

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3071H.011
 Bill No.: HB 1834
 Subject: Tax Credits; Department of Revenue, Taxation and Revenue - General; Business and Commerce; Engineers; Economic Development
 Type: Original
 Date: March 11, 2024

Bill Summary: This proposal establishes incentives for converting a business to produce certain chemicals, gases, metals, and minerals.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
General Revenue*	Up to (\$10,235,212)	Could exceed (\$10,340,385)	Could exceed (\$20,324,054)	Could exceed (\$40,337,146)
Total Estimated Net Effect on General Revenue	Up to (\$10,235,212)	Could exceed (\$10,340,385)	Could exceed (\$20,324,054)	Could exceed (\$40,337,146)

*Oversight reflects costs for Missouri Defense and Energy Independence Act at \$40 million annually (increasing by \$10 million over 4 years) as of FY 2029, one-time \$10 million payment in FY 2025 for Grants for Independence from Foreign Influence Fund and DED & DOR FTEs.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
Grants for Independence from Foreign Influence Fund*	\$0	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

*Grants for Independence from Foreign Influence Fund nets to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
General Revenue - DOR	0 FTE	1 FTE	1 FTE	1 FTE
General Revenue - DED	2 FTE	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	3 FTE	3 FTE	3 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning (B&P)** note:

The proposed section 620.1641 creates the "Missouri Defense and Energy Independence Act" which provides a tax credit of up to 15% of the cumulative amount allowed to any company that incurs costs associated with converting that company to produce chemicals, metals, gasses, or rare earth minerals that will be used for projects designed to decrease or eliminate reliance on related foreign-produced products. This tax credit begins on January 1, 2025, with the cumulative amount of tax credits allowed shall not exceed \$40 M per tax year. The tax credits are non-refundable, cannot be carried forward, and cannot be sold, transferred, or otherwise conveyed.

The proposed subsection 620.1641.6 creates the "Grants for Independence from Foreign Influence Fund" consisting of at least \$10M appropriated by the general assembly from general revenue and from any gifts, contributions, grants, or bequests from federal, private, or other sources and maintained by the state treasurer. To the extent such appropriations are made, this could cost up to \$10M annually. The Department of Economic Development (DED) will be responsible for dispersing grants from this fund to qualified companies under the above program. This section will not directly impact TSR.

The DED shall administer the program and promulgate rules, regulations, procedures, and applications for the grant. Therefore, the total fiscal impact to GR up to \$10M in FY 2025 and TSR up to \$40 M each year.

Officials from the **Department of Revenue (DOR)** note:

Tax credit

This provision creates a tax credit program starting January 1, 2025, for qualified companies. The qualified taxpayer is a company that converts their facility to produce chemicals. They are allowed to claim a credit equal to a portion of their costs incurred from converting their company from its current products to produce chemicals, metals, gases, or rare earth minerals to be used for projects designed to eliminate reliance on foreign produced chemicals.

This credit has an annual cap of \$40 million per tax year and the credits are not refundable, cannot be carried forward, sold, or transferred. If the amount of tax credits claimed in a tax year under this section exceeds forty million dollars, tax credits shall be allowed based on the order in which they are claimed. No single company can receive more than 15% (\$6,000,000) of the total cap.

This will first impact the state in FY 2026, when the first tax returns are submitted claiming the credit and thereafter. This proposal states that the credits issued to a company will be in equal increments over four years. Therefore, only \$10 million can be claimed in year 1 and \$20 million in year 2. The loss to general revenue annually will be:

Fiscal Year	Loss to General Revenue
2025	\$0
2026 (year 1)	(Up to \$10,000,000)
2027 (year 1 & 2)	(Up to \$20,000,000)
2028 (year 1, 2 & 3)	(Up to \$30,000,000)
2029+ (year 1, 2, 3 & 4)	(Up to \$40,000,000)

This credit is to sunset six years after the effective date.

This proposal creates a new tax credit that would require a new line being added to the Form MO-TC (\$7,138), updates to our website and changes to our individual income tax computer system (\$1,785). These changes are estimated to cost \$8,923. DOR's existing tax credit staff is no longer able to take on any additional tax credits without additional resources. Due to the intensive knowledge of credits that is needed DOR is not able to use temporary staff to help with processing these returns. This proposal would require at least 1 FTE Associate Customer Service Representative at a salary of \$35,880.

Grants

This provision creates a new state fund that shall consist of at least \$10 million to be used to provide grants for companies that qualify to convert their facility to being independent from foreign influence. The \$10 million is to be appropriated by the General Assembly. For purposes of the fiscal note, we will show the one-time \$10 million appropriation in FY 2025.

The Department of Economic Development is to administer the grant. The grant cannot exceed \$500,000 per applicant. The money in the grant is to be used to help convert their facility. This proposal appears to give a grant to a company to do the conversion of their factory and then allows them to use that funding to claim the tax credit.

The grant program will not fiscally impact the Department. The grant program will result in a loss to general revenue of at least \$10 million in FY 2025.

Officials from the DOR assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a DOR's (1) FTE and updates to the website and tax credit form impact in the fiscal note effective FY 2026.

Officials from the **Department of Economic Development (DED)** assume 620.1641. Establishes the "Missouri Defense and Energy Independence Act".

620.1641.2-5. For all tax years beginning on or after January 1, 2025, nontraditional defense contractors in Missouri, as such term is defined in 10 U.S.C. Section 3014 that incur costs to producing chemicals, metals, gases, or rare earth minerals that will be used for projects designed to decrease or eliminate reliance on foreign-produced chemicals, metals, gases, or rare earth minerals used in the production of energy projects or Department of Defense projects will be eligible for a tax credit for the costs of conversion on a first-come, first-served basis. The qualified company shall be allowed to claim a tax credit not to exceed 15% of the cumulative amount of tax credits., and one-fourth of total qualified amount shall be issued in each of the four tax years immediately following the tax year for which the qualified company claimed the tax credit.

For all calendar years beginning on or after 1/01/25, the total amount of tax credits authorized shall not exceed \$40M. The tax credit is not refundable, non-transferable, and not to be carried forward.

620.1641.6 creates the "Grants for Independence from Foreign Influence Fund", which shall consist of at least ten million dollars appropriated by the general assembly and any gifts, contributions, grants, or bequests received from federal, private, or other sources. The state treasurer shall be custodian of the fund. Since this requires an appropriation it is not included in the TSR impact.

DED 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 conversion costs incurred by the qualified company as provided in this subsection. The department shall evaluate each application and approve or reject such application. Subject to appropriations, upon approval of an application, the department shall administer a grant award of moneys from the grants for independence from foreign influence fund in an amount not to exceed five hundred thousand dollars per grant application. Moneys granted to a qualified company under this section shall be used solely for qualified conversion costs incurred before the completion of the conversion of the qualified company.

This program will sunset 6 years after the effective date unless reauthorized by an act of the general assembly.

Creating a new tax credit and grant program will likely reduce annual TSR by up to the cap of \$40M. The grant program has a cap of \$10M and requires an appropriation. DED will need to hire 2.0 FTE to solicit and review applications, determine qualifications, calculate eligible expenses, complete compliance and to administer the programs.

Oversight notes the proposal, 620.1641. 3. (1) states that total qualified amount a qualified company shall be allowed to claim under this section shall not exceed fifteen percent of the cumulative amount of tax credits allowed. Therefore, Oversight assume it would be equivalent to approximately \$6 million ($\$40,000,000 \times .15$) per each company.

Additionally, Oversight notes the proposal, 620.1641.3.(2), states that each company can only receive $\frac{1}{4}$ of such a total (\$6 million) for each year. Therefore, this would allow the company receive \$1.5 million per year for next four year.

Oversight notes that this proposal does not limit how many companies are allowed to apply for this tax credit.

Oversight notes the tax credits shall not be refundable, carried forward, assigned, transferred, sold, or conveyed.

Oversight notes that the officials from the DOR assume the tax program would grow incrementally over 4 years (increments of \$10 million per year) until it reaches the maximum cap of \$40 million per year. Therefore, **Oversight** will reflect the cumulative effect \$10 million per year beginning FY 2026, and the maximum cap \$40 million, beginning FY 2029.

Oversight notes the DED assumes the need for 2.0 FTE (Senior Economic Development Specialist \$74,664 plus E&E annually per each) to solicit and review applications, determine qualifications, calculate eligible expenses, complete compliance and to administer the programs.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the DED's FTE cost in the fiscal note effective FY 2025.

Oversight notes the proposal, Section 620.1641.6, creates "Grants for Independence from Foreign Influence Fund".

Oversight notes this Fund "shall consist of at least \$10 million dollar appropriated by the general assembly and any gifts, contributions, grants or bequests received from federal, private, or other sources." The Fund will be under care of State Treasurer.

Therefore, **Oversight** will note both revenue transfer out from the general revenue \$10 million in FY 2025 and transfer in to the "Grants for Independence from Foreign Influence Fund" in FY 2025.

Oversight will also reflect additional funds transfer in from various grants, donation, and private money etc.

Oversight notes the moneys granted to a qualified company, under the proposal, shall be used solely for qualified conversion costs incurred before the completion of the conversion of the qualified company.

Oversight notes that each individual company can receive up to maximum of \$500,000 per grant application. Therefore, Oversight notes there could be as few as 20 companies (\$10 million / \$500,000) receiving grants from this fund.

Lastly, **Oversight** will note the disbursement from the "Grants for Independence from Foreign Influence Fund", up to the \$10 million and the fund will subsequently net to zero annually, as the monies being paid to various qualified companies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2029)
GENERAL REVENUE				
<u>Costs – DED</u>				
Personnel Service	(\$124,440)	(\$152,315)	(\$155,361)	(\$161,638)
Fringe Benefits	(\$72,530)	(\$88,153)	(\$89,292)	(\$92,899)
Expense & Equipment	(\$38,242)	(\$12,044)	(\$12,285)	(\$12,781)
<u>Total Costs – DED p.6</u>	(\$235,212)	(\$252,512)	(\$256,938)	(\$267,318)
FTE Change	2 FTE	2 FTE	2 FTE	2 FTE
<u>Costs - DOR</u>				
Personnel Service	\$0	(\$36,598)	(\$37,330)	(\$38,838)
Fringe Benefits	\$0	(\$28,937)	(\$29,204)	(\$30,384)
Expense & Equipment	\$0	(\$13,415)	(\$582)	(\$606)
<u>Total Costs – DOR p.5</u>	\$0	(\$78,950)	(\$67,116)	(\$69,827)
FTE Change	0 FTE	1 FTE	1 FTE	1 FTE
<u>Costs - §§ 620.1641 DOR Website and form updates p.4</u>	\$0	(\$8,923)	\$0	\$0
<u>Costs - §§ 620.1641 Missouri Defense and Energy Independence Act Tax Credit p.6</u>	\$0	Up to (\$10,000,000)	Up to (\$20,000,000)	Up to (\$40,000,000)
<u>Transfer Out - §§ 620.1641. 7. Grants for Independence from Foreign Influence Fund p.7</u>	Up to (\$10,000,000)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	Up to (\$10,235,212)	Could exceed (\$10,340,385)	Could exceed (\$20,324,054)	Could exceed (\$40,337,146)
Estimated Net FTE Change on General Revenue	2 FTE	3 FTE	3 FTE	3 FTE

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2029)
GRANTS FOR INDEPENDENCE FROM FOREIGN INFLUENCE FUND				
<u>Transfer in – 620.1641. 7. Monies transferred form GR p.7</u>	Up to \$10,000,000	\$0	\$0	\$0
<u>Costs – grants to various companies (\$500,000 max per company) p.7</u>	(Unknown)	(Unknown)	(Unknown)	(Unknown)
<u>Transfer in – §§ 620.1641. 1. donations, grants, interests, etc. p.7</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON GRANTS FOR INDPENDENCE FROM FOREIGN INFLUENCE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2029)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses that qualify for these programs could be impacted by this proposal.

FISCAL DESCRIPTION

This bill establishes the "Missouri Defense and Energy Independence Act".

Beginning January 1, 2025, a qualified company may claim a tax credit not to exceed \$6 million against costs incurred when the qualified company converts its operations to the production of

chemicals, metals, gases, or rare earth minerals that will be used for projects designed to decrease or eliminate reliance on foreign produced chemicals, metals, gases, or rare earth minerals used in the production of energy projects or Department of Defense projects.

Beginning January 1, 2025, a qualified company may claim a tax credit not to exceed \$6 million against costs incurred when the qualified company converts its operations to the production of chemicals, metals, gases, or rare earth minerals that will be used for projects designed to decrease or eliminate reliance on foreign produced chemicals, metals, gases, or rare earth minerals used in the production of energy projects or Department of Defense projects.

The cumulative amount of tax credits shall not exceed \$40 million per tax year. If the amount of tax credits exceeds \$40 million, the tax credits shall be allowed based on the order in which they are claimed. The tax credits shall not be refundable and cannot be carried forward to any subsequent tax year, assigned, transferred, sold, or otherwise conveyed.

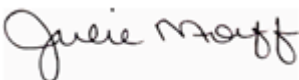
This bill also establishes the "Grants for Independence from Foreign Influence Fund". The Fund shall consist of at least \$10 million appropriated by the General Assembly and through any gifts, contributions, grants, or bequests received from federal, private, or other sources. The Department of Economic Development shall award grants from this Fund to qualifying companies seeking to defray the cost of converting the operations of said company toward the production of materials that will be used to decrease or eliminate reliance on foreign-produced materials used in the production of energy projects or Department of Defense projects. A qualified company shall not receive more than \$500,000 from the Fund.

This bill sunsets six years after the effective date.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Department of Economic Development
Joint Committee on Administrative Rules
Office of the Secretary of State
Office of Administration – Budget & Planning



Julie Morff
Director
March 11, 2024



Ross Strobe
Assistant Director
March 11, 2024