

By: Martinson, Fleming, Moore (60th)

To: Ways and Means

HOUSE BILL NO. 1547

1 AN ACT TO CREATE THE "MISSISSIPPI QUALITY JOBS PROGRAM ACT";
2 TO AUTHORIZE THE STATE TAX COMMISSION TO MAKE INCENTIVE PAYMENTS
3 FOR ESTABLISHMENTS ENGAGING IN CERTAIN BASIC INDUSTRIES; TO CREATE
4 THE INCENTIVE APPROVAL COMMITTEE WHOSE DUTY SHALL BE TO DETERMINE
5 WHETHER AN ESTABLISHMENT IS A BASIC INDUSTRY AS DEFINED IN THIS
6 ACT; TO PROVIDE THAT QUALIFIED ESTABLISHMENTS MAY RECEIVE
7 QUARTERLY INCENTIVE PAYMENTS FOR A TEN-YEAR PERIOD IN AN AMOUNT
8 EQUAL TO THE TAX BENEFITS THAT ACCRUE TO THE STATE AS A RESULT OF
9 NEW DIRECT JOBS MINUS THE ESTIMATED DIRECT STATE COSTS COMPUTED AS
10 A PERCENTAGE OF GROSS PAYROLL OF THE ESTABLISHMENT, MULTIPLIED BY
11 THE ACTUAL GROSS PAYROLL OF NEW DIRECT JOBS FOR A CALENDAR QUARTER
12 AS VERIFIED BY THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; TO
13 PROVIDE THAT APPLICATION FOR INCENTIVE PAYMENTS SHALL BE MADE TO
14 THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT; TO PROVIDE
15 THE CRITERIA FOR ELIGIBILITY FOR INCENTIVE PAYMENTS; TO CREATE THE
16 MISSISSIPPI QUALITY JOBS PROGRAM INCENTIVE PAYMENT FUND FROM WHICH
17 INCENTIVE PAYMENTS SHALL BE MADE PURSUANT TO THIS ACT; TO PROVIDE
18 THAT SUCH FUND SHALL BE FUNDED BY LEGISLATIVE APPROPRIATION; TO
19 PROVIDE THAT THE LIABILITY OF THE STATE TO MAKE INCENTIVE PAYMENTS
20 UNDER THIS ACT SHALL BE LIMITED TO THE BALANCE CONTAINED IN SUCH
21 FUND; TO PROVIDE FOR CRIMINAL PENALTIES FOR WILLFULLY MAKING A
22 FALSE OR FRAUDULENT APPLICATION, CLAIM, REPORT, RETURN, STATEMENT,
23 INVOICE OR OTHER INSTRUMENT OR FOR WILLFULLY MAKING A FALSE OR
24 FRAUDULENT STATEMENT IN CONNECTION WITH THIS ACT; AND FOR RELATED
25 PURPOSES.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

27 SECTION 1. This act shall be known and may be cited as the
28 "Mississippi Quality Jobs Program Act."

29 SECTION 2. It is the intent of the Legislature that:

30 (a) The State of Mississippi provide appropriate
31 incentives to support establishments of basic industries that hold
32 the promise of significant development of the economy of the State
33 of Mississippi;

34 (b) The amount of incentives provided under this act in
35 connection with a particular establishment:

36 (i) Be directly related to the jobs created as a
37 result of the establishment locating in the State of Mississippi;

38 and

39 (ii) Not exceed the estimated net direct state
40 benefits that will accrue to the state as a result of the
41 establishment locating in the State of Mississippi;

42 (c) The Department of Economic and Community
43 Development and the State Tax Commission shall implement the
44 provisions of this act and exercise all powers as authorized in
45 this act. The exercise of powers conferred by this act shall be
46 deemed and held to be the performance of essential public
47 purposes; and

48 (d) Nothing in this act shall be construed to
49 constitute a guarantee or assumption by the State of Mississippi
50 of any debt of any individual, company, corporation or association
51 nor to authorize the credit of the State of Mississippi to be
52 given, pledged or loaned to any individual, company, corporation
53 or association.

54 SECTION 3. (1) As used in this act, the following words and
55 phrases shall have the meanings ascribed in this section unless
56 the context clearly indicates otherwise:

57 (a) "Basic industry" means:

58 (i) Manufacturing, as defined or classified under
59 Division D of the Standard Industrial Classification Manual,
60 latest version;

61 (ii) Administrative and auxiliary services that
62 are assigned a one-digit auxiliary code in the Standard Industrial
63 Classification Manual, and are described therein as Central
64 Administrative Offices, which means central centers that influence
65 the environment in which data processing, customer service, credit
66 accounting, telemarketing, claims processing and other
67 administrative functions are accomplished;

68 (iii) Research, Development and Testing
69 Laboratories;

70 (iv) An activity described by Industry Group

71 Number 873 of Major Group 87, Division I of the Standard
72 Industrial Classification Manual, latest revision, Industry
73 Numbers 8731, 8732, 8733 and 8734;

74 (v) An activity related to research and
75 development as described by Auxiliary Code Number 2 of the
76 Standard Industrial Classification Manual, latest revision;

77 (vi) Warehouses that serve as distribution centers
78 for retail or wholesale businesses, if seventy-five percent (75%)
79 of the inventory processed through such warehouse is shipped
80 out-of-state;

81 (vii) Adjustment and collection services, as
82 defined or classified under Industry Number 7322 of Major Group 73
83 of the Standard Industrial Classification Manual, latest version,
84 if seventy-five percent (75%) of the loans to be serviced were
85 made by out-of-state debtors;

86 (viii) 1. Transportation by air, as defined or
87 classified under Major Group 45 of the Standard Industrial
88 Classification Manual, latest version, if the following facilities
89 are located in this state:

90 a. The corporate headquarters of an
91 establishment classified therein; and

92 b. A facility or facilities at which
93 reservations for transportation provided by such an establishment
94 are processed, whether such services are performed by employees of
95 the establishment, by employees of a subsidiary of or other entity
96 affiliated with the establishment or by employees of an entity
97 with whom the establishment has contracted for the performance of
98 such services. This provision shall not disqualify an
99 establishment that uses an out-of-state entity or employees for
100 some reservations services; or

101 2. Transportation by air, as defined or
102 classified under Major Group 45 of the Standard Industrial
103 Classification Manual, latest version, if an establishment

104 classified therein has or will have within one (1) year sales of
105 at least seventy-five percent (75%) of its total sales, as
106 determined by the Incentive Approval Committee, to out-of-state
107 customers or buyers, to in-state customers or buyers if the
108 product or service is resold by the purchaser to an out-of-state
109 customer or buyer for ultimate use, or to the federal government;
110 or

111 (ix) The following, if an establishment classified
112 therein has or will have within one (1) year sales of at least
113 seventy-five percent (75%) of its total sales, as determined by
114 the Incentive Approval Committee, to out-of-state customers or
115 buyers, to in-state customers or buyers if the product or service
116 is resold by the purchaser to an out-of-state customer or buyer
117 for ultimate use, or to the federal government:

118 1. Motor freight transportation and
119 warehousing, as defined or classified under Major Group 42 of the
120 Standard Industrial Classification Manual, latest version;

121 2. Arrangement of passenger transportation,
122 as defined or classified under Industry Group 472 of the Standard
123 Industrial Classification Manual, latest version;

124 3. Arrangement of transportation of freight
125 or cargo, as defined or classified under Industry Group 473 of the
126 Standard Industrial Classification Manual, latest version;

127 4. Insurance carriers, as defined or
128 classified under Major Group 63 of the Standard Industrial
129 Classification Manual, latest version;

130 5. Mailing, reproduction, commercial art and
131 photography and stenographic services, as defined or classified
132 under Industry Group 733 of the Standard Industrial Classification
133 Manual, latest version;

134 6. Services to dwellings and other buildings,
135 as defined or classified under Industry Group 734 of the Standard
136 Industrial Classification Manual, latest version;

137 7. Miscellaneous equipment rental and
138 leasing, as defined or classified under Industry Group 735 of the
139 Standard Industrial Classification Manual, latest version;
140 8. Personnel supply services, as defined or
141 classified under Industry Group 736 of the Standard Industrial
142 Classification Manual, latest version;
143 9. Computer programming, data processing,
144 information processing and other computer-related services, as
145 defined or classified under Industry Group 737 of the Standard
146 Industrial Classification Manual, latest version;
147 10. Miscellaneous business services, as
148 defined or classified under Industry Group 738 of the Standard
149 Industrial Classification Manual, latest version;
150 11. Medical and dental laboratories, as
151 defined or classified under Industry Group 807 of the Standard
152 Industrial Classification Manual, latest version;
153 12. Engineering and management services, as
154 defined or classified under Major Group 87 of the Standard
155 Industrial Classification Manual, latest version;
156 13. Communication services, as defined or
157 classified under Industrial Number 4899 of Major Group 48 of the
158 Standard Industrial Classification Manual, latest version;
159 14. General wholesale distribution of
160 groceries, as described in Industry Number 5141 of the Standard
161 Industrial Classification Manual, latest version; and
162 15. Processing of insurance claims, as
163 described in Industry Number 6411 of the Standard Industrial
164 Classification Manual, latest version; provided, activities
165 described in Industry Number 6411 of the Standard Industrial
166 Classification Manual, latest version, other than processing of
167 insurance claims shall not be included for purposes of this
168 subdivision.

169 An establishment shall not be considered to be engaged in a

170 basic industry unless it offers, or will offer within one hundred
171 eighty (180) days of the date it receives the first incentive
172 payment pursuant to the provisions of this act, a basic health
173 benefits plan to the individuals it employs in new direct jobs in
174 this state which is determined by the Department of Economic and
175 Community Development to consist of the following elements or
176 elements substantially equivalent thereto:

177 (i) Not less than fifty percent (50%) of the
178 premium shall be paid by the employer;

179 (ii) Coverage for basic hospital care;

180 (iii) Coverage for physician care;

181 (iv) Coverage for mental health care;

182 (v) Coverage for substance abuse treatment;

183 (vi) Coverage for prescription drugs; and

184 (vii) Coverage for prenatal care;

185 (b) "New direct job" means full-time-equivalent
186 employment in this state in an establishment that has qualified to
187 receive an incentive payment pursuant to this act, which
188 employment did not exist in this state before the date of approval
189 by the Department of Economic and Community Development of the
190 application of the establishment pursuant to the provisions of
191 this act. "New direct job" shall include full-time-equivalent
192 employment in this state of employees who are employed by an
193 entity other than the establishment that has qualified to receive
194 an incentive payment and who are leased or otherwise provided to
195 the qualified establishment, if such employment did not exist in
196 this state before the date of approval by the Department of
197 Economic and Community Development of the application of the
198 establishment. A job shall be deemed to exist in this state
199 before approval of an application if the activities and functions
200 for which the particular job exists have been ongoing at any time
201 within six (6) months before such approval;

202 (c) "Estimated direct state benefits" means the tax

203 revenues projected by the Department of Economic and Community
204 Development to accrue to the state as a result of new direct jobs;

205 (d) "Estimated direct state costs" means the costs
206 projected by the Department of Economic and Community Development
207 to accrue to the state as a result of new direct jobs. Such costs
208 shall include, but not be limited to:

209 (i) The costs of education of new state resident
210 children;

211 (ii) The costs of public health, public safety and
212 transportation services to be provided to new state residents;

213 (iii) The costs of other state services to be
214 provided to new state residents; and

215 (iv) The costs of other state services;

216 (e) "Estimated net direct state benefits" means the
217 estimated direct state benefits less the estimated direct state
218 costs;

219 (f) "Net benefit rate" means the estimated net direct
220 state benefits computed as a percentage of gross payroll. In no
221 event shall incentive payments, cumulatively, exceed the estimated
222 net direct state benefits;

223 (g) "Gross payroll" means wages for new direct jobs;
224 and

225 (h) "Establishment" means any business or governmental
226 entity, no matter what legal form, including, but not limited to,
227 a sole proprietorship; partnership; corporation or combination of
228 corporations which have a central parent corporation which makes
229 corporate management decisions such as those involving
230 consolidation, acquisition, merger or expansion; federal agency;
231 political subdivision of the State of Mississippi; or trust
232 authority; provided, distinct, identifiable subunits of such
233 entities may be determined to be an establishment, for all
234 purposes of this act, by the Department of Economic and Community
235 Development subject to the following conditions:

236 (i) The entity shall have certain minimum payroll
237 levels depending upon their location within the state in order to
238 qualify for Mississippi Quality Jobs Program. Such minimum
239 payroll levels shall be based on one (1) classification of the
240 county in which the entity is located as established in Section
241 57-73-21. In counties designated as developed areas entities
242 shall have or will create a minimum new payroll of Two Million
243 Five Hundred Thousand Dollars (\$2,500,000.00). In counties that
244 are designated as moderately developed areas entities shall have
245 or will create a minimum payroll of One Million Five Hundred
246 Thousand Dollars (\$1,500,000.00). In counties designated as less
247 developed areas entities shall have or will create a minimum new
248 payroll of One Million Dollars (\$1,000,000.00). Payroll
249 requirements shall be based on the designation of the county at
250 the time of the application. The threshold established upon
251 application will remain constant for the duration of the project;

252 (ii) The subunit is engaged in an activity or
253 service or produces a product which is demonstratively independent
254 and separate from the entity's other activities, services or
255 products and could be conducted or produced in the absence of any
256 other activity, service or production of the entity;

257 (iii) The entity has an accounting system capable
258 of tracking or facilitating an audit of the subunit's payroll,
259 expenses, revenue and production. Limited interunit overlap of
260 administrative and purchasing functions shall not disqualify a
261 subunit from consideration as an establishment by the Department
262 of Economic and Community Development;

263 (iv) It is determined by the Department of
264 Economic and Community Development that the entity will have a
265 probable net gain in total employment within the incentive period.

266 The Department of Economic and Community Development may
267 promulgate rules to further limit the circumstances under which a
268 subunit may be considered an establishment. The Department of

269 Economic and Community Development shall promulgate rules to
270 determine whether a subunit of an entity achieves a net gain in
271 total employment. The Department of Economic and Community
272 Development shall establish criteria for determining the period of
273 time within which such gain must be demonstrated and a method for
274 determining net gain in total employment.

275 SECTION 4. There is created the Incentive Approval Committee
276 which shall consist of the Executive Director of the Department of
277 Economic and Community Development, the Executive Director of the
278 Department of Finance and Administration and the Chairman of the
279 State Tax Commission. The committee shall determine, upon initial
280 application on a form approved by the committee, if an
281 establishment is engaged in a basic industry as defined in Section
282 3 of this act.

283 SECTION 5. (1) Except as otherwise provided in subsection
284 (8) of this section, an establishment that meets the
285 qualifications specified in the Mississippi Quality Jobs Program
286 Act may receive quarterly incentive payments for a ten-year period
287 from the State Tax Commission pursuant to the provisions of the
288 Mississippi Quality Jobs Program Act in an amount which shall be
289 equal to the net benefit rate multiplied by the actual gross
290 payroll of new direct jobs for a calendar quarter as verified by
291 the Mississippi Employment Security Commission.

292 (2) In order to receive incentive payments, an establishment
293 shall apply to the Department of Economic and Community
294 Development. The application shall be on a form prescribed by the
295 department and shall contain such information as may be required
296 by the department to determine if the applicant is qualified.

297 (3) Except as otherwise provided by subsection (4) or (5) of
298 this section, in order to qualify to receive such payments, the
299 establishment applying shall be required to:

300 (a) Be engaged in a basic industry;

301 (b) Have certain minimum payroll levels depending upon

302 their location within the state in order to qualify for
303 Mississippi Quality Jobs Program. Those minimum payroll levels
304 shall be based on the classification of the county in which the
305 entity is located as established in Section 57-73-21. In counties
306 designated as developed areas entities shall have or will create a
307 minimum new payroll of Two Million Five Hundred Thousand Dollars
308 (\$2,500,000.00). In counties that are designated as moderately
309 developed areas entities shall have or will create a minimum
310 payroll of One Million Five Hundred Thousand Dollars
311 (\$1,500,000.00). In counties designated as less developed areas
312 entities shall have or will create a minimum new payroll of One
313 Million Dollars (\$1,000,000.00). The criteria for this
314 requirement shall be based on the designation of the county at the
315 time of the application. The threshold established upon
316 application will remain constant for the duration of the project;
317 and

318 (c) Have a number of full-time-equivalent employees
319 working an average of twenty-five (25) or more hours per week in
320 new direct jobs equal to or in excess of eighty percent (80%) of
321 the total number of new direct jobs.

322 (4) In order to qualify to receive incentive payments as
323 authorized by the Mississippi Quality Jobs Program Act, an
324 establishment engaged in an activity described under:

325 (a) Any industry group number and division of the
326 Standard Industrial Classification Manual set forth in Section 3
327 of this act and meeting the requirement as set forth shall be
328 required to:

329 (i) Have an annual gross payroll for new direct
330 jobs projected by the Department of Economic and Community
331 Development to equal or exceed Two Million Five Hundred Thousand
332 Dollars (\$2,500,000.00) if located in a county designated as a
333 developed area under Section 57-73-21, or a payroll equal or
334 exceeding One Million Five Hundred Thousand Dollars

335 (\$1,500,000.00) if located in an county designated as a moderately
336 developed area under Section 57-73-21, or a payroll equal or
337 exceeding One Million Dollars (\$1,000,000.00) if located in a
338 county designated as a less developed area under Section 57-71-21,
339 within three (3) years of the anticipated date on which the
340 establishment will receive its first incentive payment.

341 (ii) Have a number of full-time-equivalent
342 employees working an average of twenty-five (25) or more hours per
343 week in new direct jobs equal to or in excess of eighty percent
344 (80%) of the total number of new direct jobs;

345 (b) Any Industry Group Number and Division of the
346 Standard Industrial Classification Manual, including those
347 identified in paragraph (a) of this subsection which are
348 identified as the "Targeted Industry Groups" of the Mississippi
349 Department of Economic and Community Development for the State of
350 Mississippi shall receive an automatic additional one percent (1%)
351 priority to be added to the base payroll incentive, provided,
352 however, that the net benefit rate shall not exceed five percent
353 (5%) of total benefit and shall be required to meet the
354 requirements of paragraphs (a)(i) and (ii) of this subsection.

355 (5) An establishment that locates its principal business
356 activity on a site consisting of at least ten (10) acres which has
357 been determined to be contaminated by any substance regulated by a
358 federal or state statute governing environmental conditions for
359 real property and which:

360 (a) Is a federal Superfund removal site;

361 (b) Is listed on the National Priorities List
362 established under Section 9605 of Title 42 of the United States
363 Code;

364 (c) Has been formally deferred to the state in lieu of
365 listing on the National Priorities List; or

366 (d) Has been remediated pursuant to an order of the
367 Department of Environmental Quality,

368 shall qualify for incentive payments irrespective of its actual
369 gross payroll or the number of full-time-equivalent employees
370 engaged in new direct jobs.

371 In order to qualify for the incentive payments pursuant to
372 this subsection (5), the establishment shall conduct the activity
373 resulting in at least eighty percent (80%) of its total annual
374 gross revenue, whether from the sale of products or services or
375 both products and services, at the physical location which has
376 been determined not to comply with the federal or state statutes
377 described in this subsection (5) with respect to environmental
378 conditions for real property. The establishment shall be subject
379 to all other requirements of the Mississippi Quality Jobs Program
380 Act other than the exemptions provided by this subsection (5).

381 (6) The Department of Economic and Community Development
382 shall determine if the applicant is qualified to receive incentive
383 payments. If the applicant is determined to be qualified by the
384 department, the department shall conduct a cost/benefit analysis
385 to determine the estimated net direct state benefits and the net
386 benefit rate applicable for a ten-year period and to estimate the
387 amount of gross payroll for a ten-year period. In conducting such
388 cost/benefit analysis, the department shall consider quantitative
389 factors, such as the anticipated level of new tax revenues to the
390 state along with the added cost to the state of providing
391 services, and such other criteria as deemed appropriate by the
392 department. In no event shall incentive payments, cumulatively,
393 exceed the estimated net direct state benefits.

394 (7) Upon approval of such an application, the Department of
395 Economic and Community Development shall notify the State Tax
396 Commission and shall provide it with a copy of the application and
397 the results of the cost/benefit analysis. The State Tax
398 Commission may require the qualified establishment to submit such
399 additional information as may be necessary to administer the
400 provisions of this act. The approved establishment shall report

401 to the State Tax Commission periodically to show its continued
402 eligibility for incentive payments. The establishment may be
403 audited by the State Tax Commission to verify such eligibility.
404 Once the establishment is approved, an agreement shall be deemed
405 to exist between the establishment and the State of Mississippi,
406 requiring the continued incentive payment to be made as long as
407 the establishment retains its eligibility.

408 (8) An establishment in a county designated as a less
409 developed area under Section 57-71-21, in which is eligible to
410 receive quarterly incentive payments pursuant to the provision of
411 this section shall receive the maximum total benefit; provided,
412 however, the net benefit rate shall not exceed five percent (5%)
413 of the total benefit.

414 SECTION 6. (1) There is created in the State Treasury a
415 special fund to be known as the Mississippi Quality Jobs Program
416 Incentive Payment Fund, into which shall be deposited such money
417 as the Legislature may provide by appropriation. The money in the
418 fund shall be used for the purpose of making the incentive
419 payments authorized under this act.

420 (2) The Mississippi Quality Jobs Program Incentive Payment
421 Fund shall be administered by the State Tax Commission, and monies
422 in the fund shall be expended upon appropriation by the
423 Legislature. Unexpended amounts remaining in the fund at the end
424 of the fiscal year shall not lapse into the General Fund, and any
425 interest earned on amounts in the fund shall be deposited to the
426 credit of the fund.

427 (3) The liability of the State of Mississippi to make the
428 incentive payments authorized under this act shall be limited to
429 the balance contained in the fund.

430 SECTION 7. (1) As soon as practicable after the end of a
431 calendar quarter for which an establishment has qualified to
432 receive an incentive payment, the establishment shall file a claim
433 for the payment with the State Tax Commission and shall specify

434 the actual number and gross payroll of new direct jobs for the
435 establishment for the calendar quarter. The State Tax Commission
436 shall verify the actual gross payroll for new direct jobs for the
437 establishment for such calendar quarter. If the State Tax
438 Commission is not able to provide such verification utilizing all
439 available resources, the State Tax Commission may request such
440 additional information from the establishment as may be necessary
441 or may request the establishment to revise its claim.

442 (2) If the actual verified gross payroll for four (4)
443 consecutive calendar quarters does not equal or exceed the
444 applicable total required by Section 5 of this act within three
445 (3) years of the date of the first incentive payment, or does not
446 equal or exceed the applicable total required by Section 5 of this
447 act at any other time during the ten-year period after the date
448 the first payment was made, the incentive payments shall not be
449 made and shall not be resumed until such time as the actual
450 verified gross payroll equals or exceeds the amounts specified in
451 Section 5 of this act.

452 (3) If the average annualized wage required for an
453 establishment locating its principal business activity in a county
454 developed area under Section 57-73-21 and subject to the
455 provisions of Section 5(6) of this act does not equal or exceed
456 Twenty Thousand Dollars (\$20,000.00) within three (3) years of the
457 date of the first incentive payment, the incentive payments shall
458 not be made and shall not be resumed until such time as such
459 requirements are met.

460 (4) In no event shall incentive payments, cumulatively,
461 exceed the estimated net direct state benefits.

462 (5) An establishment that has qualified pursuant to Section
463 5 of this act may receive payments only in accordance with the
464 provisions under which it initially applied and was approved. If
465 an establishment that is receiving incentive payments expands, it
466 may apply for additional incentive payments based on the gross

467 payroll anticipated from the expansion only, pursuant to Section 5
468 of this act.

469 (6) An establishment that is receiving incentive payments
470 may not apply for additional incentive payments for any new
471 projects until twelve (12) quarters after receipt of the first
472 incentive payment, or until the establishment's actual verified
473 gross payroll for new direct jobs equals or exceeds Two Million
474 Five Hundred Thousand Dollars (\$2,500,000.00) during any four (4)
475 consecutive calendar quarter period, whichever comes first. After
476 meeting the requirements of this subsection, an establishment may
477 apply for additional incentive payments based upon the gross
478 payroll anticipated from an expansion only.

479 (7) As soon as practicable after verification of the actual
480 gross payroll as required by this section and except as otherwise
481 provided by Section 5(8) of this act, the State Tax Commission
482 shall issue a warrant to the establishment in the amount of the
483 net benefit rate multiplied by the actual gross payroll as
484 determined pursuant to subsection (1) of this section for the
485 calendar quarter.

486 SECTION 8. The Department of Economic and Community
487 Development and the State Tax Commission shall promulgate rules
488 necessary to implement their respective duties and
489 responsibilities under the provisions of this act.

490 SECTION 9. Any person making an application, claim for
491 payment or any report, return, statement or other instrument or
492 providing any other information pursuant to the provisions of this
493 act who willfully makes a false or fraudulent application, claim,
494 report, return, statement, invoice or other instrument or who
495 willfully provides any false or fraudulent information, or any
496 person who willfully aids or abets another in making such false or
497 fraudulent application, claim, report, return, statement, invoice
498 or other instrument or who willfully aids or abets another in
499 providing any false or fraudulent information, upon conviction,

500 shall be guilty of a felony punishable by the imposition of a fine
501 of not less than One Thousand Dollars (\$1,000.00) and not more
502 than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the
503 State Penitentiary for not less than two (2) years and not more
504 than five (5) years, or by both such fine and imprisonment. Any
505 person convicted of a violation of this section shall be liable
506 for the repayment of all incentive payments which were paid to the
507 establishment. Interest shall be due on such payments at the rate
508 of ten percent (10%) per annum.

509 SECTION 10. The Department of Economic and Community
510 Development shall prepare triennially a report which shall
511 include, but not be limited to, documentation of the new direct
512 jobs created under this act and a fiscal analysis of the costs and
513 benefits of the program to the state. The report shall be
514 submitted to the Speaker of the House of Representatives, the
515 President Pro Tempore of the Senate and the Governor of this state
516 no later than March 1, 2003, and every three (3) years thereafter.
517 The report may be used for the purpose of determining whether to
518 continue the program.

519 SECTION 11. This act shall take effect and be in force from
520 and after July 1, 2000.