

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 1553

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

6232S.02P

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Section A. Section 144.054, RSMo, is repealed and two new  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 **included on the list of critical materials as published by**  
5 **the United States Department of the Interior that serve an**  
6 **essential function in key energy, defense, and consumer**  
7 **product technologies and have a high risk of supply chain**  
8 **disruption;**
- 9 (2) **"Critical pharmaceuticals", pharmaceutical active**  
10 **ingredients, key starting materials, or essential finished**  
11 **pharmaceuticals identified as critical to national security**  
12 **or public health and having a high risk of supply chain**  
13 **disruption as included on the list published by the United**  
14 **States Food and Drug Administration;**

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

15           (3) "Nuclear security enterprise", the same meaning as  
16 defined in 50 U.S.C. Section 2501, inclusive of buildings,  
17 structures, and infrastructure constructed for use as a  
18 defense nuclear facility as defined in 50 U.S.C. Section  
19 2501;

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

25           [(3)] (5) "Producing", includes, but is not limited  
26 to, the production of, including the production and  
27 transmission of, telecommunication services;

28           [(4)] (6) "Product", includes, but is not limited to,  
29 telecommunications services, **critical materials, and**  
30 **critical pharmaceuticals;**

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

35           2. In addition to all other exemptions granted under  
36 this chapter, there is hereby specifically exempted from the  
37 provisions of this chapter and the local sales tax law as  
38 defined in section 32.085 and from the computation of the  
39 tax levied, assessed, or payable under this chapter and the  
40 local sales tax law as defined in section 32.085, electrical  
41 energy and gas, whether natural, artificial, or propane,  
42 water, coal, and energy sources, chemicals, machinery,  
43 equipment, and materials used or consumed in the  
44 manufacturing, processing, compounding, mining, or producing  
45 of any product, or used or consumed in the processing of  
46 recovered materials, or used in research and development

47 related to manufacturing, processing, compounding, mining,  
48 or producing any product. The construction and application  
49 of this subsection as expressed by the Missouri supreme  
50 court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d  
51 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director*  
52 *of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern*  
53 *Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo.  
54 banc 2005), is hereby affirmed.

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

77 4. In addition to all other exemptions granted under  
78 this chapter, there is hereby specifically exempted from the

79 provisions of this chapter and the local sales tax law as  
80 defined in section 32.085, and from the computation of the  
81 tax levied, assessed, or payable under this chapter and the  
82 local sales tax law as defined in section 32.085, all sales  
83 and purchases of tangible personal property, utilities,  
84 services, or any other transaction that would otherwise be  
85 subject to the state or local sales or use tax when such  
86 sales are made to or purchases are made by a private partner  
87 for use in completing a project under sections 227.600 to  
88 227.669.

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

104         6. In addition to all other exemptions granted  
105 pursuant to this chapter, there is hereby exempted from the  
106 provisions of and the computation of the tax levied,  
107 assessed, or payable pursuant to this chapter and the local  
108 sales tax law as defined in section 32.085, all sales and  
109 purchases of tangible personal property, building materials,  
110 equipment, fixtures, manufactured goods, machinery, and

111 parts for the purposes of constructing all or any portion of  
112 a nuclear security enterprise located in any city with more  
113 than four hundred thousand inhabitants and located in more  
114 than one county. This subsection shall expire on August 28,  
115 2034.

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

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

4 (1) "Critical materials", metal or metal complexes  
5 included on the list of critical materials as published by  
6 the United States Department of the Interior that serve an  
7 essential function in key energy, defense, and consumer  
8 product technologies and have a high risk of supply chain  
9 disruption;

10 (2) "Critical pharmaceuticals", pharmaceutical active  
11 ingredients, key starting materials, or essential finished  
12 pharmaceuticals identified as critical to national security  
13 or public health and having a high risk of supply chain  
14 disruption as included on the list published by the United  
15 States Food and Drug Administration;

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

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

21 (5) "Notice of intent", a form developed by the  
22 department and available online, completed by the qualified  
23 company, and submitted to the department stating the  
24 qualified company's intent to request tax credits under this  
25 section as provided in subsection 5 of this section;

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

29           (7) "Qualified company", a firm, partnership, joint  
30 venture, association, private or public corporation  
31 regardless of whether organized for profit, or headquarters  
32 of such entity registered to do business in Missouri, that  
33 is a nontraditional defense contractor, as such term is  
34 defined in 10 U.S.C. Section 3014, as amended, and that  
35 incurs qualified project costs. "Qualified company" shall  
36 not include any company headquartered in a country  
37 identified by the United States Director of National  
38 Intelligence as a country that poses a risk to the national  
39 security of the United States in at least one of the three  
40 most recent annual threat assessments of the U.S.  
41 intelligence community issued pursuant to Section 108B,  
42 federal National Security Act of 1947 (50 U.S.C. Section  
43 3043b);

44           (8) "Qualified project costs":

45           (a) Costs incurred by a qualified company for the  
46 construction, expansion, or conversion of facilities and  
47 acquisition of equipment for the production of critical  
48 materials or critical pharmaceuticals, including, but not  
49 limited to:

50           a. Site preparation;

51           b. Building construction or renovation;

52           c. Machinery and equipment acquisition and  
53 installation, including any specialized manufacturing  
54 equipment;

55           d. Utility infrastructure; and

56           e. Environmental compliance systems;

57 (b) "Qualified project costs" shall not include any  
58 costs incurred by a qualified company utilizing a contractor  
59 unless:

60 a. Such contractor is selected through an open bidding  
61 process and is headquartered in Missouri and for whom at  
62 least eighty-five percent of the workforce used for any work  
63 performed by the contractor for a qualified company reside  
64 within Missouri; and

65 b. Such contractor maintains an existing United States  
66 Department of Labor registered apprenticeship program;

67 (9) "State tax liability", any liability incurred by a  
68 taxpayer pursuant to the provisions of chapter 143 or  
69 chapter 148, exclusive of the provisions relating to the  
70 withholding of tax as provided for in sections 143.191 to  
71 143.265 and related provisions;

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

75 3. (1) For all tax years beginning on or after  
76 January 1, 2027, the department may award a qualified  
77 company tax credits for qualified project costs incurred by  
78 the qualified company on or after January 1, 2027, provided  
79 that no tax credit shall be authorized for any qualified  
80 company that incurs less than five million dollars in  
81 qualified project costs. The amount of the tax credit shall  
82 be equal to:

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

87           (b) For qualified companies that incur qualified  
88 project costs of at least fifteen million dollars, twenty-  
89 five percent of qualified project costs.

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

94           (3) Tax credits authorized by this section may be  
95 transferred, sold, or otherwise assigned by filing a  
96 notarized endorsement thereof with the department that names  
97 the transferee, the amount of tax credit transferred, and  
98 the value received for the credit, as well as any other  
99 information reasonably requested by the department. For a  
100 qualified company with flow-through tax treatment to its  
101 members, partners, or shareholders, the tax credit shall be  
102 allowed to members, partners, or shareholders in proportion  
103 to their share of ownership on the last day of the qualified  
104 company's tax period.

105           4. The cumulative amount of tax credits that may be  
106 authorized pursuant to this section shall not exceed forty  
107 million dollars in any fiscal year. If the amount of tax  
108 credits applied for in a fiscal year exceeds forty million  
109 dollars, tax credits shall be allowed based on the order in  
110 which they are claimed.

111           5. A qualified company seeking tax credits authorized  
112 by this section shall submit a notice of intent to the  
113 department. Upon approval of a notice of intent to receive  
114 tax credits under this section, the department and the  
115 qualified company shall enter into a written agreement,  
116 which shall specify, at a minimum:

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

119 with any supporting information from the federal Department  
120 of the Interior, Department of Energy, or Department of  
121 Defense indicating a shortage or threat to supply of such  
122 critical materials;

123 (2) The types and amounts of critical pharmaceuticals  
124 that will be produced or processed at the project facility,  
125 along with any supporting information from the federal Food  
126 and Drug Administration, Department of Defense, Department  
127 of Veterans Affairs, or Department of Health and Human  
128 Services indicating a shortage or threat to supply of such  
129 critical pharmaceuticals;

130 (3) The estimated amount of capital investment to be  
131 made and the estimated number of new jobs to be created at  
132 the project facility;

133 (4) Clawback provisions, as may be required by the  
134 department;

135 (5) Financial guarantee provisions as may be required  
136 by the department; and

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

138 6. (1) There is hereby created in the state treasury  
139 the "Grants for Independence from Foreign Influence Fund",  
140 which shall consist of at least ten million dollars  
141 appropriated by the general assembly and any gifts,  
142 contributions, grants, or bequests received from federal,  
143 private, or other sources. The state treasurer shall be  
144 custodian of the fund. In accordance with sections 30.170  
145 and 30.180, the state treasurer may approve disbursements.  
146 The fund shall be a dedicated fund and, upon appropriation,  
147 moneys in the fund shall be used solely as provided in  
148 subsection 7 of this section.

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

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

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

157 7. (1) The department shall develop and implement  
158 grants for independence from foreign influence as provided  
159 in this subsection.

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

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

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

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

183 authority delegated in this section shall become effective  
184 only if it complies with and is subject to all of the  
185 provisions of chapter 536 and, if applicable, section  
186 536.028. This section and chapter 536 are nonseverable and  
187 if any of the powers vested with the general assembly  
188 pursuant to chapter 536 to review, to delay the effective  
189 date, or to disapprove and annul a rule are subsequently  
190 held unconstitutional, then the grant of rulemaking  
191 authority and any rule proposed or adopted after August 28,  
192 2026, shall be invalid and void.

193 9. Pursuant to section 23.253 of the Missouri sunset  
194 act:

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

198 (2) This section shall terminate on September first of  
199 the calendar year immediately following the calendar year in  
200 which the program authorized pursuant to this section is  
201 sunset; and

202 (3) The provisions of this subsection shall not be  
203 construed to impair or impede the state's fulfillment of any  
204 obligations, including the authorization, issuance, or  
205 redemption of tax credits, incurred pursuant to this section  
206 prior to the date the program authorized pursuant to this  
207 section is sunset.

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