AN ACT TO AMEND SECTION 57-62-5, MISSISSIPPI CODE OF 1972, TO EXPAND THE DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY" IN THE MISSISSIPPI ADVANTAGE JOBS ACT TO INCLUDE ENTERPRISES WHICH PROVIDE AN ANNUAL AVERAGE SALARY OF AT LEAST 125% OF THE MOST RECENTLY PUBLISHED AVERAGE ANNUAL WAGE OF ANY COUNTY IN THE METROPOLITAN STATISTICAL AREA IN WHICH THE ENTERPRISE IS LOCATED; TO DEFINE THE TERM "METROPOLITAN STATISTICAL AREA"; TO AMEND SECTION 57-62-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

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

(a) "Qualified business or industry" means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of (i) the most recently published state average annual wage, (ii) the most recently published average annual wage of the county in which the qualified business or industry is located or (iii) the most recently published average annual wage of any county in the metropolitan statistical area in which the qualified business or industry is located as determined by the Mississippi Employment Security Commission, whichever is the lesser. An establishment shall not...
be considered to be a qualified business or industry unless it 
offers, or will offer within one hundred eighty (180) days of the 
date it receives the first incentive payment pursuant to the 
provisions of this chapter, a basic health benefits plan to the 
individuals it employs in new direct jobs in this state which is 
approved by the MDA. Qualified business or industry does not 
include retail business or gaming business.

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

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

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

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

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

(g) "Net benefit rate" means the estimated net direct 
state benefits computed as a percentage of gross payroll, provided 
that:
(i) Except as otherwise provided in this paragraph (g), the net benefit rate may be variable and shall not exceed four percent (4%) of the gross payroll; and shall be set in the sole discretion of the MDA;

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

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

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

(j) "Metropolitan statistical area" means a metropolitan statistical area as defined and established by the United States Census Bureau.

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

57-62-9. (1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in the Mississippi Advantage Jobs Act may receive quarterly incentive payments for a period not to exceed ten (10) years from the State Tax Commission pursuant to the provisions of the Mississippi Advantage Jobs Act in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Mississippi Employment Security Commission, but not to exceed the amount of money previously paid into the fund by the employer. A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv) may elect the date upon which the ten-year period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments.

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

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

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

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

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

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

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

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

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

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

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

(b) Provide an average salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of (i) the most recently published state average annual wage, (ii) the most recently published twenty-five percent (25%) of the most recently published state average annual wage.
published average annual wage of the county in which the qualified business or industry is located or (iii) the most recently published average annual wage of any county in the metropolitan statistical area in which the qualified business or industry is located as determined by the Mississippi Employment Security Commission, whichever is the lesser. The criteria for this requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of application, and the threshold established upon application will remain constant for the duration of the project;

(c) The business or industry must create and maintain a minimum of ten (10) full-time jobs in counties that have an average unemployment rate over the previous twelve-month period which is at least one hundred fifty percent (150%) of the most recently published state unemployment rate, as determined by the Mississippi Employment Security Commission or in Tier Three counties as determined under Section 57-73-21. In all other counties, the business or industry must create and maintain a minimum of twenty-five (25) full-time jobs. The criteria for this requirement shall be based on the designation of the county at the time of the application. The threshold established upon the application will remain constant for the duration of the project. The business or industry must meet its job creation commitment within twenty-four (24) months of the application approval. However, if the qualified business or industry is applying for incentive payments for an additional period under subsection (2) of this section, the business or industry must comply with the applicable job and wage requirements of subsection (2) of this section.

(5) The MDA shall determine if the applicant is qualified to receive incentive payments. If the applicant is determined to be qualified by the MDA, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and
the net benefit rate applicable for a period not to exceed ten
(10) years and to estimate the amount of gross payroll for the
period. If the applicant is determined to be qualified to receive
incentive payments for an additional period under subsection (2)
of this section, the MDA shall conduct a cost/benefit analysis to
determine the estimated net direct state benefits and the net
benefit rate applicable for the appropriate additional period and
to estimate the amount of gross payroll for the additional period.
In conducting such cost/benefit analysis, the MDA shall consider
quantitative factors, such as the anticipated level of new tax
revenues to the state along with the cost to the state of the
qualified business or industry, and such other criteria as deemed
appropriate by the MDA, including the adequacy of retirement
benefits that the business or industry provides to individuals it
employs in new direct jobs in this state. In no event shall
incentive payments, cumulatively, exceed the estimated net direct
state benefits. Once the qualified business or industry is
approved by the MDA, an agreement shall be deemed to exist between
the qualified business or industry and the State of Mississippi,
requiring the continued incentive payment to be made as long as
the qualified business or industry retains its eligibility.

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

SECTION 3. This act shall take effect and be in force from
and after its passage.

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ST: MS Advantage Jobs Act; to qualify a business
to pay an annual salary of 125% to any court in
certain metropolitan statistical areas.