

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 1553
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Section A. Section 144.054, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 144.054 and 620.1641, to read as follows:

144.054. 1. 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) "Nuclear security enterprise", the same meaning as defined in 50 U.S.C. Section 2501, inclusive of buildings, structures, and infrastructure constructed for use as a defense nuclear facility as defined in 50 U.S.C. Section 2501;

~~[(2)]~~ (4) "Processing", any mode of treatment, act, or series of acts performed upon materials to transform or 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
23 to, the production of, including the production and
24 transmission 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*
49 *of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern*
50 *Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo.
51 banc 2005), is hereby affirmed.

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

74 4. In addition to all other exemptions granted under
75 this chapter, there is hereby specifically exempted from the
76 provisions of this chapter and the local sales tax law as
77 defined in section 32.085, and from the computation of the
78 tax levied, assessed, or payable under this chapter and the
79 local sales tax law as defined in section 32.085, all sales
80 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.

2 620.1641. 1. This section shall be known and may be
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 that serve an essential function in key energy, defense, and
6 consumer product technologies and have a high risk of supply
7 chain disruption;

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

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

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

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

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

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

33 (8) "Qualified project costs", costs incurred by a
34 qualified company for the construction, expansion, or
35 conversion of facilities and acquisition of equipment for

36 the production of critical materials or critical
37 pharmaceuticals, including, but not limited to:
38 (a) Site preparation;
39 (b) Building construction or renovation;
40 (c) Machinery and equipment acquisition and
41 installation, including any specialized manufacturing
42 equipment;
43 (d) Utility infrastructure; and
44 (e) Environmental compliance systems;
45 (9) "State tax liability", any liability incurred by a
46 taxpayer pursuant to the provisions of chapter 143 or
47 chapter 148, exclusive of the provisions relating to the
48 withholding of tax as provided for in sections 143.191 to
49 143.265 and related provisions;
50 (10) "Tax credit", a credit against the tax otherwise
51 due under chapter 143 or chapter 148, excluding withholding
52 tax imposed under sections 143.191 to 143.265.
53 3. (1) For all tax years beginning on or after
54 January 1, 2027, the department may award a qualified
55 company tax credits for qualified project costs incurred by
56 the qualified company on or after January 1, 2027, provided
57 that no tax credit shall be authorized for any qualified
58 company that incurs less than five million dollars in
59 qualified project costs. The amount of the tax credit shall
60 be equal to:
61 (a) For qualified companies that incur qualified
62 project costs of at least five million dollars, but less
63 that fifteen million dollars, twenty percent of such
64 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
129 of the biennium shall not revert to the credit of the
130 general revenue fund.

131 (3) The state treasurer shall invest moneys in the
132 fund in the same manner as other funds are invested. Any

133 interest and moneys earned on such investments shall be
134 credited to the fund.

135 7. (1) The department shall develop and implement
136 grants for independence from foreign influence as provided
137 in this subsection.

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

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

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

155 8. The department shall promulgate all necessary rules
156 and regulations for the administration of this section
157 including, but not limited to, rules relating to the
158 verification of a qualified company's qualified project
159 costs. Any rule or portion of a rule, as that term is
160 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.