

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

*As Engrossed: S3/21/03*

# A Bill

Act 1289 of 2003  
SENATE BILL 501

5 By: Senators Malone, Altes, Argue, Bisbee, J. Bookout, Broadway, Brown, Capps, Critcher, Glover,  
6 Gullett, Hendren, Higginbothom, Hill, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker,  
7 Madison, Miller, Salmon, T. Smith, Steele, Trusty, Wilkinson, Womack  
8

## For An Act To Be Entitled

11 AN ACT TO REQUIRE MUNICIPALITIES AND COUNTIES TO  
12 NEGOTIATE IN LIEU OF TAX PAYMENTS WHEN  
13 NEGOTIATING A CONTRACT FOR SALE OF PROPERTY OR  
14 LEASE OF PROPERTY TO A PRIVATE, FOR PROFIT  
15 ENTITY; AND FOR OTHER PURPOSES.  
16

## Subtitle

18 AN ACT TO REQUIRE MUNICIPALITIES AND  
19 COUNTIES TO NEGOTIATE IN LIEU OF TAX  
20 PAYMENTS WHEN NEGOTIATING A CONTRACT FOR  
21 SALE OF PROPERTY OR LEASE OF PROPERTY TO  
22 A PRIVATE, FOR PROFIT ENTITY.  
23

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 14-164-703 is amended to read as follows:  
28 14-164-703. Payments in lieu of taxes.

29 (a) In the event that a county or municipality and a lessee under a  
30 lease, or a purchaser under a contract of sale, enter into an agreement for  
31 payments in lieu of ad valorem taxes, each agreement shall provide, or, by  
32 virtue of this subchapter, shall be interpreted as providing, that all in-  
33 lieu-of-taxes payments shall be distributed to the local political  
34 subdivisions which would have received ad valorem tax payments on the  
35 industrial facilities if the interest involved had not been exempt from ad  
36 valorem taxes in the proportions that the millage levied by each affected



1 local political subdivision bears to the millage levied by all affected  
 2 political subdivisions, unless all such local political subdivisions,  
 3 including the affected school district or districts, shall otherwise agree.

4 (b) Nothing in this section shall be construed as affecting in any  
 5 manner the rights or obligations of any of the parties to any such agreements  
 6 existing on the date of enactment of this subchapter providing for payments  
 7 in lieu of ad valorem taxes.

8  
 9 SECTION 2. Uncodified Sections(b) through (d) of Act 1629 of 2001, as  
 10 amended, are amended to read as follows:

11 (b)(1) ~~From July 1, 2001 through June 30, 2003, when~~ When any city or  
 12 county enters into a lease of city or county property or enters into a  
 13 contract for sale of city or county property to a private for-profit entity  
 14 under this subchapter or any other provision of law or the Constitution of  
 15 Arkansas for the purpose of securing and developing industry, the lease or  
 16 contract for sale shall include an obligation that the lessee or purchaser  
 17 make payments in lieu of property taxes in an amount as negotiated between  
 18 the parties except the aggregate amount of the payments during the initial  
 19 term of the lease or contract for sale shall be not less than thirty-five  
 20 percent (35%) of the aggregate amount of ad valorem taxes that would be paid  
 21 if the property were on the tax rolls, unless the Director of the Department  
 22 of Economic Development and the Chief Fiscal Officer of the State approve a  
 23 lesser amount.

24 (2)(A) The aggregate amount of ad valorem taxes that would be  
 25 paid if the property were on the tax rolls during the initial term of the  
 26 lease or contract for sale may be determined based on:

27 (i) The millage and assessment rates in effect at  
 28 the time the obligation to make payments in lieu of property taxes is entered  
 29 into;

30 (ii) The projected installed costs of the taxable  
 31 real and personal property subject to or to be subject to the lease or  
 32 contract for sale, which may be evidenced by an affidavit of a duly  
 33 authorized officer of the private for profit entity; and

34 (iii) Depreciation guidelines for personal property  
 35 published by the Arkansas Assesement Coordination Department.

36 (B) The aggregate amount determined under subdivision

1 (b)(2) of this section shall be adjusted based on the actual installed costs  
 2 of the taxable real and personal property at the time the lease or contract  
 3 for sale is entered into or the time of completion of the project subject to  
 4 the lease or contract for sale, whichever is later.

5 (3) The obligation may be contained in a separate agreement at  
 6 the option of the parties to the lease or contract for sale.

7 (c) ~~From July 1, 2001 through June 30, 2003, prior~~ Prior to meeting of  
 8 city or county officials where action might be taken regarding approval of  
 9 in-lieu-of-tax payments, the city or county shall give at least ten (10) days  
 10 notice to the superintendent of each school district in which all or any part  
 11 of the property which is subject to the lease or contract of sale is located,  
 12 and to the Chief Fiscal Officer of the State as to the date, time, and place  
 13 of the meeting.

14 (d) Subsection (b) and (c) of this section shall not apply to:

15 (1) Any agreement existing prior to July 1, 2001;

16 (2) Any agreement entered into on or after July 1, 2001 pursuant  
 17 to a memorandum of intent or agreement to issue bonds authorized by any city  
 18 or county prior to July 1, 2001;

19 (3) Any agreement entered into on or after July 1, 2001 related  
 20 to a project covered by a financial incentive proposal from the Arkansas  
 21 Department of Economic Development, or by resolution of the governing body of  
 22 a city or a county designating the project by name for the purposes of this  
 23 exemption, dated prior to July 1, 2001;

24 (4) Any reissue or refinancing of bonds which are subject to an  
 25 *existing in-lieu-of-tax agreement; and*

26 (5) *Any lease or contract for sale with a qualified manufacturer of*  
 27 *steel as defined in § 26-52-901 or in Act 541 of 2001* entered into prior to  
 28 June 30, 2009.

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 30 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
 31 General Assembly of the State of Arkansas that the Arkansas Supreme Court has  
 32 ruled that the current system of education in Arkansas is inadequate and  
 33 inequitable; that the Arkansas Supreme Court has found portions of the  
 34 current public school funding formula to be unconstitutional; that the  
 35 Arkansas Supreme Court has instructed the General Assembly to devise a remedy  
 36 and has provided a stay on the ruling until January 1, 2004; that public

1 schools are currently in dire need of additional funding; that this act is  
2 immediately necessary to enable public schools to receive additional funding.  
3 Therefore, an emergency is declared to exist and this act being immediately  
4 necessary for the preservation of the public peace, health, and safety shall  
5 become effective on:

6 (1) The date of its approval by the Governor;

7 (2) If the bill is neither approved nor vetoed by the Governor,  
8 the expiration of the period of time during which the Governor may veto the  
9 bill; or

10 (3) If the bill is vetoed by the Governor and the veto is  
11 overridden, the date the last house overrides the veto.

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13 /s/ Malone  
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16 APPROVED: 4/14/2003  
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