

# ALLEVIATING WOMEN'S POVERTY THROUGH ASSET DEVELOPMENT: PROMISING DIRECTIONS

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## INTRODUCTION

Despite increases in rates of income in the 1990s, U.S. women continue to lag behind U.S. men economically.<sup>1</sup> American women in the 1990s made just 73% the earnings of their male counterparts.<sup>2</sup> A recent Census Bureau study found that despite “record highs” in earnings and bachelor’s degrees, American women were far more likely than men to be living in poverty.<sup>3</sup> In 2002, 13.3% of American women lived below the poverty line, as compared to 10.9% of men.<sup>4</sup> In addition, over one-third of female-headed households lived in poverty.<sup>5</sup> In part, this may be because many working women occupy lower-paid positions than their male counterparts. For example, the largest field in which women are employed is “administrative and clerical.”<sup>6</sup> Further, though shifts in welfare laws have increased women’s participation in the workforce, it is not clear they have improved women’s economic standing. In fact, the average wage for those women most impacted by welfare reform—never-married mothers—is only about \$14,000 per year.<sup>7</sup>

Women not only disproportionately face poverty in actual dollars, but poverty in assets as well. According to Michael Sherraden, author of *Assets and the Poor: A New American Welfare Policy*, assets include: savings accounts, real property, and human capital (including education and experience).<sup>8</sup> A recent study by the Levy Economics Institute revealed that of all family types, “female-

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1. See Peter T. Kilborn & Lynette Clemetson, *Gains of 90’s Did Not Lift All, Census Shows*, N.Y. TIMES, June 5, 2002, at A1.

2. *Id.*

3. *Census Study Finds that Men Earn the Most*, N.Y. TIMES, Mar. 25, 2003, at A13.

4. U.S. CENSUS BUREAU, HISTORICAL POVERTY TABLES, tbl. 7: Poverty of People, by Sex: 1966-2002 (2003), at <http://www.census.gov/hhes/poverty/histpov/hstpov7.html> (last visited May 11, 2004).

5. Kilborn & Clemetson, *supra* note 1, at A1. Poverty here is measured in terms of a 1999 poverty line of \$16,954 for a family of four.

6. *Census Study Finds that Men Earn the Most*, *supra* note 3, at A13.

7. Peter Edelman, *The True Purpose of Welfare Reform*, N.Y. TIMES, May 29, 2002, at A21.

8. MICHAEL SHERRADEN, *ASSETS AND THE POOR: A NEW AMERICAN WELFARE POLICY* 101-03 (1991).

headed families with children” had the highest rates of asset poverty, followed by “families with children” in distant second.<sup>9</sup> Also, a recent initiative spearheaded by Brandeis University noted the disparity of women’s asset wealth:

[M]any women in America have not yet gained the assets—the quality jobs, human capital, savings and investments, and other capacities and resources—that are essential to economic security and opportunity. For women, traditional policies may have resulted in more participation in economic life, but many have yet to make it into the economic mainstream. Asset development is the means by which to craft a new and compelling social vision.<sup>10</sup>

It is against this backdrop that women’s important stake in programs and policies focused on the development of assets becomes clear.

The asset development strategies that have emerged over the past several years might serve as part of the answer to the problem of women’s poverty. The assets included in these strategies include both economic assets such as owning a home and having a bank account, as well as less tangible assets such as a college degree.<sup>11</sup> This Note is limited to the application of these strategies to women in the context of Individual Development Accounts (“IDAs”). Part I provides background on the contours of women in poverty in the United States, along with a brief overview of previous strategies aimed at alleviating poverty. Part II provides a history of IDAs, with an explanation of how IDAs traditionally operate and potential avenues of expansion. Part III lays out current federal and state IDA policy. Part IV highlights current IDA initiatives targeting women. The Note concludes with recommendations for areas of further research.

## I. WOMEN’S POVERTY

The United States Census Bureau began publishing statistics on poverty in the late 1950s. Since that time, women have constituted a disproportionate share of those in poverty, increasing from the 1950s through the 1980s, when they made up 62% of all poor adults.<sup>12</sup> Commentators have suggested reasons for women’s disproportionate representation among the poor, such as “carry[ing] the major burden of childrearing,” and “limited opportunities . . . in the labor market.”<sup>13</sup>

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9. Asena Caner & Edward N. Wolff, *Asset Poverty in the United States, 1984-1999: Evidence from the Panel Study of Dynamics*, *The Levy Economics Institute of Bard College Working Paper No. 356*, Oct. 2002, at [http://www.levy.org/2/index.asp?interface=standard&screen=publications\\_preview&data\\_src=f73a203f06](http://www.levy.org/2/index.asp?interface=standard&screen=publications_preview&data_src=f73a203f06) (last visited Mar. 18, 2004). The Levy Economics Institute of Bard College “is a non-profit, nonpartisan, public policy research organization.” Levy Economics Institute of Bard College, at <http://www.levy.org> (last visited Mar. 18, 2004).

10. National Center on Women and Aging, *Women and Assets—A National Initiative*, at <http://www.heller.brandeis.edu/womenandassets/description.html> (last visited Apr. 7, 2004).

11. MICHELLE MILLER-ADAMS, *OWNING UP: POVERTY, ASSETS, AND THE AMERICAN DREAM 2* (2002).

12. RENEE FEINBERG & KATHLEEN E. KNOX, *THE FEMINIZATION OF POVERTY IN THE UNITED STATES: A SELECTED, ANNOTATED BIBLIOGRAPHY OF THE ISSUES, 1978-1989* xiii (1990).

13. *Id.* at 22.

Because women have higher rates of poverty than men, American initiatives aimed at alleviating poverty have particularly impacted women. Thus, the development of public assistance in the 1930s<sup>14</sup> was particularly salient for women. Public assistance programs in the United States have changed drastically over time, however, facing a massive overhaul in the 1980s,<sup>15</sup> and transitioning to welfare-to-work in 1996.<sup>16</sup> The 1996 law removed many from the welfare rolls, although significant poverty persisted<sup>17</sup> and women remained the majority of the poor.

## II. AN ASSET-BASED SOLUTION

Strategies to alleviate poverty, like welfare, and now welfare-to-work, have been criticized for leaving individuals vulnerable to slipping back into poverty. For example, because never-married mothers earn just \$14,000 per year, many women are in a particularly precarious situation. Based on these low earnings, if a woman were to miss work for an emergency or other mishap and lose her job, poverty for her and her family is a very likely consequence.

A recent alternative approach to the poverty problem attempts to alleviate poverty through assets in Individual Development Accounts (“IDAs”). The IDA concept was introduced in 1991 by Michael Sherraden in *Assets and the Poor: A New American Welfare Policy*.<sup>18</sup> The welfare system uses income as a strategy to try to help the poor, although, as Sherraden has pointed out, welfare has failed to actually decrease poverty.<sup>19</sup> To get at the “underlying level of poverty,” Sherraden advocated not an income-based approach like welfare, but an asset-based approach.<sup>20</sup> According to Sherraden, the United States government and private organizations have previously used asset-based strategies to impact specific populations or social problems with great success.<sup>21</sup> Examples include strategies to promote retirement savings through 401(k) accounts, 403(b) accounts, and Individual Retirement Accounts (“IRAs”).<sup>22</sup> Among the most successful and recognized asset-development program is the GI Bill.<sup>23</sup> Following World War II,

14. *Id.* at 253.

15. *Id.* at 254. The changes in the welfare law at that time included beginning to encourage individuals on welfare to transition into the workplace.

16. See Leslie Kaufman, *Despite Slump, Cities See Drop in Welfare Rolls*, N.Y. TIMES, Aug. 31, 2002, at A1 (referring to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, 110 Stat. 2105 (1996) (codified as amended in scattered sections at 8 U.S.C.)). PRWORA has been popularly referred to as “welfare to work,” because its provisions dictate that states must be transitioning welfare recipients into jobs. “[R]oughly 25 percent of recipients [must] hold jobs or actively prepare themselves for work,” according to the law. Robert Pear, *Most States Meet Work Requirement of Welfare Law*, N.Y. TIMES, Dec. 30, 1998, at A1.

17. Pear, *supra* note 16, at A1.

18. See generally SHERRADEN, *supra* note 8.

19. *Id.* at 3.

20. *Id.*

21. *Id.* at 237.

22. Michael Sherraden, *From Research to Policy: Lessons from Individual Development Accounts*, Colston Warne Lecture, Annual Conference of the American Council on Consumer Interests, San Antonio (Mar. 23, 2000) available at [http://gwbweb.wustl.edu/csd/Publications/2000/ACCI\\_perspective.pdf](http://gwbweb.wustl.edu/csd/Publications/2000/ACCI_perspective.pdf), at 3 (last visited Mar. 26, 2004) [hereinafter Sherraden, *From Research to Policy*].

23. SHERRADEN, *supra* note 8, at 237.

the GI Bill provided veterans with financial support toward post-secondary education and homebuying.<sup>24</sup> The legislation resulted in nearly eight million veterans receiving “vocational training,” another two million going to college, and four million veterans buying homes with GI Bill “mortgage subsidies.”<sup>25</sup> Considering both public and private policies, Sherraden concludes that “asset accounts . . . are the most rapidly growing form of domestic policy.”<sup>26</sup>

Combined with public assistance, Sherraden recommends an asset-based approach for alleviating poverty, as he believes assets help to generate future income.<sup>27</sup> Sherraden suggests many other benefits of assets: They improve household stability (so that losing a job or other emergency will not result in poverty), result in a “future orientation” (so people work toward long-term goals), promote development of human capital and other assets (“stimulat[ing] people to improve themselves”), “enable focus and specialization” (freeing up people from other tasks to focus on their work), provide a foundation for risk-taking, “increase personal efficacy” (allowing people to spend time and energy on worrying about things other than time and money), increase social influence, increase political participation, and “increase the welfare of offspring.”<sup>28</sup>

The poor tend to have extremely limited assets. In fact, the disparity in assets between the poor, the middle-class, and the wealthy is even greater than their disparity in income.<sup>29</sup> Sherraden argues that this is a result of the barriers faced by both the “working poor” and “welfare poor” in accumulating assets.<sup>30</sup> In the case of the working poor, barriers to accumulating assets include “the absence of asset accumulation schemes” like work retirement accounts, “institutional barriers to credit” and their effects on homebuying, and “expectations associated with the context of social interaction,” referring to the consumption required by employment (such as having a telephone).<sup>31</sup> For the welfare poor, it is virtually impossible to accumulate assets while receiving benefits because welfare program rules prevent asset accumulation.<sup>32</sup> In addition, individuals on welfare generally do not have much disposable income, making it difficult to save even small amounts. The welfare poor generally do not have the opportunity to use banks and other financial institutions because these institutions are not found in poor neighborhoods or may not be “receptive to small accounts.”<sup>33</sup> Following Sherraden’s book, IDA programs emerged in the United States be-

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24. MILLER-ADAMS, *supra* note 11, at 11.

25. *Id.*

26. Sherraden, *From Research to Policy*, *supra* note 22. Sherraden also includes private asset-based policies in his analysis and describes them as “typically defined by public policies” that “receive substantial subsidies through the tax system.” *Id.*

27. SHERRADEN, *supra* note 8, at 100.

28. *Id.* at 149-66.

29. *Id.* at 109.

30. *Id.* at 128-29.

31. *Id.*

32. *Id.* at 129. Welfare programs have traditionally set limits on the amount of assets individuals may accumulate while still remaining eligible for benefits.

33. *Id.* at 130.

ginning in 1993, and now total at least 391 programs nationwide.<sup>34</sup> Contemporary IDA programs and policy initiatives remain premised on Sherraden's work.<sup>35</sup>

Although the detailed workings of IDA programs vary, IDA programs generally share certain characteristics. IDAs are savings accounts, the resources in which can be used only for limited purposes: First-time homebuying, post-secondary education, job training, and small business-related expenses are uses typically allowed by the programs.<sup>36</sup> Structurally, IDAs resemble IRAs and are typically managed by nonprofit and community groups ("IDA Administrators").<sup>37</sup> IDA programs include a matching component, in which funding provided by the IDA Administrator matches the savings of the IDA accountholder by at least a one-to-one ratio.<sup>38</sup> For low-income populations using IDAs, the matching component helps make saving worthwhile: They have little disposable income, but the match may double or triple the amount saved. The matches are usually both publicly and privately funded.<sup>39</sup> IDA programs have a "savings goal"<sup>40</sup> or required minimum monthly deposits to guide accountholders' saving behavior. In addition, IDA programs generally have income limits. For example, one program admitted only participants earning less than 200% of the federal poverty level.<sup>41</sup> Finally, IDA programs include a financial education component, through which the IDA Administrator assists participating individuals in repairing their credit and learning to better manage their money.<sup>42</sup>

IDAs are not only an alternative or supplement to the welfare system, but provide palatable policy for both the political right and the left. In *Owning Up: Poverty, Assets, and the American Dream*, Michelle Miller-Adams observes, "[l]iberals welcomed the idea because it called for a new tool to help the poor, supported at least in part by public funds. Conservatives embraced the concept because it sought to reward values they had long championed, such as personal responsibility, thrift, and investment."<sup>43</sup>

34. Jon Yates, *Savings Project That Gives Cash Needs 8 Clients; Program for the Poor Fosters Thriftiness*, CHI. TRIB., Feb. 20, 2002, at 5; Corporation for Enterprise Development ("CFED"), *IDA Initiatives: Overview*, at [http://www.idanetwork.org/index.php?section=initiatives&page=ida\\_initiatives.html](http://www.idanetwork.org/index.php?section=initiatives&page=ida_initiatives.html) (last modified Nov. 21, 2002) (on file with the Duke Journal of Gender Law & Policy) [hereinafter CFED, *IDA Initiatives: Overview*].

35. See CFED, *What are Individual Development Accounts?*, at <http://www.cfed.org/main/indivAssets/WhatAre.htm> (last modified May 1, 2002) (on file with the Duke Journal of Gender Law & Policy) [hereinafter CFED, *What are IDAs?*].

36. *Id.*

37. *Id.*

38. *Id.*

39. CFED, *About IDAs*, at [http://www.idanetwork.org/index.php?section=about&page=about\\_idas.html](http://www.idanetwork.org/index.php?section=about&page=about_idas.html) (last modified Nov. 21, 2002) (on file with the Duke Journal of Gender Law & Policy) [hereinafter CFED, *About IDAs*].

40. Judy H. Watts, *Helping the Poor Build Assets*, WASH. U. IN ST. LOUIS MAG., Fall 2000, at 14, available at <http://magazine.wustl.edu/Fall00/helpingpoor.html> (last visited Apr. 16, 2004).

41. See Yates, *supra* note 34, at 5.

42. *Id.*

43. MILLER-ADAMS, *supra* note 11, at 5-6.

In addition, Sherraden cited this “broad bipartisan support” on both the state and federal level in his 2000 *Building Assets to Fight Poverty* report.<sup>44</sup> During his presidency, Bill Clinton voiced support for IDAs, as did George W. Bush and Al Gore during their presidential campaigns.<sup>45</sup> Also, the Savings for Working Families Act, which is designed to greatly expand IDA programming nationally, was introduced in Congress by both Republican and Democratic senators in 2000<sup>46</sup> and came close to passing for three consecutive years, most recently reintroduced by members of both parties in 2003.<sup>47</sup>

Sherraden initially proposed that a national “independent board of trustees” run IDA programs, and that a “group of private investment companies” would operate under them.<sup>48</sup> However, as indicated above, the vast majority of IDAs are currently administered through “partnerships between community organizations and financial institutions.”<sup>49</sup> Over 20,000 people are using IDAs nationwide, a number that reflects the limited number of slots community-based organizations can provide in their IDA programs.<sup>50</sup>

Even with the limited numbers served by IDAs to date, the results of IDAs as a way to promote asset development appear promising. The first national IDA demonstration project, the American Dream Demonstration, showed that not only did account-holders save the expected amount, but many saved “above and beyond the amount eligible for matching funds.”<sup>51</sup> The 2,128 families in the American Dream Demonstration saved thirty to seventy-five dollars per month.<sup>52</sup> These families saved over half a million dollars, which was matched by over a million dollars.<sup>53</sup> Also, Michael Sherraden has conducted research indicating that, on average, over twelve months, IDA program participants deposited \$528 every other month.<sup>54</sup> Given the success of IDA program participants, Sherraden’s research indicates that “low-income, low-wealth households can save and accumulate assets if they have similar opportunities and incentives to the non-poor.”<sup>55</sup> Sherraden parallels IDAs with programs targeted at the non-poor, where “[i]n the typical American household, people have most of their assets in a home and a retirement account, and in both cases the structures are de-

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44. Michael Sherraden, *Building Assets to Fight Poverty*, NAT’L HOUSING INST., SHELTERFORCE ONLINE, Mar./Apr. 2000, at <http://www.nhi.org/online/issues/110/sherraden.html> (last visited Mar. 4, 2004) [hereinafter Sherraden, *Building Assets to Fight Poverty*].

45. Watts, *supra* note 40, at 15.

46. *Id.*

47. CFED, *Policy, Legislative Proposals: Savings for Working Families Act of 2003*, at [http://www.idanetwork.org/index.php?section=policy&page=legislative\\_proposals.html](http://www.idanetwork.org/index.php?section=policy&page=legislative_proposals.html) (last visited Apr. 22, 2004). This legislation is currently in conference committee. Independent Sector, Public Affairs: CARE Act of 2003 (S.476), at <http://www.independentsector.org/programs/gr/CAREAct2003.html> (last updated Apr. 20, 2004).

48. SHERRADEN, *supra* note 8, at 299.

49. CFED, *Employer IDA Initiatives: The Promise of Delivering IDAs Through Employers* 9 (2003), (on file with the Duke Journal of Gender Law & Policy) [hereinafter CFED, *Employer IDA Initiatives*].

50. *Id.*

51. *Id.*

52. CFED, *About IDAs*, *supra* note 39.

53. *Id.*

54. *The Ideas Industry: Building Trust in a Savings Incentive*, WASH. POST, Oct. 1, 2002, at A19.

55. Sherraden, *Building Assets to Fight Poverty*, *supra* note 44.

financed, regulated, and heavily subsidized by public policy through the tax system."<sup>56</sup>

In addition to praise, IDAs have faced criticism. First among these critiques is the notion that many low-income people cannot save money as they do not have money to begin with.<sup>57</sup> However, IDA participants have succeeded in saving; data shows that lower-income people participating in these programs have successfully "accumulat[ed] assets."<sup>58</sup> Also, research has shown that the Earned Income Tax Credit, which is aimed at lower-income populations, can assist IDA participants in saving money.<sup>59</sup> The Earned Income Tax Credit, averaging \$2,000 per family in 2002, can be used in IDAs and can be matched.<sup>60</sup> A second criticism of IDA programming is that it could better reach the goal of alleviating poverty for the welfare poor by expanding the range of expenses toward which IDAs could go. The suggested areas for expansion beyond the current typical allowable uses for IDAs of first-time homebuying, small business expenses, and higher education, are "automobile[s]" and "household durables."<sup>61</sup> As more information becomes available about the benefits of or problems with IDA programs, these could be considered as possible areas of expansion for IDAs to better serve the poor.

### III. STATE AND NATIONAL POLICY

#### A. State Policy

There are many different IDA initiatives taking place at the state government level. Current state IDA policies include laws, administrative rule programs, "coalition and/or collaboration building" involving the state government, and state politicians lobbying for IDAs.<sup>62</sup> Overall, thirty-six or more states have IDA legislation of one kind or another.<sup>63</sup> Most states have either a pres-

56. Watts, *supra* note 40, at 14 (quoting Michael Sherraden).

57. *See id.*

58. *Id.*

59. John Wanchek, *How the Earned Income Tax Credit Can Bolster IDA Participation*, ASSETS: A QUARTERLY UPDATE FOR INNOVATORS, Fall 2002, at <http://www.idanetwork.org/assets/fall2002/fall2002b.html> (last visited Jan. 30, 2003) (on file with the Duke Journal of Gender Law & Policy).

60. *Id.*

61. *See generally* Creola Johnson, *Welfare Reform and Asset Accumulation: First We Need a Bed and a Car*, 2000 WIS. L. REV. 1221.

62. Center for Social Development ("CSD"), *Twenty Frequently Asked Questions (FAQs) About State IDA Policy*, at <http://gwbweb.wustl.edu/csd/statepolicy/faq.html> (last visited Mar. 4, 2004) [hereinafter CSD, *Twenty FAQs About State IDA Policy*]. The Center for Social Development is part of the School of Social Work at Washington University; its purpose is "to chart new directions and study innovations in the domestic arena, particularly where such innovations are likely to have the greatest impact on public policy and private action. The domestic arena includes areas that are typically thought of as 'social welfare' and 'economic development' as well as broader aspects of family, community, and national life." CSD Statement of Purpose, at [http://gwbweb.wustl.edu/csd/About\\_CSD/Statement\\_of\\_purpose.htm](http://gwbweb.wustl.edu/csd/About_CSD/Statement_of_purpose.htm) (last visited Apr. 5, 2004).

63. CFED, *Funding Strategies for States*, at [http://idanetwork.org/index.php?section=state&page=funding\\_strategies.html](http://idanetwork.org/index.php?section=state&page=funding_strategies.html) (last modified Nov. 21, 2002) (on file with Duke Journal of Gender Law & Policy) [hereinafter CFED, *Funding Strategies for States*]. Michael Sherraden estimates that

ently operating IDA program or programs in development.<sup>64</sup> IDAs are funded in the states in a variety of ways, including “direct appropriation,” a “tax credit for IDA contributions,” “allocation of CDBG [Community Development Block Grant] funds,” “refundable tax credits for account holders,” and “wage subsidies for IDA-like accounts.”<sup>65</sup>

## B. National Policy

IDA policy has also been put in place on a national level. Current and previous federal initiatives include the American Dream Demonstration (the full name of which is the Downpayments on the American Dream Policy Demonstration), the Assets for Independence Demonstration, and the Office of Refugee Resettlement IDA initiative.<sup>66</sup> The American Dream Demonstration, a project of the Corporation for Enterprise Development, is “the first large-scale test of IDAs as a social and economic development tool for low-income communities.”<sup>67</sup> The American Dream Demonstration was a public and private effort nationwide and was supported by a variety of groups, ranging from the federal government to foundations.<sup>68</sup> The program, lasting six years including an evaluation period, was comprised of fourteen IDA programs, each with fifty to five hundred accounts, and was completed in 2003.<sup>69</sup> The Assets for Independence Act was a completely federal government-supported IDA demonstration program which selected IDA nonprofit programs for grants, beginning in 1998.<sup>70</sup> Like the American Dream Demonstration, Assets for Independence was also of a limited duration, lasting five years.<sup>71</sup> The Office of Refugee Resettlement IDA initiative consisted of grants offered to nonprofit organizations and states using IDAs for “low-income refugees.”<sup>72</sup> This program provided grants totaling eight million dollars in 1999 and 2000 alone.<sup>73</sup> In addition, in 2002, Congress considered but did not pass a federal IDA tax credit, which would have resulted in IDA “matching funds” for a limited number of individuals (300,000) meeting certain

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forty-four states had “some type of IDA policy or initiative” as of the year 2000. Sherraden, *Building Assets to Fight Poverty*, *supra* note 44.

64. CSD, *Summary Tables: IDA Policy in the States*, at <http://gwbweb.wustl.edu/csd/statepolicy/StateIDATable.pdf> (last visited Mar. 4, 2004).

65. CFED, *Funding Strategies for States*, *supra* note 63.

66. CFED, *IDA Initiatives: Nationwide Initiatives*, at <http://www.idanetwork.org/index.php?section=initiatives&page=nationwide.html> (last modified Nov. 21, 2002) (on file with the Duke Journal of Gender Law & Policy) [hereinafter CFED, *IDA Initiatives: Nationwide Initiatives*].

67. CFED, *Individual Development Accounts, American Dream Demonstration: Demonstration Overview*, at [http://www.cfed.org/individual\\_assets/ida/newcontent\\_idanet/ADD\\_intro.html](http://www.cfed.org/individual_assets/ida/newcontent_idanet/ADD_intro.html). (last modified July 6, 2000) (on file with the Duke Journal of Gender Law & Policy) [hereinafter CFED, *American Dream Demonstration*].

68. *Id.*

69. *Id.*

70. CFED, *Individual Development Accounts: Federal and State IDA Policy Overview* (2000), at [http://www.cfed.org/individual\\_assets/Assets\\_Policy/fed\\_state\\_overview2.html](http://www.cfed.org/individual_assets/Assets_Policy/fed_state_overview2.html) (last modified Aug. 29, 2000) (on file with the Duke Journal of Gender Law & Policy) [hereinafter CFED, *IDAs: Federal and State IDA Policy Overview*].

71. *Id.*

72. *Id.*

73. *Id.*

income requirements.<sup>74</sup> Finally, although not solely an IDA program, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, popularly known as welfare-to-work, includes a permissive provision allowing states to include IDAs in their welfare programs.<sup>75</sup>

#### IV. EXPANDING ASSET-BUILDING OPPORTUNITIES

Based on the success of early IDA efforts, advocates propose expanding opportunities to participate in IDAs to a greater number of individuals. Included in these proposals is utilizing employers as IDA administrators. Using employers as a vehicle for IDA administration appears to be a promising mechanism for expansion that could spread the benefits of IDAs; however, because employer-based IDAs are rare, logistical questions about the programs remain unanswered and it is difficult to determine how to best promote them among employers.<sup>76</sup>

Offering IDAs through employers would greatly increase the availability of IDAs, which currently are generally run through a limited number of nonprofit organizations. In employer-based IDAs, employers serve as the providers of IDAs, a role that employers currently play for 401(k)s and IRAs.<sup>77</sup> In this model, employers market their IDA programs, provide matching funds, administer the accounts, and provide counseling.<sup>78</sup> In addition, employers are able to facilitate IDA participation not only by encouraging employees to participate in the programs, but through automatic payroll deductions as well.<sup>79</sup> The small number of current employer-based IDAs share a set of common characteristics. Most are in workplaces of fifteen to fifty employees, are in the manufacturing and service industries and nonprofit hospitals, were started by nonprofit organizations, and are run primarily by the nonprofit organizations for the employers.<sup>80</sup>

Employer-based IDAs not only have the potential to benefit employees, but could also benefit employers. Such benefits include the use of IDAs for recruitment and retention of workers, the enhancement of "workplace productivity," and the provision of an additional benefit with which to attract employees in the case of employers providing limited benefits (or no other benefits) to employees.<sup>81</sup>

However, employer-based IDAs might face impediments. Probably the largest impediment to operating IDAs through employers is the risk of negative tax treatment for employers. These risks arise from the IRS Revenue Ruling 99-44, which responded to questions regarding the tax ramifications of IDAs in the

74. Javier Silva, *Federal Policy Update*, ASSETS: A QUARTERLY UPDATE FOR INNOVATORS, Fall 2002, at <http://www.idanetwork.org/assets/fall2002/fall2002d.html> (last modified May 2, 2000) (on file with the Duke Journal of Gender Law & Policy).

75. CFED, *American Dream Demonstration*, *supra* note 67.

76. CFED, *Employer-Based IDAs*, at [http://www.idanetwork.org/index.php?section\\_initiatives&page=employer\\_based\\_idas.html](http://www.idanetwork.org/index.php?section_initiatives&page=employer_based_idas.html) (last visited Jan. 30, 2004) [hereinafter CFED, *Employer-Based IDAs*].

77. *Id.*

78. *Id.*

79. *Id.*

80. CFED, *Employer IDA Initiatives*, *supra* note 49, at 13.

81. *Id.* at 15.

context of the Assets for Independence Act demonstration project.<sup>82</sup> Although the Revenue Ruling only explicitly applies to IDAs operating under the Assets for Independence program, the reasoning in the Revenue Ruling raises questions about the tax treatment of employer-based IDAs.

The facts in Revenue Ruling 99-44 were that in an Assets for Independence demonstration project, a program participant withdrew money from his account for allowable activities.<sup>83</sup> A question posed by the Ruling included the tax consequences of this transaction for the IDA administrator.<sup>84</sup> Revenue Ruling 99-44 determined that under Assets for Independence, the employer's match is considered a taxable gift.<sup>85</sup> The Corporation for Enterprise Development has analyzed the impact of Revenue Ruling 99-44, concluding that the "broad[ness]" of the ruling suggests that IDAs not associated with the Assets for Independence program would face the same tax treatment as Assets for Independence IDAs.<sup>86</sup> Employers may resist incorporating IDAs into their programs for numerous reasons besides possible tax consequences, including that the employers do not have the infrastructure in place to make matching contribution or to provide financial training to employees.<sup>87</sup> There are also potential Employee Retirement Income Security Act (ERISA) problems: IDAs cannot draw away "non-highly compensated employees" from retirement plans because employers must maintain equality between these employees and "highly compensated employees" utilizing these plans.<sup>88</sup> Finally, in employer-based IDAs, employees might be faced with negative tax treatment as well, as they might be taxed on the employer's match<sup>89</sup> and its interest.<sup>90</sup>

The potential tax risks for employers and employees involved in employer-based IDAs warrants further research. Currently, the common system in which nonprofit intermediaries administer IDA programs appears to result in positive tax treatment for both employers and employees: The companies receive a tax deduction for contributions and the employees receive a nontaxable gift. However, even if employers are subjected to negative tax consequences for IDAs, a commonsense solution may emerge: Perhaps by treating IDAs as an employee benefit which might be attractive to employees, employers might counterbal-

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82. Rev. Rul. 99-44, 1999-2 C.B. 549.

83. *Id.*

84. *Id.*

85. CFED, *Advisory to Accountholders on the Tax Consequences of IDA Not Funded Through the Assets for Independence Act* (Feb. 8, 2000), at [http://www.cfed.org/individual\\_assets/Assets\\_Policy/advisory\\_tax\\_consequences.html](http://www.cfed.org/individual_assets/Assets_Policy/advisory_tax_consequences.html) (last visited Feb. 12, 2004) (on file with the Duke Journal of Gender Law & Policy).

86. *Id.*

87. See CFED, *Employer IDA Initiatives*, *supra* note 49, at 12.

88. See *id.* at 19-21.

89. CFED, *Employer-Based IDAs*, *supra* note 76.

90. Colleen Dailey & Ray Boshara, *Achieving Economic Self-Sufficiency Through Asset Building: Opportunities for Low-Income Workers* 10, at <http://web.archive.org/web/20030607082142/idanetwork.org/research/docs/jffpaper.pdf> (prepared for Low-Wage Workers in the New Economy: Strategies for Opportunity and Advancement, a conference hosted by Jobs for the Future on May 24-25, 2000 in Washington, D.C.) (on file with the Duke Journal of Gender Law & Policy).

ance any negative tax consequences resulting from IDAs.<sup>91</sup> In addition, if the match is taxable, employers might be able to offset the tax if they are able to set aside a portion of the match to be used to pay the tax.<sup>92</sup>

In addition, employers would receive positive tax treatment in states with IDA legislation providing tax credits to employers for the match. “[Tax] credits are very desirable [to persons] with high state tax liabilities, who wish to contribute to good causes, while relieving their tax burden. They are also desirable to any business in the state that has a considerable state tax liability, for the same reason.”<sup>93</sup> State tax credits available for IDAs are capped in the ten states where they are provided, ranging from Arkansas’ \$100,000 annually to Colorado’s five million dollars annually.<sup>94</sup> Within each of these states’ tax credit programs, a portion of the employer’s match, typically about half, is eligible for the tax credits.<sup>95</sup> Finally, two states have taken advantage of other tax credits for their IDA programs, but their use of these other credits has been very limited.<sup>96</sup> However, just having tax credits available for IDAs does not mean employers will take advantage of them: The Center for Social Development recommends that non-profits target businesses and develop specific educational and marketing strategies to ensure that they fully utilize the existing credits.<sup>97</sup>

Another avenue that might work for employer-based IDAs is putting funds into a pool that would then be administered by nonprofit organizations.<sup>98</sup> This would avoid the potential negative tax treatment for employers since the IRS currently allows tax-deductibility for nonprofit organizations administering IDAs and has indicated that “employers’ contributions could be tax deductible” in this scenario.<sup>99</sup> However, this type of IDA program would need to also include non-employees for the contributions to be tax-deductible.<sup>100</sup> While the IDA program would be available to the contributing employer’s employees, the contribution would not guarantee that the employees could use the IDA funds.<sup>101</sup> As the availability of the program to the community is treated as a community benefit, the employer in this scenario would “be eligible to take a tax deduction for its IDA match and operating contributions.”<sup>102</sup>

Finally, another area in which IDA use could be expanded using employers as IDA Administrators is by tying IDAs into employer revenue. In this model, an employer’s investment in an IDA benefiting only its employees would qual-

91. Personal communication with Andrew Foster, Lecturing Fellow, Duke University School of Law, in Durham, N.C. (Mar. 2004) (Professor Foster is in the process of researching these and related issues).

92. *Id.*

93. CSD, *Twenty FAQs About State IDA Policy*, *supra* note 62.

94. *Id.*

95. *Id.*

96. *Id.* Missouri and Pennsylvania have used Neighborhood Assistance Program tax credits toward IDAs. *Id.*

97. *Id.*

98. CFED, *Employer IDA Initiatives*, *supra* note 49, at 19.

99. *Id.*

100. *Id.*

101. *Id.*

102. *Id.*

ify as a business deduction in order to reduce the employer's revenue.<sup>103</sup> This, in turn, would reduce the employer's taxable income, thus creating an additional incentive for employers to utilize IDAs.<sup>104</sup> However, the IRS has not spoken directly on this issue. Research on this approach is in preliminary stages, but appears promising. Another further area of research that might avoid the potential ERISA problems cited above is whether employer-based IDA payments could be treated as compensation rather than an employee benefit.

## V. CURRENT INITIATIVES

A movement promoting asset-based strategies to benefit women has emerged. This movement includes organizations and individuals promoting policies and programs including IDAs. The Women's Self Employment Project ("WSEP"), is an example of this type of organization. WSEP, an Illinois 501(c)(3), was founded in 1986 and uses business development and asset building strategies to benefit women.<sup>105</sup> WSEP has a six-week course in financial education that results in an IDA account for those who complete the course and uses the course fees to begin the account.<sup>106</sup> As a result of WSEP's programs, the organization has helped "over 8,000 low- and moderate-income women increase their economic self-sufficiency and establish a sustainable livelihood for themselves and their families."<sup>107</sup>

The larger movement promoting asset development for women culminated in a recent national gathering and an ongoing network of organizations to promote these policies. *Women and Assets—A National Initiative*, a joint project of the Asset Development Institute and the National Center on Women and Aging at Brandeis University, is heading a national initiative promoting asset accumulation as a way to "advance long-term economic well-being for women and the families they support."<sup>108</sup> The national meeting resulted in the network of "local, state, and national groups" and in ongoing strategies to promote asset-based strategies to benefit women.<sup>109</sup> In addition, other organizations like the Corporation for Enterprise Development are developing promising new asset projects

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103. CFED and the United Way are currently considering the tax treatment resulting from this model. Personal communication with Andrew Foster, Lecturing Fellow, Duke University School of Law, in Durham, N.C. (Mar. 2004).

104. CFED, *Employer IDA Initiatives*, *supra* note 49, at 19.

105. Women's Self Employment Project, *The WSEP Strategy*, at <http://www.wsep.net/About.htm> (last visited Feb. 15, 2004) [hereinafter WSEP, *The WSEP Strategy*].

106. Women's Self Employment Project, *Financial Education*, at <http://www.wsep.net/FinancialEd.htm> (last visited Feb. 15, 2004).

107. WSEP, *The WSEP Strategy*, *supra* note 105.

108. National Center on Women and Aging, *supra* note 10. The Asset Development Institute "was established in 1999 by the Center on Hunger and Poverty [at Brandeis University] to promote and advance such a new domestic policy framework." Asset Development Institute, at <http://www.centeronhunger.org/ADI/adiintro.html> (last visited Apr. 16, 2004). The National Center on Women and Aging at Brandeis University's mission is "to focus national attention on the special concerns of women as they age, to develop solutions and strategies for dealing with these concerns, and to reach out to women and organizations across the country, promoting the changes necessary to improve older women's lives." National Center of Women and Aging, at <http://www.heller.brandeis.edu/national> (last modified Sept. 23, 2003).

109. National Center on Women and Aging, *supra* note 10.

that might benefit women directly or indirectly. These include Integrating Savings and Credit for Microenterprise, as well as Savings for Education, Entrepreneurship, and Downpayment accounts for children (SEED), a program similar to IDAs, in which children have long term investment and savings accounts that are limited to spending on college, business creation, home purchases, and retirement.<sup>110</sup>

#### CONCLUSION

Asset-based programs and initiatives to alleviate women's poverty are becoming more common in the United States. As Michael Sherraden has observed, an asset-based policy is needed to benefit the poor, both because "assets are key to family and community development based on capacity rather than maintenance" and for "fairness" since the most widely-used asset programs benefit the non-poor.<sup>111</sup> However, at present IDA programs are not widely available in the United States. Organizations should continue promoting programs like IDAs to encourage the poor to take advantage of these programs as currently administered through nonprofit organizations. In addition, many states could increase IDA participation by creating more comprehensive legislation, particularly including a tax credit component. This would make IDAs more attractive to employers, which ideally would lead more employers to offer IDAs in their array of employee benefits. However, the hurdle of tax disincentives to employers in employer-based IDAs remains a barrier. Until the IRS provides a more definitive revenue ruling on this subject, more research and advocacy is needed to promote employer-based IDAs that creatively fund their IDA programs in order for the participants to receive favorable tax treatment. Advocacy for these creative employer-based IDAs, as well as additional legislation providing funding for community-based IDAs should lead to a greater number of people taking advantage of these programs.

An expansion of opportunities to participate in IDAs would benefit American women, who remain disproportionately asset poor. In addition, initiatives such as *Women and Assets* have helped define, and are continuing to define, the important role assets play in improving the lives of American women. Through continued advocacy by the organizations and initiatives cited in this Note, among others, a fuller, more informed picture of asset development and its role in women's lives will be developed.

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110. CFED, *SEED Policy and Practice Initiative*, at <http://seed.cfed.org> (last visited Mar. 29, 2004) (on file with the Duke Journal of Gender Law & Policy).

111. Sherraden, *Building Assets to Fight Poverty*, *supra* note 44.