

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2528

1 AN ACT TO AMEND SECTIONS 57-62-5 AND 57-62-9, MISSISSIPPI
 2 CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "QUALIFIED
 3 BUSINESS OR INDUSTRY" UNDER THE MISSISSIPPI ADVANTAGE JOBS ACT TO
 4 ALLOW A BUSINESS TO BE ELIGIBLE FOR THE INCENTIVE PAYMENT UNDER
 5 THE ACT IF IT IS A DATA/INFORMATION PROCESSING ENTERPRISE,
 6 MANUFACTURING OR DISTRIBUTION ENTERPRISE OR A RESEARCH AND
 7 DEVELOPMENT OR TECHNOLOGY INTENSIVE ENTERPRISE THAT MEETS CERTAIN
 8 CRITERIA; TO REQUIRE APPLICANTS FOR THE INCENTIVE PAYMENTS UNDER
 9 THE ACT TO EXECUTE A PERFORMANCE AGREEMENT WITH THE MISSISSIPPI
 10 DEVELOPMENT AUTHORITY THAT SPECIFIES THE MANNER IN WHICH THE
 11 APPLICANT WILL UTILIZE THE INCENTIVE PAYMENT; TO AMEND SECTION
 12 57-62-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR
 13 RELATED PURPOSES.

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

15 **SECTION 1.** Section 57-62-5, Mississippi Code of 1972, is
 16 amended as follows:

17 [For businesses or industries that received or applied for
 18 incentive payments prior to July 1, 2005, this section shall read
 19 as follows:]

20 57-62-5. As used in this chapter, the following words and
 21 phrases shall have the meanings ascribed in this section unless
 22 the context clearly indicates otherwise:

23 (a) "Qualified business or industry" means any
 24 corporation, limited liability company, partnership, sole
 25 proprietorship, business trust or other legal entity and subunits
 26 or affiliates thereof, pursuant to rules and regulations of the
 27 MDA, which provides an average annual salary, excluding benefits
 28 which are not subject to Mississippi income taxes, of at least one
 29 hundred twenty-five percent (125%) of the most recently published
 30 state average annual wage or the most recently published average
 31 annual wage of the county in which the qualified business or
 32 industry is located as determined by the Mississippi Department of

33 Employment Security, whichever is the lesser. An establishment
34 shall not be considered to be a qualified business or industry
35 unless it offers, or will offer within one hundred eighty (180)
36 days of the date it receives the first incentive payment pursuant
37 to the provisions of this chapter, a basic health benefits plan to
38 the individuals it employs in new direct jobs in this state which
39 is approved by the MDA. Qualified business or industry does not
40 include retail business or gaming business;

41 (b) "New direct job" means full-time employment in this
42 state in a qualified business or industry that has qualified to
43 receive an incentive payment pursuant to this chapter, which
44 employment did not exist in this state before the date of approval
45 by the MDA of the application of the qualified business or
46 industry pursuant to the provisions of this chapter. "New direct
47 job" shall include full-time employment in this state of employees
48 who are employed by an entity other than the establishment that
49 has qualified to receive an incentive payment and who are leased
50 to the qualified business or industry, if such employment did not
51 exist in this state before the date of approval by the MDA of the
52 application of the establishment;

53 (c) "Full-time job" means a job of at least thirty-five
54 (35) hours per week;

55 (d) "Estimated direct state benefits" means the tax
56 revenues projected by the MDA to accrue to the state as a result
57 of the qualified business or industry;

58 (e) "Estimated direct state costs" means the costs
59 projected by the MDA to accrue to the state as a result of the
60 qualified business or industry;

61 (f) "Estimated net direct state benefits" means the
62 estimated direct state benefits less the estimated direct state
63 costs;

64 (g) "Net benefit rate" means the estimated net direct
65 state benefits computed as a percentage of gross payroll, provided
66 that:

67 (i) Except as otherwise provided in this paragraph
68 (g), the net benefit rate may be variable and shall not exceed
69 four percent (4%) of the gross payroll; and shall be set in the
70 sole discretion of the MDA;

71 (ii) In no event shall incentive payments,
72 cumulatively, exceed the estimated net direct state benefits;

73 (h) "Gross payroll" means wages for new direct jobs of
74 the qualified business or industry; and

75 (i) "MDA" means the Mississippi Development Authority.

76 **[For businesses or industries that apply for incentive**
77 **payments from and after July 1, 2005, this section shall read as**
78 **follows:]**

79 57-62-5. As used in this chapter, the following words and
80 phrases shall have the meanings ascribed in this section unless
81 the context clearly indicates otherwise:

82 (a) "Qualified business or industry" means any
83 corporation, limited liability company, partnership, sole
84 proprietorship, business trust or other legal entity and subunits
85 or affiliates thereof, pursuant to rules and regulations of the
86 MDA, which:

87 (i) Is a data/information processing enterprise
88 meeting minimum criteria established by MDA that provides an
89 average annual salary, excluding benefits which are not subject to
90 Mississippi income taxes, of at least one hundred percent (100%)
91 of the most recently published state average annual wage or the
92 most recently published average annual wage of the county in which
93 the qualified business or industry is located as determined by the
94 Mississippi Department of Employment Security, whichever is the
95 lesser, and creates not less than two hundred (200) new direct
96 jobs if the enterprise is located in a Tier One or Tier Two area

97 (as such areas are designated in accordance with Section
98 57-73-21), or which creates not less than one hundred (100) new
99 jobs if the enterprise is located in a Tier Three area (as such
100 areas are designated in accordance with Section 57-73-21);

101 (ii)_ Is a manufacturing or distribution enterprise
102 meeting minimum criteria established by MDA that provides an
103 average annual salary, excluding benefits which are not subject to
104 Mississippi income taxes, of at least one hundred ten percent
105 (110%) of the most recently published state average annual wage or
106 the most recently published average annual wage of the county in
107 which the qualified business or industry is located as determined
108 by the Mississippi Department of Employment Security, whichever is
109 the lesser, invests not less than Twenty Million Dollars
110 (\$20,000,000.00) in land, buildings and equipment, and creates not
111 less than fifty (50) new direct jobs if the enterprise is located
112 in a Tier One or Tier Two area (as such areas are designated in
113 accordance with Section 57-73-21), or which creates not less than
114 twenty (20) new jobs if the enterprise is located in a Tier Three
115 area (as such areas are designated in accordance with Section
116 57-73-21);

117 (iii)_ Is a corporation, limited liability company,
118 partnership, sole proprietorship, business trust or other legal
119 entity and subunits or affiliates thereof, pursuant to rules and
120 regulations of the MDA, which provides an average annual salary,
121 excluding benefits which are not subject to Mississippi income
122 taxes, of at least one hundred twenty-five percent (125%) of the
123 most recently published state average annual wage or the most
124 recently published average annual wage of the county in which the
125 qualified business or industry is located as determined by the
126 Mississippi Department of Employment Security, whichever is the
127 lesser. An establishment shall not be considered to be a
128 qualified business or industry unless it offers, or will offer
129 within one hundred eighty (180) days of the date it receives the

130 first incentive payment pursuant to the provisions of this
131 chapter, a basic health benefits plan to the individuals it
132 employs in new direct jobs in this state which is approved by the
133 MDA. Qualified business or industry does not include retail
134 business or gaming business; or

135 (iv) Is a research and development or a technology
136 intensive enterprise meeting minimum criteria established by MDA
137 that provides an average annual salary, excluding benefits which
138 are not subject to Mississippi income taxes, of at least one
139 hundred and fifty percent (150%) of the most recently published
140 state average annual wage or the most recently published average
141 annual wage of the county in which the qualified business or
142 industry is located as determined by the Mississippi Department of
143 Employment Security, whichever is the lesser, and creates not less
144 than ten (10) new direct jobs.

145 An establishment shall not be considered to be a qualified
146 business or industry unless it offers, or will offer within one
147 hundred eighty (180) days of the date it receives the first
148 incentive payment pursuant to the provisions of this chapter, a
149 basic health benefits plan to the individuals it employs in new
150 direct jobs in this state which is approved by the MDA. Qualified
151 business or industry does not include retail business or gaming
152 business.

153 (b) "New direct job" means full-time employment in this
154 state in a qualified business or industry that has qualified to
155 receive an incentive payment pursuant to this chapter, which
156 employment did not exist in this state before the date of approval
157 by the MDA of the application of the qualified business or
158 industry pursuant to the provisions of this chapter. "New direct
159 job" shall include full-time employment in this state of employees
160 who are employed by an entity other than the establishment that
161 has qualified to receive an incentive payment and who are leased
162 to the qualified business or industry, if such employment did not

163 exist in this state before the date of approval by the MDA of the
164 application of the establishment.

165 (c) "Full-time job" or "full-time employment" means a
166 job of at least thirty-five (35) hours per week.

167 (d) "Estimated direct state benefits" means the tax
168 revenues projected by the MDA to accrue to the state as a result
169 of the qualified business or industry.

170 (e) "Estimated direct state costs" means the costs
171 projected by the MDA to accrue to the state as a result of the
172 qualified business or industry.

173 (f) "Estimated net direct state benefits" means the
174 estimated direct state benefits less the estimated direct state
175 costs.

176 (g) "Net benefit rate" means the estimated net direct
177 state benefits computed as a percentage of gross payroll, provided
178 that:

179 (i) Except as otherwise provided in this paragraph
180 (g), the net benefit rate may be variable and shall not exceed
181 four percent (4%) of the gross payroll; and shall be set in the
182 sole discretion of the MDA;

183 (ii) In no event shall incentive payments,
184 cumulatively, exceed the estimated net direct state benefits.

185 (h) "Gross payroll" means wages for new direct jobs of
186 the qualified business or industry. * * *

187 (i) "MDA" means the Mississippi Development Authority.

188 **SECTION 2.** Section 57-62-9, Mississippi Code of 1972, is
189 amended as follows:

190 **[For businesses or industries that received or applied for**
191 **incentive payments prior to July 1, 2005, this section shall read**
192 **as follows:]**

193 57-62-9. (1) Except as otherwise provided in this section,
194 a qualified business or industry that meets the qualifications
195 specified in the Mississippi Advantage Jobs Act may receive

196 quarterly incentive payments for a period not to exceed ten (10)
197 years from the State Tax Commission pursuant to the provisions of
198 the Mississippi Advantage Jobs Act in an amount which shall be
199 equal to the net benefit rate multiplied by the actual gross
200 payroll of new direct jobs for a calendar quarter as verified by
201 the Mississippi Department of Employment Security, but not to
202 exceed the amount of money previously paid into the fund by the
203 employer. A qualified business or industry that is a project as
204 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
205 the ten-year period will begin. Such date may not be later than
206 sixty (60) months after the date the business or industry applied
207 for incentive payments.

208 (2) (a) A qualified business or industry that is a project
209 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
210 receive incentive payments for an additional period not to exceed
211 five (5) years beyond the expiration date of the initial ten-year
212 period if:

213 (i) The qualified business or industry creates at
214 least three thousand (3,000) new direct jobs within five (5) years
215 after the date the business or industry commences commercial
216 production;

217 (ii) Within five (5) years after the date the
218 business or industry commences commercial production, the average
219 annual wage of the jobs is at least one hundred fifty percent
220 (150%) of the most recently published state average annual wage or
221 the most recently published average annual wage of the county in
222 which the qualified business or industry is located as determined
223 by the Mississippi Department of Employment Security, whichever is
224 the lesser. The criteria for the average annual wage requirement
225 shall be based upon the state average annual wage or the average
226 annual wage of the county whichever is appropriate, at the time of
227 creation of the minimum number of jobs, and the threshold

228 established at that time will remain constant for the duration of
229 the additional period; and

230 (iii) The qualified business or industry meets and
231 maintains the job and wage requirements of subparagraphs (i) and
232 (ii) of this paragraph (a) for four (4) consecutive calendar
233 quarters.

234 (b) A qualified business or industry that is a project
235 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
236 incentive payments for the additional period provided in paragraph
237 (a) of this subsection (2) may apply to the MDA to receive
238 incentive payments for an additional period not to exceed ten (10)
239 years beyond the expiration date of the additional period provided
240 in paragraph (a) of this subsection (2) if:

241 (i) The qualified business or industry creates at
242 least four thousand (4,000) new direct jobs after qualifying for
243 the additional incentive period provided in paragraph (a) of this
244 subsection (2) but before the expiration of the additional period.
245 For purposes of determining whether the business or industry meets
246 the minimum jobs requirement of this subparagraph (i), the number
247 of jobs the business or industry created in order to meet the
248 minimum jobs requirement of paragraph (a) of this subsection (2)
249 shall be subtracted from the minimum jobs requirement of this
250 subparagraph (i);

251 (ii) The average annual wage of the jobs is at
252 least one hundred fifty percent (150%) of the most recently
253 published state average annual wage or the most recently published
254 average annual wage of the county in which the qualified business
255 or industry is located as determined by the Mississippi Department
256 of Employment Security, whichever is the lesser. The criteria for
257 the average annual wage requirement shall be based upon the state
258 average annual wage or the average annual wage of the county
259 whichever is appropriate, at the time of creation of the minimum

260 number of jobs, and the threshold established at that time will
261 remain constant for the duration of the additional period; and

262 (iii) The qualified business or industry meets and
263 maintains the job and wage requirements of subparagraphs (i) and
264 (ii) of this paragraph (b) for four (4) consecutive calendar
265 quarters.

266 (3) In order to receive incentive payments, an establishment
267 shall apply to the MDA. The application shall be on a form
268 prescribed by the MDA and shall contain such information as may be
269 required by the MDA to determine if the applicant is qualified.

270 (4) In order to qualify to receive such payments, the
271 establishment applying shall be required to:

272 (a) Be engaged in a qualified business or industry;

273 (b) Provide an average salary, excluding benefits which
274 are not subject to Mississippi income taxes, of at least one
275 hundred twenty-five percent (125%) of the most recently published
276 state average annual wage or the most recently published average
277 annual wage of the county in which the qualified business or
278 industry is located as determined by the Mississippi Department of
279 Employment Security, whichever is the lesser. The criteria for
280 this requirement shall be based upon the state average annual wage
281 or the average annual wage of the county whichever is appropriate,
282 at the time of application, and the threshold established upon
283 application will remain constant for the duration of the project;

284 (c) The business or industry must create and maintain a
285 minimum of ten (10) full-time jobs in counties that have an
286 average unemployment rate over the previous twelve-month period
287 which is at least one hundred fifty percent (150%) of the most
288 recently published state unemployment rate, as determined by the
289 Mississippi Department of Employment Security or in Tier Three
290 counties as determined under Section 57-73-21. In all other
291 counties, the business or industry must create and maintain a
292 minimum of twenty-five (25) full-time jobs. The criteria for this

293 requirement shall be based on the designation of the county at the
294 time of the application. The threshold established upon the
295 application will remain constant for the duration of the project.
296 The business or industry must meet its job creation commitment
297 within twenty-four (24) months of the application approval.
298 However, if the qualified business or industry is applying for
299 incentive payments for an additional period under subsection (2)
300 of this section, the business or industry must comply with the
301 applicable job and wage requirements of subsection (2) of this
302 section.

303 (5) The MDA shall determine if the applicant is qualified to
304 receive incentive payments. If the applicant is determined to be
305 qualified by the MDA, the MDA shall conduct a cost/benefit
306 analysis to determine the estimated net direct state benefits and
307 the net benefit rate applicable for a period not to exceed ten
308 (10) years and to estimate the amount of gross payroll for the
309 period. If the applicant is determined to be qualified to receive
310 incentive payments for an additional period under subsection (2)
311 of this section, the MDA shall conduct a cost/benefit analysis to
312 determine the estimated net direct state benefits and the net
313 benefit rate applicable for the appropriate additional period and
314 to estimate the amount of gross payroll for the additional period.
315 In conducting such cost/benefit analysis, the MDA shall consider
316 quantitative factors, such as the anticipated level of new tax
317 revenues to the state along with the cost to the state of the
318 qualified business or industry, and such other criteria as deemed
319 appropriate by the MDA, including the adequacy of retirement
320 benefits that the business or industry provides to individuals it
321 employs in new direct jobs in this state. In no event shall
322 incentive payments, cumulatively, exceed the estimated net direct
323 state benefits. Once the qualified business or industry is
324 approved by the MDA, an agreement shall be deemed to exist between
325 the qualified business or industry and the State of Mississippi,

326 requiring the continued incentive payment to be made as long as
327 the qualified business or industry retains its eligibility.

328 (6) Upon approval of such an application, the MDA shall
329 notify the State Tax Commission and shall provide it with a copy
330 of the approved application and the estimated net direct state
331 benefits. The State Tax Commission may require the qualified
332 business or industry to submit such additional information as may
333 be necessary to administer the provisions of this chapter. The
334 qualified business or industry shall report to the State Tax
335 Commission periodically to show its continued eligibility for
336 incentive payments. The qualified business or industry may be
337 audited by the State Tax Commission to verify such eligibility.

338 **[For businesses or industries that apply for incentive**
339 **payments from and after July 1, 2005, this section shall read as**
340 **follows:]**

341 57-62-9. (1) (a) Except as otherwise provided in this
342 section, a qualified business or industry that meets the
343 qualifications specified in the Mississippi Advantage Jobs Act may
344 receive quarterly incentive payments for a period not to exceed
345 ten (10) years from the State Tax Commission pursuant to the
346 provisions of the Mississippi Advantage Jobs Act in an amount
347 which shall be equal to the net benefit rate multiplied by the
348 actual gross payroll of new direct jobs for a calendar quarter as
349 verified by the Mississippi Department of Employment Security, but
350 not to exceed:

351 (i) Ninety percent (90%) of the amount of money
352 previously paid into the fund by the employer if the employer
353 provides an average annual salary, excluding benefits which are
354 not subject to Mississippi income taxes, of at least one hundred
355 seventy-five percent (175%) of the most recently published state
356 average annual wage or the most recently published average annual
357 wage of the county in which the qualified business or industry is

358 located as determined by the Mississippi Department of Employment
359 Security, whichever is the lesser;

360 (ii) Eighty percent (80%) of the amount of money
361 previously paid into the fund by the employer if the employer
362 provides an average annual salary, excluding benefits which are
363 not subject to Mississippi income taxes, of at least one hundred
364 twenty-five percent (125%) but less than one hundred seventy-five
365 percent (175%) of the most recently published state average annual
366 wage or the most recently published average annual wage of the
367 county in which the qualified business or industry is located as
368 determined by the Mississippi Department of Employment Security,
369 whichever is the lesser; or

370 (iii) Seventy percent (70%) of the amount of money
371 previously paid into the fund by the employer if the employer
372 provides an average annual salary, excluding benefits which are
373 not subject to Mississippi income taxes, of less than one hundred
374 twenty-five percent (125%) of the most recently published state
375 average annual wage or the most recently published average annual
376 wage of the county in which the qualified business or industry is
377 located as determined by the Mississippi Department of Employment
378 Security, whichever is the lesser.

379 (b) A qualified business or industry that is a project
380 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
381 which the ten-year period will begin. Such date may not be later
382 than sixty (60) months after the date the business or industry
383 applied for incentive payments.

384 (2) (a) A qualified business or industry that is a project
385 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
386 receive incentive payments for an additional period not to exceed
387 five (5) years beyond the expiration date of the initial ten-year
388 period if:

389 (i) The qualified business or industry creates at
390 least three thousand (3,000) new direct jobs within five (5) years

391 after the date the business or industry commences commercial
392 production;

393 (ii) Within five (5) years after the date the
394 business or industry commences commercial production, the average
395 annual wage of the jobs is at least one hundred fifty percent
396 (150%) of the most recently published state average annual wage or
397 the most recently published average annual wage of the county in
398 which the qualified business or industry is located as determined
399 by the Mississippi Department of Employment Security, whichever is
400 the lesser. The criteria for the average annual wage requirement
401 shall be based upon the state average annual wage or the average
402 annual wage of the county whichever is appropriate, at the time of
403 creation of the minimum number of jobs, and the threshold
404 established at that time will remain constant for the duration of
405 the additional period; and

406 (iii) The qualified business or industry meets and
407 maintains the job and wage requirements of subparagraphs (i) and
408 (ii) of this paragraph (a) for four (4) consecutive calendar
409 quarters.

410 (b) A qualified business or industry that is a project
411 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
412 incentive payments for the additional period provided in paragraph
413 (a) of this subsection (2) may apply to the MDA to receive
414 incentive payments for an additional period not to exceed ten (10)
415 years beyond the expiration date of the additional period provided
416 in paragraph (a) of this subsection (2) if:

417 (i) The qualified business or industry creates at
418 least four thousand (4,000) new direct jobs after qualifying for
419 the additional incentive period provided in paragraph (a) of this
420 subsection (2) but before the expiration of the additional period.
421 For purposes of determining whether the business or industry meets
422 the minimum jobs requirement of this subparagraph (i), the number
423 of jobs the business or industry created in order to meet the

424 minimum jobs requirement of paragraph (a) of this subsection (2)
425 shall be subtracted from the minimum jobs requirement of this
426 subparagraph (i);

427 (ii) The average annual wage of the jobs is at
428 least one hundred fifty percent (150%) of the most recently
429 published state average annual wage or the most recently published
430 average annual wage of the county in which the qualified business
431 or industry is located as determined by the Mississippi Department
432 of Employment Security, whichever is the lesser. The criteria for
433 the average annual wage requirement shall be based upon the state
434 average annual wage or the average annual wage of the county
435 whichever is appropriate, at the time of creation of the minimum
436 number of jobs, and the threshold established at that time will
437 remain constant for the duration of the additional period; and

438 (iii) The qualified business or industry meets and
439 maintains the job and wage requirements of subparagraphs (i) and
440 (ii) of this paragraph (b) for four (4) consecutive calendar
441 quarters.

442 (3) In order to receive incentive payments, an establishment
443 shall apply to the MDA. The application shall be on a form
444 prescribed by the MDA and shall contain such information as may be
445 required by the MDA to determine if the applicant is qualified.

446 (4) (a) In order to qualify to receive such payments, the
447 establishment applying shall be required to * * * meet the
448 definition of the term "qualified business or industry";

449 (b) * * * The criteria for the average annual salary
450 requirement shall be based upon the state average annual wage or
451 the average annual wage of the county whichever is appropriate, at
452 the time of application, and the threshold established upon
453 application will remain constant for the duration of the project;

454 (c) * * * The business or industry must meet its job
455 creation commitment within twenty-four (24) months of the
456 application approval. However, if the qualified business or

457 industry is applying for incentive payments for an additional
458 period under subsection (2) of this section, the business or
459 industry must comply with the applicable job and wage requirements
460 of subsection (2) of this section.

461 (5) (a) The MDA shall determine if the applicant is
462 qualified to receive incentive payments. If the applicant is
463 determined to be qualified by the MDA, the MDA shall:

464 (i) Conduct a cost/benefit analysis to determine
465 the estimated net direct state benefits and the net benefit rate
466 applicable for a period not to exceed ten (10) years and to
467 estimate the amount of gross payroll for the period; and

468 (ii) Require the applicant to execute a
469 performance agreement with the MDA that specifies the manner in
470 which the applicant will utilize the incentive payments made to it
471 under this chapter.

472 (b) If the applicant is determined to be qualified to
473 receive incentive payments for an additional period under
474 subsection (2) of this section, the MDA shall conduct a
475 cost/benefit analysis to determine the estimated net direct state
476 benefits and the net benefit rate applicable for the appropriate
477 additional period and to estimate the amount of gross payroll for
478 the additional period. In conducting such cost/benefit analysis,
479 the MDA shall consider quantitative factors, such as the
480 anticipated level of new tax revenues to the state along with the
481 cost to the state of the qualified business or industry, and such
482 other criteria as deemed appropriate by the MDA, including the
483 adequacy of retirement benefits that the business or industry
484 provides to individuals it employs in new direct jobs in this
485 state. In no event shall incentive payments, cumulatively, exceed
486 the estimated net direct state benefits. Once the qualified
487 business or industry is approved by the MDA, an agreement shall be
488 deemed to exist between the qualified business or industry and the
489 State of Mississippi, requiring the continued incentive payment to

490 be made as long as the qualified business or industry retains its
491 eligibility.

492 (6) Upon approval of such an application, the MDA shall
493 notify the State Tax Commission and shall provide it with a copy
494 of the approved application and the estimated net direct state
495 benefits. The State Tax Commission may require the qualified
496 business or industry to submit such additional information as may
497 be necessary to administer the provisions of this chapter. The
498 qualified business or industry shall report to the State Tax
499 Commission periodically to show its continued eligibility for
500 incentive payments. The qualified business or industry may be
501 audited by the State Tax Commission to verify such eligibility.

502 **SECTION 3.** Section 57-62-13, Mississippi Code of 1972, is
503 amended as follows:

504 57-62-13. (1) As soon as practicable after the end of a
505 calendar quarter for which a qualified business or industry has
506 qualified to receive an incentive payment, the qualified business
507 or industry shall file a claim for the payment with the State Tax
508 Commission and shall specify the actual number of new direct jobs
509 created and maintained by the business or industry for the
510 calendar quarter and the gross payroll thereof. The State Tax
511 Commission shall verify the actual number of new direct jobs
512 created and maintained by the business or industry and compliance
513 with the average annual wage requirements for such business or
514 industry under this chapter. If the qualified business or
515 industry files a claim for an incentive payment during an
516 additional incentive period provided under Section 57-62-9(2), the
517 State Tax Commission shall verify the actual number of new direct
518 jobs created and maintained by the business or industry and
519 compliance with the average annual wage requirements for such
520 business or industry under this chapter. If the State Tax
521 Commission is not able to provide such verification utilizing all
522 available resources, the State Tax Commission may request such

523 additional information from the business or industry as may be
524 necessary.

525 (2) (a) The business or industry must meet the salary and
526 job requirements of this chapter for four (4) consecutive calendar
527 quarters prior to payment of the first incentive payment. If the
528 business or industry does not maintain the salary or job
529 requirements of this chapter at any other time during the ten-year
530 period after the date the first payment was made, the incentive
531 payments shall not be made and shall not be resumed until such
532 time as the actual verified number of new direct jobs created and
533 maintained by the business or industry equals or exceeds the
534 requirements of this chapter for one (1) calendar quarter.

535 (b) If the business or industry is qualified to receive
536 incentive payments for an additional period provided under Section
537 57-62-9(2), the business or industry must meet the wage and job
538 requirements of Section 57-62-9(2), for four (4) consecutive
539 calendar quarters prior to payment of the first incentive payment.
540 If the business or industry does not maintain the wage or job
541 requirements of Section 57-62-9(2), at any other time during the
542 appropriate additional period after the date the first payment was
543 made, the incentive payments shall not be made and shall not be
544 resumed until such time as the actual verified number of new
545 direct jobs created and maintained by the business or industry
546 equals or exceeds the amounts specified in Section 57-62-9(2), for
547 one (1) calendar quarter.

548 (3) An establishment that has qualified pursuant to this
549 chapter may receive payments only in accordance with the provision
550 under which it initially applied and was approved. If an
551 establishment that is receiving incentive payments expands, it may
552 apply for additional incentive payments based on the new gross
553 payroll for new direct jobs anticipated from the expansion only,
554 pursuant to this chapter.

555 (4) As soon as practicable after verification of the
556 qualified business or industry meeting the requirements of this
557 chapter and all rules and regulations, the Department of Finance
558 and Administration, upon requisition of the State Tax Commission,
559 shall issue a warrant drawn on the Mississippi Advantage Jobs
560 Incentive Payment Fund to the establishment in the amount of the
561 net benefit rate multiplied by the actual gross payroll as
562 determined pursuant to subsection (1) of this section for the
563 calendar quarter.

564 **SECTION 4.** This act shall take effect and be in force from
565 and after July 1, 2005.