

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 92, Page 21, Section 135.778, Line 69, by inserting after all said section and line the
3 following:
4

5 "135.1310. 1. This section shall be known and may be cited as the "Child Care Contribution
6 Tax Credit Act".

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

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

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

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

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

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

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

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

28 (8) "State tax liability", in the case of a business taxpayer, any liability incurred by such
29 taxpayer under chapter 143 and chapter 148, exclusive of the provisions relating to the withholding

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1 of tax as provided for in sections 143.191 to 143.265 and related provisions, and in the case of an
2 individual taxpayer, any liability incurred by such taxpayer under chapter 143;

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

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

8 3. For all tax years beginning on or after January 1, 2023, a taxpayer may claim the tax
9 credit authorized in this section against the taxpayer's state tax liability for the tax year in which a
10 verified contribution was made in an amount up to seventy-five percent of the verified contribution
11 to a child care provider. Any tax credit issued shall not be less than one hundred dollars and shall
12 not exceed two hundred thousand dollars per tax year.

13 (1) The child care provider receiving a contribution shall, within sixty days of the date it
14 received the contribution, issue the taxpayer a contribution verification and file a copy of the
15 contribution verification with the department. The contribution verification shall be in the form
16 established by the department and shall include the taxpayer's name, taxpayer's state or federal tax
17 identification number or last four digits of the taxpayer's Social Security number, amount of tax
18 credit, amount of contribution, legal name and address of the child care provider receiving the tax
19 credit, the child care provider's federal employer identification number, the child care provider's
20 departmental vendor number or license number, and the date the child care provider received the
21 contribution from the taxpayer. The contribution verification shall include a signed attestation
22 stating the child care provider will use the contribution solely to promote child care.

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

26 4. A donation is eligible when:

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

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

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

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

36 6. The tax credits authorized by this section shall not be refundable and shall not be
37 transferred, sold, or otherwise conveyed. Any amount of approved tax credits that a taxpayer is
38 prohibited by this subsection from using for the tax year in which the credit is first claimed may be

1 carried back to the taxpayer's immediately prior tax year and carried forward to the taxpayer's
2 subsequent tax year for up to five succeeding tax years.

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

13 8. (1) The cumulative amount of tax credits authorized under this section shall not exceed
14 twenty million dollars for each calendar year. The department shall approve tax credit applications
15 on a first-come, first-served basis until the cumulative tax credit authorization limit is reached for
16 the calendar year. A taxpayer shall apply to the department for the child care contribution tax credit
17 by submitting a copy of the contribution verification provided by a child care provider to such
18 taxpayer. Upon receipt of the contribution verification, the department shall issue a tax credit
19 certificate to the applicant.

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

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

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

30 11. The department may promulgate rules to implement and administer the provisions of
31 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
32 under the authority delegated in this section shall become effective only if it complies with and is
33 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
34 chapter 536 are nonseverable and if any of the powers vested with the general assembly under
35 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
36 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
37 August 28, 2023, shall be invalid and void.

38 12. Under section 23.253 of the Missouri sunset act:

1 (1) The provisions of the new program authorized under this section shall automatically
2 sunset December 31, 2029, unless reauthorized by an act of the general assembly;

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

5 (3) This section shall terminate on September first of the calendar year immediately
6 following the calendar year in which the program authorized under this section is sunset; and

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

10 135.1325. 1. This section shall be known and may be cited as the "Employer Provided
11 Child Care Assistance Tax Credit Act".

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

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

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

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

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

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

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

32 (b) For the operating costs of a child care facility of the taxpayer, including costs relating to
33 the training of employees, scholarship programs, and for compensation to employees;

34 (c) Under a contract with a child care facility to provide child care services to employees of
35 the taxpayer; or

36 (d) As an employer matching contribution, but only to the extent such employer matching
37 contribution is restricted by the taxpayer solely for the taxpayer's employee to obtain child care
38 services at a child care facility and is used for that purpose during the tax year;

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

5 (7) "State tax liability", in the case of a business taxpayer, any liability incurred by such
6 taxpayer under the provisions of chapter 143 and chapter 148, exclusive of the provisions relating to
7 the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions, and in
8 the case of an individual taxpayer, any liability incurred by such taxpayer under the provisions of
9 chapter 143;

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

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

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

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

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

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

25 5. The tax credits authorized by this section shall not be refundable or transferable. The tax
26 credits shall not be sold, assigned, or otherwise conveyed. Any amount of approved tax credits that
27 a taxpayer is prohibited by this subsection from using for the tax year in which the credit is first
28 claimed may be carried back to the taxpayer's immediately prior tax year and carried forward to the
29 taxpayer's subsequent tax year for up to five succeeding tax years.

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

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

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

11 8. A taxpayer who has claimed a tax credit under this section shall notify the department
12 within sixty days of any cessation of operation, change in ownership, or agreement to assume
13 recapture liability as such terms are defined by 26 U.S.C. Section 45F, in the form and manner
14 prescribed by department rule or instruction. If there is a cessation of operation or change in
15 ownership relating to a child care facility, the taxpayer shall repay the department the applicable
16 recapture percentage of the credit allowed under this section, but this recapture amount shall be
17 limited to the tax credit allowed under this section. The recapture amount shall be considered a tax
18 liability arising on the tax payment due date for the tax year in which the cessation of operation,
19 change in ownership, or agreement to assume recapture liability occurred and shall be assessed and
20 collected under the same provisions that apply to a tax liability under chapter 143 or chapter 148.

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

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

25 11. The department may promulgate rules to implement and administer the provisions of
26 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
27 under the authority delegated in this section shall become effective only if it complies with and is
28 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
29 chapter 536 are nonseverable and if any of the powers vested with the general assembly under
30 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
31 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
32 August 28, 2023, shall be invalid and void.

33 12. Under section 23.253 of the Missouri sunset act:

34 (1) The provisions of the new program authorized under this section shall automatically
35 sunset December 31, 2029, unless reauthorized by an act of the general assembly;

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

38 (3) This section shall terminate on September first of the calendar year immediately
39 following the calendar year in which the program authorized under this section is sunset; and

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

4 135.1350. 1. This section shall be known and may be cited as the "Child Care Providers
5 Tax Credit Act".

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

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

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

16 (3) "Child care facility", a child care facility as defined in section 210.201 that is licensed
17 under section 210.221, or that is unlicensed and that is registered with the department of elementary
18 and secondary education;

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

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

23 (6) "Eligible employer withholding tax", the total amount of tax that the child care provider
24 was required, under section 143.191, to deduct and withhold from the wages it paid to employees
25 during the tax year for which the child care provider is claiming a tax credit under this section, to
26 the extent actually paid;

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

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

35 (9) "State tax liability", any liability incurred by the taxpayer under the provisions of chapter
36 143, exclusive of the provisions relating to the withholding of tax as provided for in sections
37 143.191 to 143.265 and related provisions;

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

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

5 3. For all tax years beginning on or after January 1, 2024, a child care provider with three or
6 more employees may claim a tax credit authorized in this section in an amount equal to the child
7 care provider's eligible employer withholding tax, and may also claim a tax credit in an amount up
8 to thirty percent of the child care provider's capital expenditures. No tax credit for capital
9 expenditures shall be allowed if the capital expenditures are less than one thousand dollars. The
10 amount of any tax credit issued under this section shall not exceed two hundred thousand dollars per
11 child care provider per tax year.

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

19 5. The tax credits authorized by this section shall not be refundable and shall not be
20 transferred, sold, assigned, or otherwise conveyed. Any amount of credit that exceeds the child care
21 provider's state tax liability for the tax year for which the tax credit is issued may be carried back to
22 the child care provider's immediately prior tax year or carried forward to the child care provider's
23 subsequent tax year for up to five succeeding tax years.

24 6. Notwithstanding any provision of subsection 5 of this section to the contrary, a child care
25 provider that is exempt, under 26 U.S.C. Section 501(c)(3), and any amendments thereto, from all or
26 part of the federal income tax shall be eligible for a refund of its tax credit issued under this section,
27 without regard to whether it has incurred any state tax liability. Such exempt child care provider
28 may claim a refund of the tax credit on its tax return required to be filed under the provisions of
29 chapter 143, exclusive of the return for the withholding of tax under sections 143.191 to 143.265. If
30 such exempt child care provider is not required to file a tax return under the provisions of chapter
31 143, the exempt child care provider may claim a refund of the tax credit on a refund claim form
32 prescribed by the department of revenue. The department of revenue shall prescribe such forms,
33 instructions, and rules as it deems appropriate to carry out the provisions of this subsection.

34 7. (1) The cumulative amount of tax credits authorized under this section shall not exceed
35 twenty million dollars for each calendar year. The department shall approve tax credit applications
36 on a first-come, first-served basis until the cumulative tax credit authorization limit is reached for
37 the calendar year.

38 (2) If the maximum amount of tax credits allowed in any calendar year as provided under
39 subdivision (1) of this subsection is authorized, the maximum amount of tax credits allowed under

1 subdivision (1) of this subsection shall be increased by fifteen percent, provided that all such
2 increases in the allowable amount of tax credits shall be reserved for child care providers located in
3 a child care desert. The director of the department shall publish such adjusted amount.

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

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

11 10. The department may promulgate rules and adopt statements of policy, procedures,
12 forms, and guidelines to implement and administer the provisions of this section. Any rule or
13 portion of a rule, as that term is defined in section 536.010, that is created under the authority
14 delegated in this section shall become effective only if it complies with and is subject to all of the
15 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
16 nonseverable and if any of the powers vested with the general assembly under chapter 536 to
17 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
18 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
19 August 28, 2023, shall be invalid and void.

20 11. Under section 23.253 of the Missouri sunset act:

21 (1) The provisions of the new program authorized under this section shall automatically
22 sunset December 31, 2029, unless reauthorized by an act of the general assembly;

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

25 (3) This section shall terminate on September first of the calendar year immediately
26 following the calendar year in which the program authorized under this section is sunset; and

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

30
31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.