

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**

# A Bill

**SENATE BILL**

4 **By: Senators Bradford, Bell, and Keet**

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## **For An Act To Be Entitled**

8 "AN ACT TO CREATE THE ECONOMIC DEVELOPMENT INCENTIVE  
9 PROGRAM; TO PROVIDE FINANCIAL INCENTIVES FOR COMPANIES  
10 CONSIDERING ARKANSAS AS A LOCATION FOR A NEW FACILITY OR  
11 THE EXPANSION OF AN EXISTING FACILITY THAT WOULD CREATE  
12 NEW JOBS; TO AUTHORIZE THE ARKANSAS INDUSTRIAL DEVELOPMENT  
13 COMMISSION TO ACT ON BEHALF OF THE STATE IN NEGOTIATING  
14 FINANCIAL INCENTIVE PROPOSALS WITH BUSINESSES; AND FOR  
15 OTHER PURPOSES."

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## **Subtitle**

18 "AN ACT TO CREATE THE ECONOMIC DEVELOPMENT INCENTIVE  
19 PROGRAM."

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

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23 SECTION 1. Title.

24 This Act may be referred to and cited as the "Arkansas Economic  
25 Development Incentive Act of 1993".

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27 SECTION 2. Definitions.

28 As herein used in this act:

29 (1) "Commission" means the Arkansas Industrial Development Commission;

30 (2) "Corporate headquarters" means the home or center of operations,

31 including research and development, of a national or multi-national

32 corporation;

33 (3) "Department" means the Department of Industrial Development;

34 (4) "Director" is the director of the department;

35 (5) "Office sector business" means control centers that influence the

1 environment in which data processing, customer service, credit accounting,  
2 telemarketing, claims processing, and other administrative functions that act  
3 as production centers. Also referred to as "back office industry";

4 (6) "New permanent employee" means an employee who has worked at least  
5 thirty (30) hours per week for at least twenty-six (26) consecutive weeks and  
6 who was hired as a result of the Financial Incentive Plan entered into with  
7 the Department;

8 (7) "High Unemployment" means an unemployment rate in excess of ten  
9 percent (10%), or more than three percent (3%) above the state's average  
10 unemployment rate, for the preceding calendar year;

11 (8) "Fund" means the Arkansas Economic Development Incentive Fund;

12 (9) "Financial Incentive Plan" means an agreement entered into by a  
13 business and the Department to provide the business incentive to locate a new  
14 facility or expand an existing facility in Arkansas;

15 (10) "Annual payroll" means the wages of the new permanent employees  
16 based on the payroll for the previous twelve (12) months reported to the  
17 Employment Security Division, and is computed by using the total of the new  
18 permanent employees' reported taxable earnings, including overtime pay.

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20 SECTION 3. Economic Development Incentive Fund.

21 There is hereby established on the books of the State Treasurer, State  
22 Auditor, and Chief Fiscal Officer of the State, a Fund to be known as Economic  
23 Development Incentive Fund of the Arkansas Industrial Development Commission.  
24 The Economic Development Incentive Fund shall consist of revenues designated  
25 for this fund by the Revenue Division of the Department of Finance and  
26 Administration pursuant to agreements entered into by the Arkansas Industrial  
27 Development Commission with qualified businesses.

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29 SECTION 4. Powers and Duties of the Department.

30 The Department shall administer the provisions of this act and shall  
31 have the following powers and duties, in addition to those mentioned in this  
32 act and in other laws of this state:

33 (1) To promulgate rules and regulations, in accordance with the  
34 Administrative Procedure Act, as amended, Section 25-15-201 et seq., necessary  
35 to carry out the provisions of this act;

1           (2) To negotiate proposals on behalf of the state with prospective  
2 businesses which are considering locating a new facility, or expanding an  
3 existing facility, that would employ the requisite number of new permanent  
4 employees provided by Section 6 of this act. The Department is authorized to  
5 negotiate with the business a financial incentive plan up to an amount equal  
6 to three and nine-tenths percent (3.9%) of the companies annual payroll for  
7 the new permanent employees; and may negotiate with the business a financial  
8 incentive plan up to an amount equal to five percent (5%) of the annual  
9 payroll for the new permanent employees if the business locates in an area of  
10 high unemployment.

11           (3) To provide the Department of Finance and Administration with a copy  
12 of each formal agreement entered into by the Department with each of the  
13 qualifying businesses, so that the Department of Finance and Administration  
14 will know how much money is to be designated for the Economic Development  
15 Incentive Fund each quarter.

16           (4) To make disbursement from the Fund to qualified businesses which  
17 have entered into a financial incentive plan.

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19           SECTION 5. Qualifications.

20           To qualify for the benefits of this act the entity applying must:

21           (1) Be either:

22                   (a) an industry that comes within the Standard Industrial  
23 Classification (SIC) numbers twenty (20) through thirty-nine (39) which will  
24 employ one hundred (100) or more new permanent employees;

25                   (b) an office sector business which will employ one hundred (100)  
26 or more new permanent employees and not make retail sales to the general  
27 public; or

28                   (c) a corporate headquarters which will employ fifty (50) or more  
29 new permanent employees and not make retail sales to the general public.

30           (2) Hire the requisite number of new permanent employees within twenty-  
31 four (24) months of the date the financial incentive plan was entered into  
32 with the Department.

33           (3) Agree to certify to the Department of Finance and Administration  
34 the number of new permanent employees and the new permanent employees\_ payroll  
35 once the number of new permanent employees reach the requisite number provided

1 in subpart (1) of this section, and recertify the number and payroll of the  
2 net new employees annually thereafter during the term of the financial  
3 incentive plan, so the Department of Finance and Administration can determine  
4 the amount of money to be deposited into the Fund.

5 (4) Agree to certify to the Department of Finance and Administration  
6 within thirty (30) days after the number of net new employees falls below:

- 7 (a) one hundred (100) for an industry;
- 8 (b) one hundred (100) for an office sector business; or
- 9 (c) fifty (50) for a corporate headquarters.

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11 SECTION 6. Limitations.

12 The following limitations shall apply to all financial incentive plans  
13 negotiated by the Department.

14 (1) The term of a financial incentive plan shall not exceed ten (10)  
15 years. The ten (10) years shall be calculated from the date of the financial  
16 incentive plan entered into by the business and the Department.

17 (2) The business shall not be entitled to the benefits of a financial  
18 incentive plan entered into with the Department until twelve (12) months after  
19 it has hired the requisite number of new permanent employees and has certified  
20 that fact to the Department of Finance and Administration as required by this  
21 act.

22 (3) If the number of net new employees drops below the requisite number  
23 provided in Section 6 of this act, all benefits under the financial incentive  
24 plan entered into with the Department shall be terminated. In the event that  
25 a business fails to notify the Department of Finance and Administration that  
26 the number of employees has fallen below the required number to continue to  
27 receive benefits under a financial incentive plan, that business will be  
28 liable for the repayment of all benefits which were paid to the business after  
29 it no longer qualified for the benefits. Interest shall also be due at the  
30 rate of ten percent (10%) per annum.

31 (4) The financial benefits received by a business shall be used in  
32 accordance with the financial incentive plan entered into with the Department.  
33 Financial incentive plans shall designate how the funds are to be used by the  
34 business. A plan may designate funds for employee training, infrastructure or  
35 other purposes set out by legislation.

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SECTION 7. Transfer of Funds.

After the Department of Finance and Administration has received the certification of the number of employees and their payroll from a business that has entered into a financial incentive plan with the Department, the Department of Finance and Administration shall transfer the appropriate amount of money designated by the financial incentive plan out of general revenues into a special account designated as special revenue for the Fund.

SECTION 8. Verification.

The Department of Finance and Administration shall have the authority to obtain whatever information necessary from the Arkansas Employment Security Division to verify that businesses which have entered into financial incentive plans with the Department are complying with the terms of the financial incentive plan and reporting accurate information concerning the number of employees and their payroll to the Department of Finance and Administration.

SECTION 9. Receiving benefits pursuant to this act will not preclude a business from participating in any other tax incentive program.

SECTION 10. The provisions of this act shall be in full force and effect for all tax years beginning on and after January 1, 1993.

SECTION 11. 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 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 13. All laws and parts of laws in conflict with this act are hereby repealed.

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SECTION 14. EMERGENCY. It is hereby found and determined by the General Assembly of this State that unemployment and economic underdevelopment has reached intolerable levels in certain portions of this state and the state as a whole has been unable to compete with other state's incentive programs for economic development; and, that the incentives afforded by this act are critical to the development and expansion of job opportunities in the state. Therefore, an emergency is declared to exist and this act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

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