

HOUSE BILL NO. 3027

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KNIGHT.

6648H.011

JOSEPH ENGLER, Chief Clerk

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Section A. Section 144.054, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 144.054 and 620.1641, to read as follows: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

~~(4)~~ (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 treatment necessary to maintain or preserve such processing by the producer at the production facility;

~~(5)~~ (5) "Producing" includes, but is not limited to, the production of, including the production and transmission of, telecommunication services;

~~(6)~~ (6) "Product" includes, but is not limited to, telecommunications services, **critical materials, and critical pharmaceuticals;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 ~~[(5)]~~ (7) "Recovered materials", those materials which have been diverted or removed
19 from the solid waste stream for sale, use, reuse, or recycling, whether or not they require
20 subsequent separation and processing.

21 2. In addition to all other exemptions granted under this chapter, there is hereby
22 specifically exempted from the provisions of this chapter and the local sales tax law as
23 defined in section 32.085 and from the computation of the tax levied, assessed, or payable
24 under this chapter and the local sales tax law as defined in section 32.085, electrical energy
25 and gas, whether natural, artificial, or propane, water, coal, and energy sources, chemicals,
26 machinery, equipment, and materials used or consumed in the manufacturing, processing,
27 compounding, mining, or producing of any product, or used or consumed in the processing of
28 recovered materials, or used in research and development related to manufacturing,
29 processing, compounding, mining, or producing any product. The construction and
30 application of this subsection as expressed by the Missouri supreme court in *DST Systems,*
31 *Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v.*
32 *Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v.*
33 *Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed.

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

48 4. In addition to all other exemptions granted under this chapter, there is hereby
49 specifically exempted from the provisions of this chapter and the local sales tax law as
50 defined in section 32.085, and from the computation of the tax levied, assessed, or payable
51 under this chapter and the local sales tax law as defined in section 32.085, all sales and
52 purchases of tangible personal property, utilities, services, or any other transaction that would
53 otherwise be subject to the state or local sales or use tax when such sales are made to or

54 purchases are made by a private partner for use in completing a project under sections
55 227.600 to 227.669.

56 5. In addition to all other exemptions granted under this chapter, there is hereby
57 specifically exempted from the provisions of this chapter and the local sales tax law as
58 defined in section 32.085, and from the computation of the tax levied, assessed, or payable
59 under this chapter and the local sales tax law as defined in section 32.085, all materials,
60 manufactured goods, machinery and parts, electrical energy and gas, whether natural,
61 artificial or propane, water, coal and other energy sources, chemicals, soaps, detergents,
62 cleaning and sanitizing agents, and other ingredients and materials inserted by commercial or
63 industrial laundries to treat, clean, and sanitize textiles in facilities which process at least five
64 hundred pounds of textiles per hour and at least sixty thousand pounds per week.

65 6. In addition to all other exemptions granted pursuant to this chapter, there is hereby
66 exempted from the provisions of and the computation of the tax levied, assessed, or payable
67 pursuant to this chapter and the local sales tax law as defined in section 32.085, all sales and
68 purchases of tangible personal property, building materials, equipment, fixtures,
69 manufactured goods, machinery, and parts for the purposes of constructing all or any
70 portion of a nuclear security enterprise located in any city with more than four hundred
71 thousand inhabitants and located in more than one county. This subsection shall expire on
72 August 28, 2034.

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

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

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

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

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

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

13 **(5) "Notice of intent", a form developed by the department and available online,
14 completed by the qualified company, and submitted to the department stating the
15 qualified company's intent to request tax credits under this section as provided in
16 subsection 5 of this section;**

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

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

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

27 (a) Site preparation;

28 (b) Building construction or renovation;

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

31 (d) Utility infrastructure; and

32 (e) Environmental compliance systems;

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

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

38 3. (1) For all tax years beginning on or after January 1, 2027, the department
39 may award a qualified company tax credits for qualified project costs incurred by the
40 qualified company on or after January 1, 2027, provided that no tax credit shall be
41 authorized for any qualified company that incurs less than five million dollars in
42 qualified project costs. The amount of the tax credit shall be equal to:

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

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

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

51 (3) Tax credits authorized by this section may be transferred, sold, or otherwise
52 assigned by filing a notarized endorsement thereof with the department that names the
53 transferee, the amount of tax credit transferred, and the value received for the credit, as
54 well as any other information reasonably requested by the department. For a qualified
55 company with flow-through tax treatment to its members, partners, or shareholders, the

56 tax credit shall be allowed to members, partners, or shareholders in proportion to their
57 share of ownership on the last day of the qualified company's tax period.

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

62 5. A qualified company seeking tax credits authorized by this section shall
63 submit a notice of intent to the department. Upon approval of a notice of intent to
64 receive tax credits under this section, the department and the qualified company shall
65 enter into a written agreement, which shall specify, at a minimum:

66 (1) The types and amounts of critical materials that will be produced or
67 processed at the project facility, along with any supporting information from the federal
68 Department of the Interior, Department of Energy, or Department of Defense indicating
69 a shortage or threat to supply of such critical materials;

70 (2) The types and amounts of critical pharmaceuticals that will be produced or
71 processed at the project facility, along with any supporting information from the federal
72 Food and Drug Administration, Department of Defense, Department of Veterans
73 Affairs, or Department of Health and Human Services indicating a shortage or threat to
74 supply of such critical pharmaceuticals;

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

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

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

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

80 6. (1) There is hereby created in the state treasury the "Grants for
81 Independence from Foreign Influence Fund", which shall consist of at least ten
82 million dollars appropriated by the general assembly and any gifts, contributions,
83 grants, or bequests received from federal, private, or other sources. The state treasurer
84 shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state
85 treasurer may approve disbursements. The fund shall be a dedicated fund and, upon
86 appropriation, moneys in the fund shall be used solely as provided in subsection 7 of this
87 section.

88 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys
89 remaining in the fund at the end of the biennium shall not revert to the credit of the
90 general revenue fund.

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

94 **7. (1) The department shall develop and implement grants for independence**
95 **from foreign influence as provided in this subsection.**

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

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

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

107 **8. The department shall promulgate all necessary rules and regulations for the**
108 **administration of this section including, but not limited to, rules relating to the**
109 **verification of a qualified company's qualified project costs. Any rule or portion of a**
110 **rule, as that term is defined in section 536.010, that is created under the authority**
111 **delegated in this section shall become effective only if it complies with and is subject to**
112 **all of the provisions of chapter 536 and, if applicable, section 536.028. This section and**
113 **chapter 536 are nonseverable and if any of the powers vested with the general assembly**
114 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
115 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**
116 **and any rule proposed or adopted after August 28, 2026, shall be invalid and void.**

117 **9. Pursuant to section 23.253 of the Missouri sunset act:**

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

120 **(2) This section shall terminate on September first of the calendar year**
121 **immediately following the calendar year in which the program authorized pursuant to**
122 **this section is sunset; and**

123 **(3) The provisions of this subsection shall not be construed to impair or impede**
124 **the state's fulfillment of any obligations, including the authorization, issuance, or**

125 **redemption of tax credits, incurred pursuant to this section prior to the date the**
126 **program authorized pursuant to this section is sunset.**

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