

SENATE BILL NO. 509

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ARTHUR.

1953S.02I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 135, RSMo, by adding thereto three new sections relating to tax credits for child care.

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

Section A. Chapter 135, RSMo, is amended by adding thereto three new sections, to be known as sections 135.1310, 135.1325, and 135.1350, to read as follows:

135.1310. 1. This section shall be known and may be cited as the "Child Care Contribution Tax Credit Act".

2. For purposes of this section, the following terms shall mean:

(1) "Child care", the same as defined in section 210.201;

(2) "Child care desert", a census tract that has a poverty rate of at least twenty percent or a median family income of less than eighty percent of the statewide average and where at least five hundred people or thirty-three percent of the population are located at least one-half mile away from a child care provider in urbanized areas or at least ten miles away in rural areas;

(3) "Child care provider", the same as defined in section 210.201 and licensed under section 210.221;

(4) "Contribution", an eligible donation of cash, stock, bonds or other marketable securities, or real property;

19 (5) "Department", the Missouri department of economic
20 development;

21 (6) "Person related to the taxpayer", an individual
22 connected with the taxpayer by blood, adoption, or marriage,
23 or an individual, corporation, partnership, limited
24 liability company, trust, or association controlled by, or
25 under the control of, the taxpayer directly, or through an
26 individual, corporation, limited liability company,
27 partnership, trust, or association under the control of the
28 taxpayer;

29 (7) "Rural area", a town or community within the state
30 that is not within a metropolitan statistical area and has a
31 population of six thousand or fewer inhabitants as
32 determined by the last preceding federal decennial census or
33 any unincorporated area not within a metropolitan
34 statistical area;

35 (8) "State tax liability", in the case of a business
36 taxpayer, any liability incurred by such taxpayer pursuant
37 to chapter 143 and chapter 148, exclusive of the provisions
38 relating to the withholding of tax as provided for in
39 sections 143.191 to 143.265 and related provisions, and in
40 the case of an individual taxpayer, any liability incurred
41 by such taxpayer pursuant to chapter 143;

42 (9) "Tax credit", a credit against the taxpayer's
43 state tax liability;

44 (10) "Taxpayer", a corporation as defined in section
45 143.441 or 143.471, any charitable organization that is
46 exempt from federal income tax and whose Missouri unrelated
47 business taxable income, if any, would be subject to the
48 state income tax imposed under chapter 143, or individuals
49 or partnerships subject to the state income tax imposed by
50 the provisions of chapter 143.

51 3. For all tax years beginning on or after January 1,
52 2023, a taxpayer may claim the tax credit authorized in this
53 section against the taxpayer's state tax liability for the
54 tax year in which a verified contribution was made in an
55 amount equal to up to seventy-five percent of the verified
56 contribution to a child care provider. The minimum amount
57 of any tax credit issued shall not be less than one hundred
58 dollars, and shall not exceed two hundred thousand dollars
59 per tax year.

60 (1) The child care provider receiving a contribution
61 shall, within sixty days of the date it received the
62 contribution, issue the taxpayer a contribution verification
63 and file a copy of the contribution verification with the
64 department. The contribution verification shall be in the
65 form established by the department and shall include the
66 taxpayer's name, taxpayer's state or federal tax
67 identification number or last four digits of the taxpayer's
68 Social Security number, amount of tax credit, amount of
69 contribution, legal name and address of the child care
70 provider receiving the tax credit, the child care provider's
71 federal employer identification number, the child care
72 provider's departmental vendor number or license number, and
73 the date the child care provider received the contribution
74 from the taxpayer. The contribution verification shall
75 include a signed attestation stating the child care provider
76 will use the contribution solely to promote child care.

77 (2) The failure of the child care provider to timely
78 issue the contribution verification to the taxpayer or file
79 it with the department shall entitle the taxpayer to a
80 refund of the contribution from the child care provider.

81 4. A donation is eligible when:

82 (1) The donation is used directly by a child care
83 provider to promote child care for children twelve years of
84 age or younger, including by acquiring or improving child
85 care facilities, equipment, or services, or improving staff
86 salaries, staff training, or the quality of child care;

87 (2) The donation is made to a child care provider in
88 which the taxpayer or a person related to the taxpayer does
89 not have a direct financial interest; and

90 (3) The donation is not made in exchange for care of a
91 child or children in the case of an individual taxpayer that
92 is not an employer making a contribution on behalf of its
93 employees.

94 5. A child care provider that uses the contribution
95 for an ineligible purpose shall repay to the department the
96 value of the tax credit for the contribution amount used for
97 an ineligible purpose.

98 6. The tax credits authorized by this section shall
99 not be refundable and shall not be transferred, sold, or
100 otherwise conveyed. Any amount of approved tax credits that
101 a taxpayer is prohibited by this subsection from using for
102 the tax year in which the credit is first claimed may be
103 carried back to the taxpayer's immediately prior tax year
104 and carried forward to the taxpayer's subsequent tax year
105 for up to five succeeding tax years.

106 7. Notwithstanding any provision of subsection 6 of
107 this section to the contrary, a taxpayer that is exempt,
108 under 26 U.S.C. Section 501(c)(3), and any amendments
109 thereto, from all or part of the federal income tax shall be
110 eligible for a refund of its tax credit issued under this
111 section, without regard to whether it has incurred any state
112 tax liability. Such exempt taxpayer may claim a refund of
113 the tax credit on its tax return required to be filed under

114 the provisions of chapter 143, exclusive of the return for
115 the withholding of tax under sections 143.191 to 143.265.
116 If such exempt taxpayer is not required to file a tax return
117 under the provisions of chapter 143, the exempt taxpayer may
118 claim a refund of the tax credit on a refund claim form
119 prescribed by the department of revenue. The department of
120 revenue shall prescribe such forms, instructions, and rules
121 as it deems appropriate to carry out the provisions of this
122 subsection.

123 8. (1) The cumulative amount of tax credits
124 authorized pursuant to this section shall not exceed twenty
125 million dollars for each calendar year. The department
126 shall approve tax credit applications on a first-come, first-
127 served basis until the cumulative tax credit authorization
128 limit is reached for the calendar year. A taxpayer shall
129 apply to the department for the child care contribution tax
130 credit by submitting a copy of the contribution verification
131 provided by a child care provider to such taxpayer. Upon
132 receipt of the contribution verification, the department
133 shall issue a tax credit certificate to the applicant.

134 (2) If the maximum amount of tax credits allowed in
135 any calendar year as provided pursuant to subdivision (1) of
136 this subsection is authorized, the maximum amount of tax
137 credits allowed pursuant to subdivision (1) of this
138 subsection shall be increased by fifteen percent, provided
139 that all such increases in the allowable amount of tax
140 credits shall be reserved for contributions made to child
141 care providers located in a child care desert. The director
142 of the department shall publish such adjusted amount.

143 9. The tax credits allowed under this section shall be
144 considered a domestic and social tax credit under
145 subdivision (5) of subsection 2 of section 135.800.

146 10. All action and communication undertaken or
147 required under this section shall be exempt from section
148 105.1500.

149 11. The department may promulgate rules to implement
150 and administer the provisions of this section. Any rule or
151 portion of a rule, as that term is defined in section
152 536.010, that is created pursuant to the authority delegated
153 in this section shall become effective only if it complies
154 with and is subject to all of the provisions of chapter 536
155 and, if applicable, section 536.028. This section and
156 chapter 536 are nonseverable and if any of the powers vested
157 with the general assembly pursuant to chapter 536 to review,
158 to delay the effective date, or to disapprove and annul a
159 rule are subsequently held unconstitutional, then the grant
160 of rulemaking authority and any rule proposed or adopted
161 after August 28, 2023, shall be invalid and void.

162 12. Pursuant to section 23.253 of the Missouri sunset
163 act:

164 (1) The program authorized under this section shall
165 expire on December 31, 2029, unless reauthorized by the
166 general assembly; and

167 (2) The act shall terminate on September first of the
168 calendar year immediately following the calendar year in
169 which the program authorized under this section is sunset;
170 and

171 (3) If such program is reauthorized, the program
172 authorized under this act shall automatically sunset six
173 years after the effective date of the reauthorization of
174 this section; and

175 (4) The provisions of this subsection shall not be
176 construed to limit or in any way impair the department of
177 revenue's ability to redeem tax credits authorized on or

178 before the date the program authorized pursuant to this
179 section expires, or a taxpayer's ability to redeem such tax
180 credits.

135.1325. 1. This section shall be known and may be
2 cited as the "Employer Provided Child Care Assistance Tax
3 Credit Act".

4 2. For purposes of this section, the following terms
5 shall mean:

6 (1) "Child care desert", a census tract that has a
7 poverty rate of at least twenty percent or a median family
8 income of less than eighty percent of the statewide average
9 and where at least five hundred people or thirty-three
10 percent of the population are located at least one-half mile
11 away from a child care provider in urbanized areas or at
12 least ten miles away in rural areas;

13 (2) "Child care facility", the same as defined in
14 section 210.201;

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

17 (4) "Qualified child care expenditure", an amount paid
18 of reasonable costs incurred that meet any of the following:

19 (a) To acquire, construct, rehabilitate, or expand
20 property that will be, or is, used as part of a child care
21 facility that is either operated by the taxpayer or
22 contracted with by the taxpayer and which does not
23 constitute part of the principal residence of the taxpayer
24 or any employee of the taxpayer;

25 (b) For the operating costs of a child care facility
26 of the taxpayer, including costs relating to the training of
27 employees, scholarship programs, and for compensation to
28 employees; or

29 (c) Under a contract with a child care facility to
30 provide child care services to employees of the taxpayer;

31 (5) "Rural area", a town or community within the state
32 that is not within a metropolitan statistical area and has a
33 population of six thousand or fewer inhabitants as
34 determined by the last preceding federal decennial census or
35 any unincorporated area not within a metropolitan
36 statistical area;

37 (6) "State tax liability", in the case of a business
38 taxpayer, any liability incurred by such taxpayer pursuant
39 to the provisions of chapter 143 and chapter 148, exclusive
40 of the provisions relating to the withholding of tax as
41 provided for in sections 143.191 to 143.265 and related
42 provisions, and in the case of an individual taxpayer, any
43 liability incurred by such taxpayer pursuant to the
44 provisions of chapter 143;

45 (7) "Tax credit", a credit against the taxpayer's
46 state tax liability;

47 (8) "Taxpayer", a corporation as defined in section
48 143.441 or 143.471, any charitable organization that is
49 exempt from federal income tax and whose Missouri unrelated
50 business taxable income, if any, would be subject to the
51 state income tax imposed under chapter 143, or individuals
52 or partnerships subject to the state income tax imposed by
53 the provisions of chapter 143.

54 3. For all tax years beginning on or after January 1,
55 2023, a taxpayer may claim a tax credit authorized in this
56 section in an amount equal to thirty percent of the
57 qualified child care expenditures paid or incurred with
58 respect to a child care facility. The maximum amount of any
59 tax credit issued under this section shall not exceed two
60 hundred thousand dollars per taxpayer per tax year.

61 4. A facility shall not be treated as a child care
62 facility with respect to a taxpayer unless the following
63 conditions have been met:

64 (1) Enrollment in the facility is open to employees of
65 the taxpayer during the tax year; and

66 (2) If the facility is the principal business of the
67 taxpayer, at least thirty percent of the enrollees of such
68 facility are dependents of employees of the taxpayer.

69 5. The tax credits authorized by this section shall
70 not be refundable or transferable. The tax credits shall
71 not be sold, assigned, or otherwise conveyed. Any amount of
72 approved tax credits that a taxpayer is prohibited by this
73 subsection from using for the tax year in which the credit
74 is first claimed may be carried back to the taxpayer's
75 immediately prior tax year and carried forward to the
76 taxpayer's subsequent tax year for up to five succeeding tax
77 years.

78 6. Notwithstanding any provision of subsection 5 of
79 this section to the contrary, a taxpayer that is exempt,
80 under 26 U.S.C. Section 501(c)(3), and any amendments
81 thereto, from all or part of the federal income tax shall be
82 eligible for a refund of its tax credit issued under this
83 section, without regard to whether it has incurred any state
84 tax liability. Such exempt taxpayer may claim a refund of
85 the tax credit on its tax return required to be filed under
86 the provisions of chapter 143, exclusive of the return for
87 the withholding of tax under sections 143.191 to 143.265.
88 If such exempt taxpayer is not required to file a tax return
89 under the provisions of chapter 143, the exempt taxpayer may
90 claim a refund of the tax credit on a refund claim form
91 prescribed by the department of revenue. The department of
92 revenue shall prescribe such forms, instructions, and rules

93 as it deems appropriate to carry out the provisions of this
94 subsection.

95 7. (1) The cumulative amount of tax credits
96 authorized pursuant to this section shall not exceed twenty
97 million dollars for each calendar year. The department
98 shall approve tax credit applications on a first-come, first-
99 served basis until the cumulative tax credit authorization
100 limit is reached for the calendar year.

101 (2) If the maximum amount of tax credits allowed in
102 any calendar year as provided pursuant to subdivision (1) of
103 this subsection is authorized, the maximum amount of tax
104 credits allowed pursuant to subdivision (1) of this
105 subsection shall be increased by fifteen percent, provided
106 that all such increases in the allowable amount of tax
107 credits shall be reserved for qualified child care
108 expenditures for child care facilities located in a child
109 care desert. The director of the department shall publish
110 such adjusted amount.

111 8. A taxpayer who has claimed a tax credit under this
112 section shall notify the department within sixty days of any
113 cessation of operation, change in ownership, or agreement to
114 assume recapture liability as such terms are defined by 26
115 U.S.C. Section 45F, in the form and manner prescribed by
116 department rule or instruction. If there is a cessation of
117 operation or change in ownership relating to a child care
118 facility, the taxpayer shall repay the department the
119 applicable recapture percentage of the credit allowed under
120 this section, but this recapture amount shall be limited to
121 the tax credit allowed under this section. The recapture
122 amount shall be considered a tax liability arising on the
123 tax payment due date for the tax year in which the cessation
124 of operation, change in ownership, or agreement to assume

125 recapture liability occurred and shall be assessed and
126 collected under the same provisions that apply to a tax
127 liability under chapter 143 or chapter 148.

128 9. The tax credit allowed pursuant to this section
129 shall be considered a domestic and social tax credit under
130 subdivision (5) of subsection 2 of section 135.800.

131 10. All action and communication undertaken or
132 required under this section shall be exempt from section
133 105.1500.

134 11. The department may promulgate rules to implement
135 and administer the provisions of this section. Any rule or
136 portion of a rule, as that term is defined in section
137 536.010, that is created pursuant to the authority delegated
138 in this section shall become effective only if it complies
139 with and is subject to all of the provisions of chapter 536
140 and, if applicable, section 536.028. This section and
141 chapter 536 are nonseverable and if any of the powers vested
142 with the general assembly pursuant to chapter 536 to review,
143 to delay the effective date, or to disapprove and annul a
144 rule are subsequently held unconstitutional, then the grant
145 of rulemaking authority and any rule proposed or adopted
146 after August 28, 2023, shall be invalid and void.

147 12. Pursuant to section 23.253 of the Missouri sunset
148 act:

149 (1) The program authorized under this act shall expire
150 on December 31, 2029, unless reauthorized by the general
151 assembly; and

152 (2) The act shall terminate on September first of the
153 calendar year immediately following the calendar year in
154 which the program authorized under the act is sunset; and

155 (3) If such program is reauthorized, the program
156 authorized under this act shall automatically sunset six

157 years after the effective date of the reauthorization of the
158 act; and

159 (4) The provisions of this subsection shall not be
160 construed to limit or in any way impair the department of
161 revenue's ability to redeem tax credits authorized on or
162 before the date the program authorized pursuant to this
163 section expires, or a taxpayer's ability to redeem such tax
164 credits.

135.1350. 1. This section shall be known and may be
2 cited as the "Child Care Providers Tax Credit Act".

3 2. For purposes of this section, the following terms
4 shall mean:

5 (1) "Capital expenditures", expenses incurred by a
6 child care provider, during the tax year for which a tax
7 credit is claimed pursuant to this section, for the
8 construction, renovation, or rehabilitation of a child care
9 facility to the extent necessary to operate a child care
10 facility and comply with applicable child care facility
11 regulations promulgated by the department of elementary and
12 secondary education;

13 (2) "Child care desert", a census tract that has a
14 poverty rate of at least twenty percent or a median family
15 income of less than eighty percent of the statewide average
16 and where at least five hundred people or thirty-three
17 percent of the population are located at least one-half mile
18 away from a child care provider in urbanized areas or at
19 least ten miles away in rural areas;

20 (3) "Child care facility", the same as defined in
21 section 210.201;

22 (4) "Child care provider", a taxpayer that is also a
23 child care provider as defined in section 210.201 and
24 licensed under section 210.221;

25 (5) "Department", the department of elementary and
26 secondary education;

27 (6) "Employee", an employee, as that term is used in
28 subsection 2 of section 143.191, of a child care provider
29 who worked for the child care provider for an average of at
30 least ten hours per week for at least a three-month period
31 during the tax year for which a tax credit is claimed
32 pursuant to this section and who is not an immediate family
33 member of the child care provider;

34 (7) "Eligible employer withholding tax", the total
35 amount of tax that the child care provider was required,
36 under section 143.191, to deduct and withhold from the wages
37 it paid to employees during the tax year for which the child
38 care provider is claiming a tax credit pursuant to this
39 section, to the extent actually paid;

40 (8) "Rural area", a town or community within the state
41 that is not within a metropolitan statistical area and has a
42 population of six thousand or fewer inhabitants as
43 determined by the last preceding federal decennial census or
44 any unincorporated area not within a metropolitan
45 statistical area;

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

51 (10) "Tax credit", a credit against the taxpayer's
52 state tax liability;

53 (11) "Taxpayer", a corporation as defined in section
54 143.441 or 143.471, any charitable organization that is
55 exempt from federal income tax and whose Missouri unrelated
56 business taxable income, if any, would be subject to the

57 state income tax imposed under chapter 143, or an individual
58 or partnership subject to the state income tax imposed by
59 the provisions of chapter 143.

60 3. For all tax years beginning on or after January 1,
61 2024, a child care provider with three or more employees may
62 claim a tax credit authorized in this section in an amount
63 equal to the child care provider's eligible employer
64 withholding tax, and may also claim a tax credit in an
65 amount up to thirty percent of the child care provider's
66 capital expenditures. No tax credit for capital
67 expenditures shall be allowed if the capital expenditures
68 are less than one thousand dollars. The amount of any tax
69 credit issued under this section shall not exceed two
70 hundred thousand dollars per child care provider per tax
71 year.

72 4. To claim a tax credit authorized pursuant to this
73 section, a child care provider shall submit to the
74 department, for preliminary approval, an application for the
75 tax credit on a form provided by the department and at such
76 times as the department may require. If the child care
77 provider is applying for a tax credit for capital
78 expenditures, the child care provider shall present proof
79 acceptable to the department that the child care provider's
80 capital expenditures satisfy the requirements of subdivision
81 (1) of subsection 2 of this section. Upon final approval of
82 an application, the department shall issue the child care
83 provider a certificate of tax credit.

84 5. The tax credits authorized by this section shall
85 not be refundable and shall not be transferred, sold,
86 assigned, or otherwise conveyed. Any amount of credit that
87 exceeds the child care provider's state tax liability for
88 the tax year for which the tax credit is issued may be

89 carried back to the child care provider's immediately prior
90 tax year or carried forward to the child care provider's
91 subsequent tax year for up to five succeeding tax years.

92 6. Notwithstanding any provision of subsection 5 of
93 this section to the contrary, a child care provider that is
94 exempt, under 26 U.S.C. Section 501(c)(3), and any
95 amendments thereto, from all or part of the federal income
96 tax shall be eligible for a refund of its tax credit issued
97 under this section, without regard to whether it has
98 incurred any state tax liability. Such exempt child care
99 provider may claim a refund of the tax credit on its tax
100 return required to be filed under the provisions of chapter
101 143, exclusive of the return for the withholding of tax
102 under sections 143.191 to 143.265. If such exempt child
103 care provider is not required to file a tax return under the
104 provisions of chapter 143, the exempt child care provider
105 may claim a refund of the tax credit on a refund claim form
106 prescribed by the department of revenue. The department of
107 revenue shall prescribe such forms, instructions, and rules
108 as it deems appropriate to carry out the provisions of this
109 subsection.

110 7. (1) The cumulative amount of tax credits
111 authorized pursuant to this section shall not exceed twenty
112 million dollars for each calendar year. The department shall
113 approve tax credit applications on a first-come, first-
114 served basis until the cumulative tax credit authorization
115 limit is reached for the calendar year.

116 (2) If the maximum amount of tax credits allowed in
117 any calendar year as provided pursuant to subdivision (1) of
118 this subsection is authorized, the maximum amount of tax
119 credits allowed pursuant to subdivision (1) of this
120 subsection shall be increased by fifteen percent, provided

121 that all such increases in the allowable amount of tax
122 credits shall be reserved for child care providers located
123 in a child care desert. The director of the department shall
124 publish such adjusted amount.

125 8. The tax credit authorized by this section shall be
126 considered a domestic and social tax credit under
127 subdivision (5) of subsection 2 of section 135.800.

128 9. All action and communication undertaken or required
129 with respect to this section shall be exempt from section
130 105.1500. Notwithstanding section 32.057 or any other tax
131 confidentiality law to the contrary, the department of
132 revenue may disclose tax information to the department for
133 the purpose of the verification of a child care provider's
134 eligible employer withholding tax under this section.

135 10. The department may promulgate rules and adopt
136 statements of policy, procedures, forms and guidelines to
137 implement and administer the provisions of this section.
138 Any rule or portion of a rule, as that term is defined in
139 section 536.010, that is created pursuant to the authority
140 delegated in this section shall become effective only if it
141 complies with and is subject to all of the provisions of
142 chapter 536 and, if applicable, section 536.028. This
143 section and chapter 536 are nonseverable and if any of the
144 powers vested with the general assembly pursuant to chapter
145 536 to review, to delay the effective date, or to disapprove
146 and annul a rule are subsequently held unconstitutional,
147 then the grant of rulemaking authority and any rule proposed
148 or adopted after August 28, 2023, shall be invalid and void.

149 11. Pursuant to section 23.253 of the Missouri sunset
150 act:

151 (1) The program authorized under this section shall
152 expire on December 31, 2029, unless reauthorized by the
153 general assembly; and

154 (2) The act shall terminate on September first of the
155 calendar year immediately following the calendar year in
156 which the program authorized under this section is sunset;
157 and

158 (3) If such program is reauthorized, the program
159 authorized under this section shall automatically sunset six
160 years after the effective date of the reauthorization of
161 this section; and

162 (4) The provisions of this subsection shall not be
163 construed to limit or in any way impair the department of
164 revenue's ability to redeem tax credits authorized on or
165 before the date the program authorized pursuant to this
166 section expires, or a taxpayer's ability to redeem such tax
167 credits.

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