

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

# A Bill

SENATE BILL 767

5 By: Senator Gullett  
6 By: Representative D. Evans  
7

## For An Act To Be Entitled

10 AN ACT TO AUTHORIZE STATE AGENCIES TO CONTRACT TO  
11 PURCHASE TECHNOLOGY SYSTEMS BASED ON AN INCREASE  
12 IN THE AGENCY'S REVENUES GENERATED THROUGH THE  
13 USE OF THE TECHNOLOGY SYSTEMS; AND FOR OTHER  
14 PURPOSES.

## Subtitle

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16 AN ACT TO AUTHORIZE CONTRACTS FOR THE  
17 PURCHASE OF TECHNOLOGY SYSTEMS BASED ON  
18 THE INCREASE IN THE AGENCY'S REVENUES  
19 PRODUCED BY THE TECHNOLOGY SYSTEMS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. (a) An agency purchasing official is authorized to enter  
26 into contracts to acquire technology systems for performing the revenue  
27 generating functions and duties of the agency, including, but not limited to,  
28 registration, processing, and collection functions.

29 (b) Any contracts entered into between an agency purchasing official  
30 and a vendor of technology systems shall provide for:

31 (1) Payment of the technology systems on the basis of a  
32 percentage of the increase in the amount of specific taxes or fees collected,  
33 including interest and penalties thereon, for a fixed time period, which  
34 increase exceeds revenues projected prior to the project and is attributable  
35 to the implementation and use of the technology system; or

36 (2) Payment of the technology system on a fixed fee contract



1 basis, the fee to be paid from the increase in the amount of specific taxes  
 2 or fees collected, including interest and penalties thereon, which increase  
 3 exceeds revenues projected prior to the project and is attributable to the  
 4 implementation and use of the technology system.

5 (c)(1) All contracts authorized by this act shall be entered into  
 6 pursuant to the requirements of the Arkansas Purchasing Law, § 19-11-201 et  
 7 seq., and amendments thereto.

8 (2) Prior to execution of the contract, the following process  
 9 shall be followed:

10 (A) The requesting agency shall request approval of the  
 11 Chief Fiscal Officer of the State to prepare a request for proposal for a  
 12 project authorized under this act;

13 (B) The request shall include the general nature of the  
 14 project, the anticipated revenues that will be enhanced, and the forecasted  
 15 revenues for the current biennium;

16 (C) Upon approval of the Chief Fiscal Officer of the  
 17 State, the requesting agency shall prepare a request to the Department of  
 18 Finance and Administration for approval to prepare a request for proposal for  
 19 a technology project authorized under this act;

20 (D) The request must include the revenue source or sources  
 21 that will be increased as a result of the project and the projected revenues  
 22 for the life of the anticipated life of the project;

23 (E) The requesting agency shall prepare a request for  
 24 proposal, with advice and consultation from the Office of the Executive Chief  
 25 Information Officer and the Department of Finance and Administration, for the  
 26 purchase of technology systems on the basis of a portion of the increase in  
 27 the agency's revenues produced by the technology system; and

28 (F)(i) The request for proposal may provide that the  
 29 agency and the vendor may negotiate an amount or baseline upon which the  
 30 increase in taxes or fees is measured.

31 (ii) Any contract other than a fixed fee contract  
 32 shall include a factor in the baseline calculation to account for an increase  
 33 in taxes or fees due solely to economic factors and not to the use of the  
 34 technology.

35 (3) The agency purchasing official and the vendor shall  
 36 negotiate the contract, with the oversight of the Office of Executive Chief

1 Information Officer and the Department of Finance and Administration to  
 2 assist in negotiating an advantageous contract.

3 (4)(A) The agency director shall submit the proposed contract  
 4 and a request for new appropriation to the Governor, or his or her designee.

5 (B) The accompanying information will include the  
 6 methodology used to calculate the baseline amount proposed by the agency and  
 7 other justifications and information that detail the program and the expected  
 8 benefits of the agreement.

9 (C) The Governor, or his or her designee, shall study the  
 10 request and determine whether the appropriation requested and the terms of  
 11 the proposed contract are in strict compliance with this act.

12 (D) The Governor may approve or modify the request for new  
 13 appropriation and the proposed contract.

14 (5)(A) Upon approval of the shared benefit agreement and new  
 15 appropriation request, the Governor shall seek the advice and recommendation  
 16 of the Legislative Council.

17 (B) Upon review of the Legislative Council, the Governor  
 18 shall forward a copy of his approvals to the agency director and the Chief  
 19 Fiscal Officer of the State.

20 (d) After receipt of the Governor's approvals, the Chief Fiscal  
 21 Officer of the State shall direct the Auditor of State and Treasurer of State  
 22 to establish upon their books of record the necessary appropriation accounts  
 23 in accordance with the provisions as set out in this section from the Shared  
 24 Benefit Holding Appropriation.

25 (e) The requesting agency may utilize these appropriations to  
 26 implement the approved contract.

27 (f) Nothing in this section shall prohibit an agency that enters into  
 28 a contract according to this section from acquiring any goods or services  
 29 through appropriations for any function or program of that agency not  
 30 specifically included in any contract entered into according to this section.

31 (g) The Chief Fiscal Officer of the State may promulgate such rules,  
 32 regulations, procedures and guidelines as he may deem necessary and proper in  
 33 order to carry out the provisions of this act.

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 35 SECTION 2. (a) There is created on the books of the Treasurer of  
 36 State, Auditor of State, and Chief Fiscal Officer of the State a special

1 revenue fund to be known as the "Shared Benefit Payment Fund."

2 (b)(1) All moneys collected under this act shall be deposited into the  
 3 State Treasury to the credit of the fund as special revenues.

4 (2) The fund shall also consist of any other revenues as may be  
 5 authorized by law.

6 (c) The fund shall be used by the state agencies to pay vendors for  
 7 contracts entered into under this act.

8 (d) The fund shall consist of the amount of taxes or fees collected  
 9 for the relevant time period less the baseline amount stated in each  
 10 technology purchase contract entered into pursuant to section 1 of this act,  
 11 which difference is attributable to the implementation and use of the  
 12 technology systems as provided in the contract and approved under the  
 13 provisions of section 1, subsection (c) of this act.

14 (e) As soon as practical after the close of each month during the  
 15 biennial period beginning July 1, 2003 and thereafter, each agency purchasing  
 16 official who has a technology purchase contract shall determine the  
 17 difference between the amount of taxes or fees collected and the contract  
 18 baseline amount and report these findings to the Chief Fiscal Officer of the  
 19 State.

20 (f) The Chief Fiscal Officer of the State shall certify to the  
 21 Treasurer of State the following:

22 (1) The amounts determined in subsection (e) of this section for  
 23 transfer to the fund; and

24 (2) That portion of the amount determined in subsection (e) of  
 25 this section which is currently required to be paid to each technology  
 26 contract vendor.

27 (g) The Treasurer of State shall make the transfer of the amount  
 28 determined in subsection (f)(1) of this section, after making the deduction  
 29 required from the net general revenues as set out in § 19-5-202(b)(2)(B)(i).

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 31 SECTION 3. EMERGENCY CLAUSE. It is found and determined  
 32 by the General Assembly of the State of Arkansas that there is an urgent need  
 33 for funding for the purchase of technology to increase efficiency and more  
 34 effectively administer the areas of government that are charged with the  
 35 responsibility for administering and collecting revenue for the state; that  
 36 legislation is needed for enabling state agencies to more quickly utilize

1 private sector information technologies that pay for themselves directly from  
 2 a portion of additional state revenues; that there are vendors who will agree  
 3 to contract with the state to deliver such technology in consideration for  
 4 the payment of the technology from a portion of the increase in revenue that  
 5 would result from the use of the more efficient technology solution; that  
 6 such contracts would not obligate the state to funding and payment of the  
 7 technology prior to its purchase; that the contracts would provide for  
 8 payment to vendors only in the event that revenues increased as a result of  
 9 the implementation and use of the technology solution; and that this act is  
 10 immediately necessary because there is an urgent need for this technology.  
 11 Therefore, an emergency is declared to exist and this act being immediately  
 12 necessary for the preservation of the public peace, health, and safety shall  
 13 become effective on:

- 14 (1) The date of its approval by the Governor;
- 15 (2) If the bill is neither approved nor vetoed by the Governor,  
 16 the expiration of the period of time during which the Governor may veto the  
 17 bill; or
- 18 (3) If the bill is vetoed by the Governor and the veto is  
 19 overridden, the date the last house overrides the veto.

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