



States' Biofuels Statutes

STATE OF MISSOURI

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

Current through the 2013 Legislative Session of the Missouri General Assembly.

620.1878. Definitions

For the purposes of sections 620.1875 to 620.1890, the following terms shall mean:

- (1) “**Approval**”, a document submitted by the department to the qualified company that states the benefits that may be provided by this program;
- (2) “**Average wage**”, the new payroll divided by the number of new jobs;
- (3) “**Commencement of operations**”, the starting date for the qualified company’s first new employee, which must be no later than twelve months from the date of the approval;
- (4) “**County average wage**”, the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;
- (5) “**Department**”, the Missouri department of economic development;
- (6) “**Director**”, the director of the department of economic development;
- (7) “**Employee**”, a person employed by a qualified company;
- (8) “**Full-time employee**”, an employee of the qualified company that is scheduled to work an average

of at least thirty-five hours per week for a twelve-month period, and one for which the qualified company offers health insurance and pays at least fifty percent of such insurance premiums;

(9) “**High-impact project**”, a qualified company that, within two years from commencement of operations, creates one hundred or more new jobs;

(10) “**Local incentives**”, the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but shall not include loans or other funds provided to the qualified company that must be repaid by the qualified company to the political subdivision;

(11) “**NAICS**”, the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

(12) “**New direct local revenue**”, the present value of the dollar amount of direct net new tax revenues of the local political subdivisions likely to be produced by the project over a ten-year period as calculated by the department, excluding local earnings tax, and net new utility revenues, provided the local incentives include a discount or other direct incentives from utilities owned or operated by the political subdivision;

(13) “**New investment**”, the purchase or leasing of new tangible assets to be placed in operation at the project facility, which will be directly related to the new jobs;

(14) “**New job**”, the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the employee’s work time at the facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility’s payroll, one hundred percent of the employee’s income from such employment is Missouri income, and the employee is paid at or above the state average wage;

(15) “**New payroll**”, the amount of taxable wages of full-time employees, excluding owners, located at the project facility that exceeds the project facility base payroll. If full-time employment at related facilities is below the related facility base employment, any decrease in payroll for full-time employees at the related facilities below that related facility base payroll shall also be subtracted to determine new payroll;

(16) “**Notice of intent**”, a form developed by the department, completed by the qualified company and submitted to the department which states the qualified company’s intent to hire new jobs and request benefits under this program;

(17) “**Percent of local incentives**”, the amount of local incentives divided by the amount of new direct local revenue;

(18) **“Program”**, the Missouri quality jobs program provided in sections 620.1875 to 620.1890;

(19) **“Project facility”**, the building used by a qualified company at which the new jobs and new investment will be located. A project facility may include separate buildings that are located within fifteen miles of each other or within the same county such that their purpose and operations are interrelated;

(20) **“Project facility base employment”**, the greater of the number of full-time employees located at the project facility on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the notice of intent;

(21) **“Project facility base payroll”**, the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at the project facility in the twelve months prior to the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on an appropriate measure, as determined by the department;

(22) **“Project period”**, the time period that the benefits are provided to a qualified company;

(23) **“Qualified company”**, a firm, partnership, joint venture, association, private or public corporation whether organized for profit or not, or headquarters of such entity registered to do business in Missouri that is the owner or operator of a project facility, offers health insurance to all full-time employees of all facilities located in this state, and pays at least fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the term **“qualified company”** shall not include:

(a) Gambling establishments (NAICS industry group 7132);

(b) Retail trade establishments (NAICS sectors 44 and 45);

(c) Food and drinking places (NAICS subsector 722);

(d) Public utilities (NAICS 221 including water and sewer services);

(e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state;

(f) Any company that has filed for or has publicly announced its intention to file for bankruptcy protection. However, a company that has filed for or has publicly announced its intention to file for bankruptcy between January 1, 2009, and December 31, 2009, may be a qualified company provided that such company:

- a. Certifies to the department that it plans to reorganize and not to liquidate; and
- b. After its bankruptcy petition has been filed, it produces proof, in a form and at times satisfactory to the department, that it is not delinquent in filing any tax returns or making any payment due to the state of Missouri, including but not limited to all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization.

Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the department and shall forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained;

- (g) Educational services (NAICS sector 61);
- (h) Religious organizations (NAICS industry group 8131);
- (i) Public administration (NAICS sector 92);
- (j) Ethanol distillation or production; or
- (k) Biodiesel production. Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

(24) **“Qualified renewable energy sources”** shall not be construed to include ethanol distillation or production or biodiesel production; however, it shall include:

- (a) Open-looped biomass;
- (b) Close-looped biomass;
- (c) Solar;
- (d) Wind;
- (e) Geothermal; and
- (f) Hydropower;

(25) **“Related company”** means:

- (a) A corporation, partnership, trust, or association controlled by the qualified company;
- (b) An individual, corporation, partnership, trust, or association in control of the qualified company; or

(c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, **“control of a corporation”** shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, **“control of a partnership or association”** shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, **“control of a trust”** shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

(26) **“Related facility”**, a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;

(27) **“Related facility base employment”**, the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at all related facilities of the qualified company or a related company located in this state;

(28) **“Related facility base payroll”**, the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of related facility base payroll shall increase each year based on an appropriate measure, as determined by the department;

(29) **“Rural area”**, a county in Missouri with a population less than seventy-five thousand or that does not contain an individual city with a population greater than fifty thousand according to the most recent federal decennial census;

(30) **“Small and expanding business project”**, a qualified company that within two years of the date of the approval creates a minimum of twenty new jobs if the project facility is located in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer than one hundred new jobs regardless of the location of the project facility;

(31) **“Tax credits”**, tax credits issued by the department to offset the state income taxes imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this program;

(32) **“Technology business project”**, a qualified company that within two years of the date of the approval creates a minimum of ten new jobs involved in the operations of a company:

(a) Which is a technology company, as determined by a regulation promulgated by the department under the provisions of section 620.1884 or classified by NAICS codes;

(b) Which owns or leases a facility which produces electricity derived from qualified renewable energy sources, or produces fuel for the generation of electricity from qualified renewable energy sources, but

does not include any company that has received the alcohol mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the previous tax year;

(c) Which researches, develops, or manufactures power system technology for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices; or

(d) Which is a clinical molecular diagnostic laboratory focused on detecting and monitoring infections in immunocompromised patient populations;

(33) “**Withholding tax**”, the state tax imposed by sections 143.191 to 143.265. For purposes of this program, the withholding tax shall be computed using a schedule as determined by the department based on average wages.

Credits: (L.2005, S.B. No. 343, § A. Amended by L.2007, 1st Ex.Sess., H.B. No. 1, § A, eff. Sept. 4, 2007; L.2008, H.B. No. 2058, § A; L.2008, S.B. No. 718, § A; L.2009, H.B. No. 191, § A, eff. June 4, 2009.)