



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.

620.2005. Definitions

As used in sections 620.2000 to 620.2020, the following terms mean:

- (1) **“Average wage”**, the new payroll divided by the number of new jobs, or the payroll of the retained jobs divided by the number of retained jobs;
- (2) **“Commencement of operations”**, the starting date for the qualified company’s first new employee, which shall be no later than twelve months from the date of the approval;
- (3) **“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;
- (4) **“Department”**, the Missouri department of economic development;
- (5) **“Director”**, the director of the department of economic development;
- (6) **“Employee”**, a person employed by a qualified company, excluding:
 - (a) Owners of the qualified company unless the qualified company is participating in an employee stock ownership plan; or
 - (b) Owners of a non-controlling interest in stock of a qualified company that is publicly¹ traded;

(7) **“Existing Missouri business”**, a qualified company that, for the ten-year period preceding submission of a notice of intent to the department, had a physical location in Missouri and full-time employees who routinely perform job duties within Missouri;

(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. An employee that spends less than fifty percent of the employee’s work time at the facility shall be 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 applicable percentage of the county average wage;

(9) **“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 this term shall not include loans or other funds provided to the qualified company that shall be repaid by the qualified company to the political subdivision;

(10) **“NAICS” or “NAICS industry classification”**, the classification provided by the most recent edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget;

(11) **“New capital investment”**, shall include costs incurred by the qualified company at the project facility after acceptance by the qualified company of the proposal for benefits from the department or the approval notice of intent, whichever occurs first, for real or personal property, and may include the value of finance or capital leases for real or personal property for the term of such lease at the project facility executed after acceptance by the qualified company of the proposal for benefits from the department or the approval of the notice of intent;

(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 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;

(14) **“New payroll”**, the amount of wages paid for all new jobs, located at the project facility during the qualified company’s tax year that exceeds the project facility base payroll;

(15) **“Notice of intent”**, a form developed by the department and available online, completed by the qualified company, and submitted to the department stating the qualified company’s intent to request

benefits under this program;

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

(17) **“Program”**, the Missouri works program established in sections 620.2000 to 620.2020;

(18) **“Project facility”**, the building or buildings used by a qualified company at which new or retained jobs and any new capital investment are or will be located. A project facility may include separate buildings located within sixty miles of each other such that their purpose and operations are interrelated; provided that where the buildings making up the project facility are not located within the same county, the average wage of the new payroll shall exceed the applicable percentage of the highest county average wage among the counties in which the buildings are located. Upon approval by the department, a subsequent project facility may be designated if the qualified company demonstrates a need to relocate to the subsequent project facility at any time during the project period;

(19) **“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;

(20) **“Project facility base payroll”**, the annualized payroll for the project facility base employment or the total amount of 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. 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;

(21) **“Project period”**, the time period within which benefits are awarded to a qualified company or within which the qualified company is obligated to perform under an agreement with the department, whichever is greater;

(22) **“Projected net fiscal benefit”**, the total fiscal benefit to the state less any state benefits offered to the qualified company, as determined by the department;

(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, certifies that it offers health insurance to all full-time employees of all facilities located in this state, and certifies that it pays at least fifty percent of such insurance premiums. For the purposes of sections 620.2000 to 620.2020, the term “qualified company” shall not include:

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

(b) Store front consumer-based retail trade establishments (under NAICS sectors 44 and 45), except with respect to any company headquartered in this state with a majority of its full-time employees engaged in operations not within the NAICS codes specified in this subdivision;

(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 requesting benefits for retained jobs 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 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;

(k) Biodiesel production; or

(l) Health care and social services (NAICS sector 62).

Notwithstanding any provision of this section to the contrary, the headquarters, administrative offices, or research and development facilities of an otherwise excluded business may qualify for benefits if the offices or facilities serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the jobs and investment of such operation shall be considered eligible for benefits under this section if the other requirements are satisfied;

(24) “**Related company**”, shall mean:

- (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 paragraph, **“control of a qualified company”** shall mean:
 - a. 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 in the case of a qualified company that is a corporation;
 - b. Ownership of at least fifty percent of the capital or profits interest in such qualified company if it is a partnership or association;
 - c. Ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such qualified company if it is a trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;
- (25) **“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 or in which operations substantially similar to the operations of the project facility are performed;
- (26) **“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;
- (27) **“Related facility base payroll”**, the annualized payroll of the related facility base payroll or 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. 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;
- (28) **“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;
- (29) **“Tax credits”**, tax credits issued by the department to offset the state taxes imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this program;
- (30) **“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; and

(31) This section is subject to the provisions of section 196.1127.

Credits: (L.2013, H.B. No. 184, § A, eff. Aug. 28, 2013.)