

# SENATE BILL NO. 1553

## 103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

6232S.011

KRISTINA MARTIN, Secretary

### AN ACT

To repeal section 144.054, RSMo, and to enact in lieu thereof two new sections relating to incentives for producing certain critical materials and pharmaceuticals.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 144.054, RSMo, is repealed and two new  
2 sections enacted in lieu thereof, to be known as sections  
3 144.054 and 620.1641, to read as follows:

144.054. 1. As used in this section, the following  
2 terms mean:

3 (1) **"Critical materials", metal or metal complexes**  
4 **that serve an essential function in key energy, defense, and**  
5 **consumer product technologies and have a high risk of supply**  
6 **chain disruption;**

7 (2) **"Critical pharmaceuticals", pharmaceutical active**  
8 **ingredients, key starting materials, or essential finished**  
9 **pharmaceuticals identified as critical to national security**  
10 **or public health and having a high risk of supply chain**  
11 **disruption;**

12 (3) **"Nuclear security enterprise", the same meaning as**  
13 **defined in 50 U.S.C. Section 2501, inclusive of buildings,**  
14 **structures, and infrastructure constructed for use as a**  
15 **defense nuclear facility as defined in 50 U.S.C. Section**  
16 **2501;**

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17           [(2)] (4) "Processing", any mode of treatment, act, or  
18 series of acts performed upon materials to transform or  
19 reduce them to a different state or thing, including  
20 treatment necessary to maintain or preserve such processing  
21 by the producer at the production facility;

22           [(3)] (5) "Producing" includes, but is not limited to,  
23 the production of, including the production and transmission  
24 of, telecommunication services;

25           [(4)] (6) "Product" includes, but is not limited to,  
26 telecommunications services, **critical materials, and**  
27 **critical pharmaceuticals;**

28           [(5)] (7) "Recovered materials", those materials which  
29 have been diverted or removed from the solid waste stream  
30 for sale, use, reuse, or recycling, whether or not they  
31 require subsequent separation and processing.

32           2. In addition to all other exemptions granted under  
33 this chapter, there is hereby specifically exempted from the  
34 provisions of this chapter and the local sales tax law as  
35 defined in section 32.085 and from the computation of the  
36 tax levied, assessed, or payable under this chapter and the  
37 local sales tax law as defined in section 32.085, electrical  
38 energy and gas, whether natural, artificial, or propane,  
39 water, coal, and energy sources, chemicals, machinery,  
40 equipment, and materials used or consumed in the  
41 manufacturing, processing, compounding, mining, or producing  
42 of any product, or used or consumed in the processing of  
43 recovered materials, or used in research and development  
44 related to manufacturing, processing, compounding, mining,  
45 or producing any product. The construction and application  
46 of this subsection as expressed by the Missouri supreme  
47 court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d  
48 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director*

of Revenue, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed.

3. In addition to all other exemptions granted under this chapter, there is hereby specifically exempted from the provisions of this chapter and the local sales tax law as defined in section 32.085, and from the computation of the tax levied, assessed, or payable under this chapter and the local sales tax law as defined in section 32.085, all utilities, machinery, and equipment used or consumed directly in television or radio broadcasting and all sales and purchases of tangible personal property, utilities, services, or any other transaction that would otherwise be subject to the state or local sales or use tax when such sales are made to or purchases are made by a contractor for use in fulfillment of any obligation under a defense contract with the United States government, and all sales and leases of tangible personal property by any county, city, incorporated town, or village, provided such sale or lease is authorized under chapter 100, and such transaction is certified for sales tax exemption by the department of economic development, and tangible personal property used for railroad infrastructure brought into this state for processing, fabrication, or other modification for use outside the state in the regular course of business.

4. In addition to all other exemptions granted under this chapter, there is hereby specifically exempted from the provisions of this chapter and the local sales tax law as defined in section 32.085, and from the computation of the tax levied, assessed, or payable under this chapter and the local sales tax law as defined in section 32.085, all sales and purchases of tangible personal property, utilities,

81 services, or any other transaction that would otherwise be  
82 subject to the state or local sales or use tax when such  
83 sales are made to or purchases are made by a private partner  
84 for use in completing a project under sections 227.600 to  
85 227.669.

86 5. In addition to all other exemptions granted under  
87 this chapter, there is hereby specifically exempted from the  
88 provisions of this chapter and the local sales tax law as  
89 defined in section 32.085, and from the computation of the  
90 tax levied, assessed, or payable under this chapter and the  
91 local sales tax law as defined in section 32.085, all  
92 materials, manufactured goods, machinery and parts,  
93 electrical energy and gas, whether natural, artificial or  
94 propane, water, coal and other energy sources, chemicals,  
95 soaps, detergents, cleaning and sanitizing agents, and other  
96 ingredients and materials inserted by commercial or  
97 industrial laundries to treat, clean, and sanitize textiles  
98 in facilities which process at least five hundred pounds of  
99 textiles per hour and at least sixty thousand pounds per  
100 week.

101 6. In addition to all other exemptions granted  
102 pursuant to this chapter, there is hereby exempted from the  
103 provisions of and the computation of the tax levied,  
104 assessed, or payable pursuant to this chapter and the local  
105 sales tax law as defined in section 32.085, all sales and  
106 purchases of tangible personal property, building materials,  
107 equipment, fixtures, manufactured goods, machinery, and  
108 parts for the purposes of constructing all or any portion of  
109 a nuclear security enterprise located in any city with more  
110 than four hundred thousand inhabitants and located in more  
111 than one county. This subsection shall expire on August 28,  
112 2034.

620.1641. 1. This section shall be known and may be  
cited as the "Missouri Defense and Energy Independence Act".

2. As used in this section, the following terms mean:

(1) "Critical materials", metal or metal complexes  
that serve an essential function in key energy, defense, and  
consumer product technologies and have a high risk of supply  
chain disruption;

(2) "Critical pharmaceuticals", pharmaceutical active  
ingredients, key starting materials, or essential finished  
pharmaceuticals identified as critical to national security  
or public health and having a high risk of supply chain  
disruption;

(3) "Department", the Missouri department of economic  
development;

(4) "Missouri development finance board" or "MDFB",  
the Missouri development finance board established under  
section 100.265;

(5) "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 tax credits under this  
section as provided in subsection 5 of this section;

(6) "Project facility", the building or buildings used  
by a qualified company at which critical materials or  
critical pharmaceuticals will be produced or processed;

(7) "Qualified company", a firm, partnership, joint  
venture, association, private or public corporation  
regardless of whether organized for profit, or headquarters  
of such entity registered to do business in Missouri, that  
is a nontraditional defense contractor, as such term is  
defined in 10 U.S.C. Section 3014, as amended, and that  
incurs qualified project costs;

(8) "Qualified project costs", costs incurred by a qualified company for the construction, expansion, or conversion of facilities and acquisition of equipment for the production of critical materials or critical pharmaceuticals, including, but not limited to:

(a) Site preparation;

(b) Building construction or renovation;

(c) Machinery and equipment acquisition and installation, including any specialized manufacturing equipment;

(d) Utility infrastructure; and

(e) Environmental compliance systems;

(9) "State tax liability", any liability incurred by a taxpayer pursuant to the provisions of chapter 143 or chapter 148, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions;

(10) "Tax credit", a credit against the tax otherwise due under chapter 143 or chapter 148, excluding withholding tax imposed under sections 143.191 to 143.265.

3. (1) For all tax years beginning on or after January 1, 2027, the department may award a qualified company tax credits for qualified project costs incurred by the qualified company on or after January 1, 2027, provided that no tax credit shall be authorized for any qualified company that incurs less than five million dollars in qualified project costs. The amount of the tax credit shall be equal to:

(a) For qualified companies that incur qualified project costs of at least five million dollars, but less than fifteen million dollars, twenty percent of such qualified project costs; and

65           (b) For qualified companies that incur qualified  
66 project costs of at least fifteen million dollars, twenty-  
67 five percent of qualified project costs.

68           (2) Tax credits authorized by this section shall not  
69 be refundable, but may be carried forward for ten subsequent  
70 tax years or until the full amount of the tax credit has  
71 been redeemed, whichever occurs first.

72           (3) Tax credits authorized by this section may be  
73 transferred, sold, or otherwise assigned by filing a  
74 notarized endorsement thereof with the department that names  
75 the transferee, the amount of tax credit transferred, and  
76 the value received for the credit, as well as any other  
77 information reasonably requested by the department. For a  
78 qualified company with flow-through tax treatment to its  
79 members, partners, or shareholders, the tax credit shall be  
80 allowed to members, partners, or shareholders in proportion  
81 to their share of ownership on the last day of the qualified  
82 company's tax period.

83           4. The cumulative amount of tax credits that may be  
84 authorized pursuant to this section shall not exceed forty  
85 million dollars in any fiscal year. If the amount of tax  
86 credits applied for in a fiscal year exceeds forty million  
87 dollars, tax credits shall be allowed based on the order in  
88 which they are claimed.

89           5. A qualified company seeking tax credits authorized  
90 by this section shall submit a notice of intent to the  
91 department. Upon approval of a notice of intent to receive  
92 tax credits under this section, the department and the  
93 qualified company shall enter into a written agreement,  
94 which shall specify, at a minimum:

95           (1) The types and amounts of critical materials that  
96 will be produced or processed at the project facility, along

97 with any supporting information from the federal Department  
98 of the Interior, Department of Energy, or Department of  
99 Defense indicating a shortage or threat to supply of such  
100 critical materials;

101 (2) The types and amounts of critical pharmaceuticals  
102 that will be produced or processed at the project facility,  
103 along with any supporting information from the federal Food  
104 and Drug Administration, Department of Defense, Department  
105 of Veterans Affairs, or Department of Health and Human  
106 Services indicating a shortage or threat to supply of such  
107 critical pharmaceuticals;

108 (3) The estimated amount of capital investment to be  
109 made and the estimated number of new jobs to be created at  
110 the project facility;

111 (4) Clawback provisions, as may be required by the  
112 department;

113 (5) Financial guarantee provisions as may be required  
114 by the department; and

115 (6) Any other provisions the department may require.

116 6. (1) There is hereby created in the state treasury  
117 the "Grants for Independence from Foreign Influence Fund",  
118 which shall consist of at least ten million dollars  
119 appropriated by the general assembly and any gifts,  
120 contributions, grants, or bequests received from federal,  
121 private, or other sources. The state treasurer shall be  
122 custodian of the fund. In accordance with sections 30.170  
123 and 30.180, the state treasurer may approve disbursements.  
124 The fund shall be a dedicated fund and, upon appropriation,  
125 moneys in the fund shall be used solely as provided in  
126 subsection 7 of this section.

127 (2) Notwithstanding the provisions of section 33.080  
128 to the contrary, any moneys remaining in the fund at the end

of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

7. (1) The department shall develop and implement grants for independence from foreign influence as provided in this subsection.

(2) The department shall establish procedures for the solicitation, evaluation, and approval of grant applications received from a qualified company. A qualified company may submit a grant application for the award of moneys for qualified project costs incurred by the qualified company as provided in this subsection.

(3) The department shall evaluate each application and approve or reject such application. Subject to appropriations, upon approval of an application, the MDFB shall serve as the third-party administrator of the grant funds, and shall disburse the grant award from the grants for independence from foreign influence fund in an amount not to exceed five hundred thousand dollars per grant application.

(4) Moneys granted to a qualified company under this section shall be used solely for qualified project costs incurred before the completion of the project facility.

8. The department shall promulgate all necessary rules and regulations for the administration of this section including, but not limited to, rules relating to the verification of a qualified company's qualified project costs. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the

161 authority delegated in this section shall become effective  
162 only if it complies with and is subject to all of the  
163 provisions of chapter 536 and, if applicable, section  
164 536.028. This section and chapter 536 are nonseverable and  
165 if any of the powers vested with the general assembly  
166 pursuant to chapter 536 to review, to delay the effective  
167 date, or to disapprove and annul a rule are subsequently  
168 held unconstitutional, then the grant of rulemaking  
169 authority and any rule proposed or adopted after August 28,  
170 2026, shall be invalid and void.

171 9. Pursuant to section 23.253 of the Missouri sunset  
172 act:

173 (1) The program authorized pursuant to this section  
174 shall automatically sunset on December 31, 2036, unless  
175 reauthorized by an act of the general assembly;

176 (2) This section shall terminate on September first of  
177 the calendar year immediately following the calendar year in  
178 which the program authorized pursuant to this section is  
179 sunset; and

180 (3) The provisions of this subsection shall not be  
181 construed to impair or impede the state's fulfillment of any  
182 obligations, including the authorization, issuance, or  
183 redemption of tax credits, incurred pursuant to this section  
184 prior to the date the program authorized pursuant to this  
185 section is sunset.

✓