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", a child care provider as defined in section 210.201 that is licensed pursuant to section 210.221, or that is unlicensed and that is registered with the department of elementary and secondary education;
(4) "Contribution", an eligible donation of cash, stock, bonds or other marketable securities, or real property. "Contribution" shall include the reasonable purchase price paid for an employer's purchase of child care from a child care provider for the children of the employer's employees;

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

(6) "Intermediary", a nonprofit organization that is, or agrees to become, subject to the jurisdiction of this state for the purposes of the administration and enforcement of this section, and that distributes funds for the purposes of supporting a child care provider;

(7) "Person related to the taxpayer", an individual connected with the taxpayer by blood, adoption, or marriage, or an individual, corporation, partnership, limited liability company, trust, or association controlled by, or under the control of, the taxpayer directly, or through an individual, corporation, limited liability company, partnership, trust, or association under the control of the taxpayer;

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

(9) "State tax liability", any liability incurred by a taxpayer pursuant to chapter 143 or chapter 148, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions;
(10) "Tax credit", a credit against the taxpayer's state tax liability;

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

3. For all tax years beginning on or after January 1, 2025, a taxpayer may claim the tax credit authorized in this section against the taxpayer's state tax liability for the tax year in which a verified contribution was made in an amount equal to seventy-five percent of the verified contribution to a child care provider or intermediary. The minimum amount of any tax credit issued shall not be less than one hundred dollars and shall not exceed two hundred thousand dollars per tax year.

(1) A child care provider or intermediary shall apply to the department to participate in the program established in this section, using a form prescribed by the department. The department shall determine eligibility and enter into an agreement that meets the requirements of section 620.017 with an eligible child care facility or intermediary. Only contributions to child care providers and intermediaries that have entered into an agreement with the department may receive a tax credit pursuant to this section.

(2) The child care provider or intermediary receiving a contribution shall, within sixty days of the date it received the contribution, file a contribution verification with the department and issue a copy of the contribution verification to the taxpayer. The contribution verification
shall be in the form established by the department and shall include the taxpayer's name, taxpayer's state or federal tax identification number or last four digits of the taxpayer's Social Security number, amount of tax credit sought, amount or description of contribution, legal name and address of the child care provider receiving the tax credit, the child care provider's federal employer identification number, the child care provider's department of elementary and secondary education vendor number or license number, the date the child care provider received the contribution from the taxpayer, and any other information requested by the department. The contribution verification shall include a signed attestation stating, in the case of a child care provider, that the child care provider will use the contribution solely to promote child care and, in the case of an intermediary, that the intermediary will distribute the contribution and any income thereon in full to one or more child care providers within two years of receipt.

(3) The failure of the child care provider or intermediary to timely issue the contribution verification to the taxpayer or file it with the department shall entitle the taxpayer to a refund of the contribution from the child care provider or intermediary.

4. A contribution, whether received from the taxpayer claiming the tax credit pursuant to this section or from an intermediary, is eligible when:

(1) The contribution is used directly by the child care provider to promote child care for children twelve years of age or younger, including by acquiring or improving child care facilities, equipment, or services, staff salaries, staff training, or improving the quality of child care;
(2) The contribution, if made to an intermediary, is distributed in full by the intermediary within two years of receipt to one or more child care providers for the sole purpose of promoting child care for children twelve years of age or younger;

(3) The contribution is made to a child care provider or intermediary in which the taxpayer or a person related to the taxpayer does not have a direct financial interest;

(4) The contribution made to an intermediary is not designated for a child care provider in which the taxpayer or a person related to the taxpayer has a direct financial interest; and

(5) The contribution is not made in exchange for care of a child or children, unless the contribution is made by an employer in purchasing child care for the children of the employer's employees.

5. A child care provider or intermediary that uses the contribution for an ineligible purpose shall repay to the department the value of the tax credit for the contribution amount used for such ineligible purpose. An intermediary that accepts a contribution and issues a taxpayer a contribution verification is itself permanently ineligible to claim or redeem a tax credit pursuant to this section.

6. (1) The tax credits authorized by this section shall not be refundable and shall not be transferred, sold, or otherwise conveyed. Any amount of approved tax credits that a taxpayer is prohibited by this subsection from using for the tax year in which the credit is first claimed may be carried forward to the taxpayer's subsequent tax year for up to six succeeding tax years.

(2) In the case of a taxpayer that has or elects pass-through taxation pursuant to federal income tax law, the tax
credits issued pursuant to this section shall be apportioned in proportion to the share of ownership of the taxpayer on the last day of the taxpayer's tax period for which such tax credits will be issued, to the following:

(a) The shareholders of the S corporation;
(b) The partners in a partnership; or
(c) The members of a limited liability company that has or elects pass-through taxation pursuant to federal income tax law.

(3) A taxpayer shall not claim a tax credit pursuant to this section and a tax credit pursuant to section 135.1325 for the same contribution or expenditure.

7. Notwithstanding any provision of subsection 6 of this section to the contrary, a taxpayer that is exempt, under 26 U.S.C. Section 501(c)(3), and any amendments thereto, from all or part of the federal income tax shall be eligible for a refund of its tax credit issued under this section, without regard to whether it has incurred any state tax liability. Such exempt taxpayer may claim a refund of the tax credit on its tax return required to be filed under the provisions of chapter 143, exclusive of the return for the withholding of tax under sections 143.191 to 143.265. If such exempt taxpayer is not required to file a tax return under the provisions of chapter 143, the exempt taxpayer may claim a refund of the tax credit on a refund claim form prescribed by the department of revenue. The department of revenue shall prescribe such forms, instructions, and rules as it deems appropriate to carry out the provisions of this subsection.

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

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

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

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

11. The department may promulgate rules to implement and administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review,
to delay the effective date, or to disapprove and annul a
rule are subsequently held unconstitutional, then the grant
of rulemaking authority and any rule proposed or adopted
after August 28, 2024, shall be invalid and void.

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

(1) The program authorized under this section shall
expire on December 31, 2030, unless reauthorized by the
general assembly;

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

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

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

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

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

(1) "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;

(2) "Child care facility", a child care facility as defined in section 210.201 that is licensed pursuant to section 210.221, or that is unlicensed and that is registered with the department of elementary and secondary education;

(3) "Child care provider", a child care provider as defined in section 210.201 that is licensed pursuant to section 210.221, or that is unlicensed and that is registered with the department of elementary and secondary education;

(4) "Department", the Missouri department of economic development;

(5) "Employer matching contribution", a contribution made by the taxpayer to a cafeteria plan, as that term is used in 26 U.S.C. Section 125, of an employee of the taxpayer, which matches a dollar amount or percentage of the employee's contribution to the cafeteria plan. "Employer matching contribution" shall not include the amount of any salary reduction or other compensation foregone by the employee in connection with the cafeteria plan;

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

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

(b) For the operating costs of a child care facility of the taxpayer, including costs relating to the training of
child care employees, scholarship programs, and for compensation to child care employees;
(c) Under a contract with a child care facility to provide child care services to employees of the taxpayer; or
(d) As an employer matching contribution, but only to the extent such employer matching contribution is restricted by the taxpayer solely for the taxpayer's employee to obtain child care services at a child care facility and is used for that purpose during the tax year;
(7) "Rural area", a town or community within the state that is not within a metropolitan statistical area and has a population of six thousand or fewer inhabitants as determined by the last preceding federal decennial census or any unincorporated area not within a metropolitan statistical area;
(8) "State tax liability", any liability incurred by the taxpayer pursuant to the provisions of chapter 143 or chapter 148, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions;
(9) "Tax credit", a credit against the taxpayer's state tax liability;
(10) "Taxpayer", a corporation as defined in section 143.441 or 143.471, any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, or individuals or partnerships subject to the state income tax imposed by the provisions of chapter 143.
3. For all tax years beginning on or after January 1, 2025, a taxpayer with two or more employees may claim a tax credit authorized in this section in an amount equal to
thirty percent of the qualified child care expenditures paid
or incurred with respect to a child care facility in order
to provide child care to the taxpayer's employees. The
maximum amount of any tax credit issued under this section
shall not exceed two hundred thousand dollars per taxpayer
per tax year.

4. A facility shall not be treated as a child care
facility with respect to a taxpayer unless enrollment in the
facility is open to the dependents of employees of the
taxpayer during the tax year, provided that the dependents
fall within the age range ordinarily cared for by, and only
require a level of care ordinarily provided by, such
facility.

5. (1) The tax credits authorized by this section
shall not be refundable or transferable. The tax credits
shall not be sold, assigned, or otherwise conveyed. Any
amount of approved tax credits that a taxpayer is prohibited
by this subsection from using for the tax year in which the
credit is first claimed may be carried forward to the
taxpayer's subsequent tax year for up to six succeeding tax
years.

(2) In the case of a taxpayer that has or elects pass-
through taxation pursuant to federal income tax law, the tax
credits issued pursuant to this section shall be apportioned
in proportion to the share of ownership of the taxpayer on
the last day of the taxpayer's tax period for which such tax
credits will be issued, to the following:

(a) The shareholders of the S corporation;
(b) The partners in a partnership; or
(c) The members of a limited liability company that
has or elects pass-through taxation pursuant to federal
income tax law.
(3) A taxpayer shall not claim a tax credit pursuant to this section and a tax credit pursuant to section 135.1310 or 135.1350 for the same contribution or expenditure.

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

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

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

8. A taxpayer who has been issued a tax credit under
this section shall notify the department within sixty days
of any cessation of operation, change in ownership, or
agreement to assume recapture liability as such terms are
defined by 26 U.S.C. Section 45F, in the form and manner
prescribed by department rule or instruction. If there is a
cessation of operation or change in ownership relating to a
child care facility, the department may require the taxpayer
to repay the department an amount equal to the credit issued
under this section, but this recapture amount shall be
limited to the tax credit allowed under this section. The
recapture amount shall be considered a tax liability arising
on the tax payment due date for the tax year in which the
cessation of operation, change in ownership, or agreement to
assume recapture liability occurred and shall be assessed
and collected under the same provisions that apply to a tax
liability under chapter 143 or chapter 148, provided that no
interest shall be assessed against any amounts recaptured
pursuant to this subsection.

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

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

11. The department may promulgate rules to implement
and administer the provisions of this section. Any rule or
portion of a rule, as that term is defined in section 536.010, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2024, shall be invalid and void.

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

(1) The program authorized under this act shall expire on December 31, 2030, unless reauthorized by the general assembly;

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

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

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

135.1350. 1. This section shall be known and may be cited as the "Child Care Providers Tax Credit Act".
2. For purposes of this section, the following terms shall mean:

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

(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 facility", a child care facility as defined in section 210.201 that is licensed pursuant to section 210.221, or that is unlicensed and that is registered with the department of elementary and secondary education;

(4) "Child care provider", a child care provider as defined in section 210.201 that is licensed pursuant to section 210.221, or that is unlicensed and that is registered with the department of elementary and secondary education;

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

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

(7) "Eligible employer withholding tax", the total
amount of tax that the child care provider was required,
under section 143.191, to deduct and withhold from the wages
it paid to employees during the tax year for which the child
care provider is claiming a tax credit pursuant to this
section, to the extent actually paid. "Eligible employer
withholding tax" shall not include any additional voluntary
withholding requested by an employee;

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

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

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

(11) "Taxpayer", a corporation as defined in section
143.441 or 143.471, any charitable organization that is
exempt from federal income tax and whose Missouri unrelated
business taxable income, if any, would be subject to the
state income tax imposed under chapter 143, or an individual
or partnership subject to the state income tax imposed by
the provisions of chapter 143.
3. For all tax years beginning on or after January 1, 2025, a child care provider with three or more employees may claim a tax credit authorized in this section in an amount equal to the child care provider's eligible employer withholding tax, and may also claim a tax credit in an amount up to thirty percent of the child care provider's capital expenditures. No tax credit for capital expenditures shall be allowed if the capital expenditures are less than one thousand dollars. The amount of any tax credit issued under this section shall not exceed two hundred thousand dollars per child care provider per tax year.

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

5. (1) The tax credits authorized by this section shall not be refundable and shall not be transferred, sold, assigned, or otherwise conveyed. Any amount of credit that exceeds the child care provider's state tax liability for the tax year for which the tax credit is issued may be carried forward to the child care provider's subsequent tax year for up to six succeeding tax years.
In the case of a taxpayer that has or elects pass-through taxation pursuant to federal income tax law, the tax credits issued pursuant to this section shall be apportioned in proportion to the share of ownership of the taxpayer on the last day of the taxpayer's tax period for which such tax credits will be issued, to the following:

(a) The shareholders of the S corporation;
(b) The partners in a partnership; or
(c) The members of a limited liability company that has or elects pass-through taxation pursuant to federal income tax law.

A taxpayer shall not claim a tax credit pursuant to this section and a tax credit pursuant to section 135.1325 for the same contribution or expenditure.

Notwithstanding any provision of subsection 5 of this section to the contrary, a child care provider that is exempt, under 26 U.S.C. Section 501(c)(3), and any amendments thereto, from all or part of the federal income tax shall be eligible for a refund of its tax credit issued under this section, without regard to whether it has incurred any state tax liability. Such exempt child care provider may claim a refund of the tax credit on its tax return required to be filed under the provisions of chapter 143, exclusive of the return for the withholding of tax under sections 143.191 to 143.265. If such exempt child care provider is not required to file a tax return under the provisions of chapter 143, the exempt child care provider may claim a refund of the tax credit on a refund claim form prescribed by the department of revenue. The department of revenue shall prescribe such forms, instructions, and rules as it deems appropriate to carry out the provisions of this subsection.
7. (1) The amount of tax credits authorized pursuant to this section shall not exceed twenty million dollars for each calendar year. The department shall approve tax credit applications on a first-come, first-served basis until the tax credit authorization limit is reached for the calendar year.

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

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

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

10. The department may promulgate rules and adopt statements of policy, procedures, forms and guidelines to implement and administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of
chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2024, shall be invalid and void.

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

(1) The program authorized under this section shall expire on December 31, 2030, unless reauthorized by the general assembly;

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

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

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