of Human Services.

(7) 'Education costs' means the cost of tuition incurred by a student

while attending school plus a standard allowance for books which shall be established by the board.

(8) 'Education trust account' means an account maintained by the authority for purposes of this act for and on behalf of a child of a participating recipient or a participating recipient.

(9) 'Family unit' means a participating recipient together with each child of the participating recipient for whom the authority is maintaining an open education trust account or accounts, including a child born after an assignment of assistance was executed by the participating recipient as provided in this Act and before the assignment of assistance was canceled if the assignment has been canceled.

(10) 'Participating recipient' means a recipient who has at any time executed an assignment of assistance as provided in this act whether or not the assignment has been canceled, for whom the authority continues to maintain an open education trust account.

(11) 'Recipient' means the parent, guardian, or other person who is receiving funds for or on behalf of a child.

(12) 'School' means any public or private postsecondary institution of higher education located within the United States that is approved for purposes of this Act by the board, including vocational-technical schools and trade schools, but shall not include a correspondence school, or any course of study offered through correspondence.

(13) 'Student' means a child of a participating recipient or a participating recipient for whom the authority is maintaining an education trust account under this Act who is enrolled or accepted for enrollment in a school on at least a half-time basis at the undergraduate or graduate level of study.

SECTION 3. (a) There is hereby established the Arkansas Educational Reinvestment Board of Directors to be composed of nine members, four to be appointed by the Governor. The appointed members shall serve three year terms. The terms of the members of the board shall begin on July 1. The initial appointees shall determine their initial terms by lot during their first meeting so that one serves a one-year term, one serves a two-year term, and two serve a three-year term. The Director of the department shall serve as chairman of the board.

(b) The membership of the board shall be as follows:

- (1) Two recipients of AFDC;
- (2) Two members at large;
- (3) Director of DHS, or his designee;
- (4) Director of the Department of Vocational-Technical education;

or his designee;

(5) Director of the Department of Education, General Education Division; or his designee;

(6) Director of the Department of Higher Education; or his designee; and

- (7) Director of the Arkansas Student Loan Authority.

(c) The board shall meet at least annually and at such other times as may be deemed necessary for the performance of the duties of the board. Special meetings of the board may be called by the chairman or by agreement of a majority of the members of the board.

(d) The members of the board shall serve without compensation or per diem but shall be entitled to reimbursement for actual expenses incurred in the performance of duties as members of the board. Expense reimbursement shall be in accordance with state travel and official business expense reimbursement procedures and regulations. Expense reimbursement shall be paid from funds appropriated to the Department of Human Services, Economic and Medical Services Division for those non-state employee members of the board. State employee members' expenses shall be from funds appropriated to each respective state agency.

(e) The Director of the Department of Human Services shall assign staff of the Economic and Medical Services Division or such other appropriate division of the department to assist the board in carrying out its duties and responsibilities.

SECTION 4.(a) The Arkansas Educational Reinvestment Board of Directors shall administer the Educational Reinvestment Program.

(b) The board is hereby authorized to develop through rules and regulations all necessary forms and procedures to implement this act.

(c) The board is given specific authority to develop rules concerning policy on reentry into the program by recipients or students.

SECTION 5. The department shall be responsible for performance of duties as set forth in Section 6 and for providing public information to recipients pursuant to Section 6. The board with the assistance of the department shall be responsible for administration of the educational assistance program and for performance of all other duties and functions related to administration of the program. The board, the department, and the authority shall cooperate with each other and coordinate performance of their respective duties under provisions of this act in such manner as to best achieve the purposes of this act.

SECTION 6. (a) A recipient is authorized to assign to the authority, solely for the purposes set forth in this act, 10 percent of the amount of assistance that the recipient is eligible to receive from the department. Such an assignment may be accomplished by submission to the department of a properly executed assignment which shall be in such written form as shall be prescribed by the department. A recipient may, during the months of January or June thereafter, cancel the assignment by submission to the department of a properly executed cancellation of assignment which shall be in such written form as shall be prescribed by the board.

(b) The department shall acknowledge receipt of an assignment of assistance, and receipt of any cancellation of assignment, to the recipient, and shall at the same time notify the authority of each assignment of assistance and of each cancellation of assignment received by the department from a recipient. Each notice of the department to the authority shall include the name and social security number of the recipient and the name, social security number, and date of birth of each child on whose behalf the recipient is receiving assistance, or has been receiving assistance in the case of cancellation of an assignment. Information available in the records of the department, including but not limited to the address of a prior or present employer of, a participating recipient or child of such recipient shall be provided by the department to the authority upon request but such information shall be requested only to the extent that the information is deemed to be essential to enable the authority to perform its responsibilities under this act.

(c) The amount of assistance assigned to the authority by a recipient shall be remitted by the department to the authority each month beginning with

the next assistance payment to become due the recipient after thirty (30) days from the date of receipt by the department of the assignment. Remittance of the proper amount to the authority shall continue to be made each month thereafter if the recipient continues to be eligible to receive assistance from the department and provided the assignment of assistance to the authority has not been canceled by the recipient. If an assignment of assistance is canceled by a recipient, the department shall not remit any sum to the authority from any assistance payment to become due the recipient after thirty (30) days from the date of receipt by the department of the cancellation of assignment.

(d) Each remittance made by the department to the authority on behalf of a recipient shall identify the name and social security number of the recipient, the amount remitted, and the name and social security number of each child on whose behalf the recipient is receiving assistance.

SECTION 7. (a) Upon receipt from the department of a notice of assignment of assistance by a recipient, the authority shall establish an individual education trust account in the name of each child on whose behalf the recipient is reported to be receiving assistance and an education trust account in the name of the participating recipient.

(b) Upon receipt from the department of a remittance made on behalf of a participating recipient, the authority shall deposit the remittance into the Educational Reinvestment Trust Fund as provided in Section 10 and credit the same amount of the education trust account of the child on whose behalf the remittance is made as reported by the department pursuant to subsection (d) of Section 6. If the remittance by the department is made on behalf of more than one child of the participating recipient, the amount of the remittance received shall be prorated and an equal portion thereof shall be credited to the education trust account of each child. The authority shall record the amount of each remittance received from the department on behalf of each participating recipient, but no portion of such remittances received shall be credited to the education trust account of the participating recipient except as provided in subsection (c) of Section 9.

(c) The primary beneficiary of an education trust account established for the benefit of a child shall be the child. The secondary beneficiary of education trust accounts established for the benefit of children within a

family unit shall be the participating recipient who assigned assistance to the authority for the purposes of this act. Once an education trust account is established and any amount of assigned assistance has been received and credited to the account by the authority, the education trust account shall be irrevocable, and all sums credited to the account shall be used by the beneficiary for the postsecondary educational purposes set forth in this act, or otherwise disbursed or transferred out of the education trust account as provided for in this act.

SECTION 8. (a) A primary beneficiary of an education trust account shall be entitled to have money that has been credited to his or her account disbursed by the authority for payment of education costs while enrolled as a student in good standing in a school. The money disbursed from the account shall be paid to the school. No money shall be paid to or on behalf of a primary beneficiary for education costs after his or her twenty-fifth birthday, provided that if before attaining age twenty-five (25), the primary beneficiary is required by law to enter the armed forces of the United States, or determines to voluntarily enlist in the armed forces of the United States, the beneficiary shall be entitled, upon request submitted to the authority prior to attaining age twenty-five (25) and upon submission of any required documentation, to have the above twenty-fifth birthday limitation extended by the length of his or her required services in the armed forces or by the length, not to exceed three (3) years, of his or her voluntary enlistment in the armed forces.

(b) At any time after attaining age twenty-one (21), a primary beneficiary is authorized to execute a waiver of the right to use moneys credited to his or her education trust account for the postsecondary education purposes set forth in this act, and without question as to the reason or motivation the beneficiary may have for doing so. Such a waiver shall be executed in a manner which shall be prescribed by the authority.

(c) Upon attainment of the age limit or upon expiration of the time limitation stated in subsection (a) of this section, as the case may be, or upon execution of a waiver of rights as provided in subsection (b) of this section, or in the event of death, the education trust account of a primary beneficiary shall be closed and any remaining credit balance shall be transferred and credited to the education trust account of the other primary

beneficiaries, if there are any, within the family unit of the participating recipient. If there is more than one other primary beneficiary within the family unit, the amount transferred shall be prorated and an equal portion thereof shall be credited to the education trust account of each of the remaining primary beneficiaries within the family unit. If there are no other primary beneficiaries within the family unit, such remaining credit balance shall be transferred and credited to the education trust account of the secondary beneficiary.

SECTION 9. (a) Following closure of the education trust account of the last remaining primary beneficiary within a family unit as provided in subsection (c) of Section 8, and the transfer of any remaining credit balance of the primary beneficiary to the credit of the education trust account of the secondary beneficiary, the authority shall give timely written notice, by registered mail addressed to the last known mailing address of the secondary beneficiary, of the right of the secondary beneficiary to elect:

(1) to use the money credited to his or her education trust account for postsecondary education purposes in the same manner as provided in Section 8 relative to primary beneficiaries, but only during a period of time not to extend beyond four years from the date of the notice of the authority to the secondary beneficiary; or

(2) to receive payment of the credit balance of his or her education trust account, but not more than one-half of the total amount of assistance that had been assigned and remitted to the authority by the secondary beneficiary as a participating recipient under this act.

(b) The secondary beneficiary shall be required to make an election in writing within sixty (60) days following the date the notice is mailed to the beneficiary by the authority. The election made by the secondary beneficiary shall be final and not subject to change.

(c) Upon election by the secondary beneficiary and fulfillment of the election, or upon failure by the secondary beneficiary to respond to the notice provided within sixty (60) days following the date the notice is mailed, or in the event of death of the secondary beneficiary, the education trust account of the secondary beneficiary shall be closed and any remaining credit balance shall be transferred and credited to other education trust

accounts in the following manner: As of the date that the authority is to transfer and credit education trust account balances that have lapsed pursuant to the provisions of this section, the authority shall identify and determine the number of active participating recipients in the program, exclusive of active participating recipients who have chosen to continue participation in the program as provided in Section 13, divide the amount of such lapsed credit balances by that number, and credit an amount equal to the result of that division to the education trust account of the oldest primary beneficiary of each such active participating recipient.

SECTION 10. (a) The authority shall deposit into the Educational Reinvestment Trust Fund all assistance assigned by participating recipients and remitted by the department as provided in Section 6, state funds appropriated for purposes of Educational Reinvestment Trust Fund as provided in Section 11, funds and properties of value received and accepted as provided in Section 12, direct payments received from active participating recipients as provided in Section 13, funds made available to the authority from any source that may be lawfully used for the purposes of the fund, and earnings derived from investment of the fund after adequate provision is made for administration and other purposes of the program pursuant to subsection (c) of this section.

(b) The authority shall be responsible for investment and reinvestment of the Educational Reinvestment Trust Fund in obligations of or directly or indirectly guaranteed by the United States, the state, or any agency of instrumentality of either, or in any obligations of banks or savings and loan associations within the state fully collateralized by a pledge of such obligations. Assets of the fund shall be kept invested in such obligations to the maximum extent practicable in order to maximize the benefits of this act to participating recipients and children of participating recipients as provided in this act.

(c) Earnings derived from investment of the Educational Reinvestment Trust Fund may be used to pay death benefits or to otherwise fund the Death Benefits Account as provided in Section 14, be transferred to the administration fund of the authority to the extent deemed necessary to provide for payment of costs incurred and projected to be incurred in connection with administration of the program, and to pay education costs of



students and repayments to be made to participating recipients as provided in Sections 8 and 9. All remaining earnings of the fund shall be credited to the education trust accounts of children of participating recipients in the following manner: As of the date that the authority is to credit earnings of the fund to education trust accounts, the authority shall identify the accounts of all children of participating recipients, determine the average daily credit balance of each of the accounts to date since the last date on which earnings of the fund were credited to such accounts, and, based on the average daily credit balance of each account for that period of time, determine and credit to each respective account the equitable share of the earnings available for credit to the education trust accounts of such children.

SECTION 11. To encourage participation by recipients in the educational reinvestment program, state funds may be appropriated biannually to the authority. State funds appropriated for this purpose shall be deposited into the Educational Reinvestment Trust Fund and credited to education trust accounts in the manner specified in this section. The authority shall identify and determine the number of accounts of all children of active participating recipients as of July 1 of the fiscal year for which the appropriation is made, exclusive of children of active participating recipients who have chosen to continue participation in the program as provided in Section 13, divide the amount of state funds appropriated for this purpose by that number of children, and credit an amount equal to the result of that division to the education trust account of each child so identified.

SECTION 12. The authority is authorized to accept funds and properties of value for purposes of the educational reinvestment program. Such funds or property accepted by the authority shall be deposited into the Educational Reinvestment Trust Fund and credited to the education trust accounts of children of active participating recipients in the same manner as provided in Section 11.

SECTION 13. Any participating recipient who is no longer a recipient may, in writing received by the authority within twelve (12) calendar months

after ceasing to be a recipient, elect to continue in the program as an active participating recipient by making direct monthly payments to the authority of an amount not less than the amount that would otherwise be remitted to the authority by the department if the person were still a recipient as defined in Section 2. The authority is authorized to charge a monthly account maintenance fee to a person who elects to continue to participate as an active participating recipient in the program pursuant to this section to offset costs incurred by the authority in connection with maintenance of the accounts. If payments due pursuant to provisions of this section become more than one hundred-twenty (120) days past due, the person will no longer be classified as an active participating recipient, but such a classification may be reestablished upon request by the person at the discretion of the authority within twelve (12) calendar months following the date of the last payment received by the authority. The benefits of this section may not be extended to any child for whom the authority is not already maintaining an open education trust account.

SECTION 14. (a) For purposes of the program only, the board shall act as a self-insurer of the life of each active participating recipient and each child of each active participating recipient, who shall be referred to as the 'insured' in this section. For purposes of this section, the board shall establish from time to time a standard death benefit amount that shall be payable upon proof of death and burial or cremation of an insured. The death benefit amount established by the board shall be presumed to be sufficient to cover basic burial or cremation expenses of the insured, but any benefit paid shall not exceed the actual cost of burial or cremation incurred as evidenced by documentation furnished to the board.

(b) Death benefit payments shall be made copayable to the active participating recipient and the funeral home or other entity that provided burial or cremation services in the event of death of a child, or copayable to the guardian of the children or administrator of the estate and the funeral home or other entity that provided burial or cremation services in the event of death of the active participating recipient.

(c) The authority may maintain a Death Benefits Account, and credit to that account from time to time such income derived from investment of Educational Reinvestment Trust Fund as may be deemed necessary to enable the

board to meet the requirements of this section.

(d) Notwithstanding the provisions of Section 9, a primary beneficiary shall be insured for death benefits as provided in subsections (a) through (c) of this section until reaching 18 years of age if the participating recipient enrolled in the program and continued to remain enrolled in the program for a total of not less than three years.

SECTION 15. The department shall provide a statement of beneficiary account credits, including the amount attributable to the assignment of the participating recipient, state matching funds and interest earned on the account, account debits, and balances to each participating recipient and to each student enrolled in school at least once each calendar year.

SECTION 16. The department and the board shall, to the maximum extent practicable and to the extent not prohibited by law, develop, demonstrate, and distribute to recipients printed, visual, and oral materials and information about the Educational Reinvestment education assistance program on an on going basis.

SECTION 17. In administering this act, the authority and the board may exercise all powers and authority granted hereunder and may promulgate rules and regulations consistent with this act to carry out its purpose.

SECTION 18. Recipients are authorized to execute assignments to participate in the educational reinvestment program as provided for in this act prior to or after the effective date of this act, but this act shall not otherwise be implemented until guidelines concerning the minimum percentage of participation of all recipients eligible to participate in the program has been set by the board and that percentage, as determined by the board and certified to the authority, have executed, and not canceled, assignments of assistance. At that time, the department and the authority shall implement the provisions of this act as expeditiously as possible.

SECTION 19. (a) Any funds received by a student under this act shall not be included as income or assets for purposes of qualifying for other grants, loans or scholarships for furtherance of that student's post secondary

education. Any provision on any application that requires inclusion of educational reinvestment program funds as income or assets shall be void.

(b) However, nothing shall prevent the board from establishing through rules and regulations an off-set procedure to exclude from education costs those covered by other sources so monies which otherwise would have been paid from the educational trust account may be retained for the use of other primary beneficiaries or the secondary beneficiary.

SECTION 20. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 21. All laws and parts of laws in conflict with this Act are hereby repealed.