
STATE OF MISSOURI



OFFICE OF THE GOVERNOR
MICHAEL L. PARSON

TO: G57

FROM: JAMIE BIRCH, DEPUTY POLICY DIRECTOR

SUBJECT: LEGISLATIVE PROPOSAL – CHILD CARE TAX CREDIT PACKAGE

DATE: JANUARY 18, 2023

Summary

This legislative proposal creates child care tax credit programs, including:

- A Child Care Contribution Tax Credit Program;
- An Employer-Provided Child Care Assistance Tax Credit Program; and
- A Child Care Providers Tax Credit Program.

Overview

Child care is a critical component of a family's ability to participate in the workforce, pursue educational attainment, and ensure the safety and care of their children. Further, child care has become increasingly important as workforce participation has declined since the COVID-19 pandemic. While retirements have fueled recent labor shortages, many report a lack of access to affordable, high-quality child care as a reason for leaving the workforce. A 2021 study found that pre-pandemic working parents in the United States lost roughly \$37 billion in annual income each year, and employers lost \$13 billion in productivity, as a result of lack of access to child care.¹ Those numbers jumped to an estimated \$700 billion in lost revenues and productivity at the start of the pandemic.

In a recent survey of Missouri businesses, a majority of respondents indicated child care is a barrier to recruiting and retaining employees. Prior to the pandemic, more than half of all Missouri residents lived in a child care desert (defined as an area with three times as many children as there are licensed child care slots). Compounding the issue, approximately 30% of all child care providers in Missouri went out of business as a result of the pandemic.

¹ Alicia Sasser Modestino, Jamie J. Ladge, Addie Swartz, and Alisa Lincoln (2021). Childcare is a business issue. Harvard Business Review. hbr.org/2021/04/childcare-is-a-business-issue

Affordability and access are also an issue affecting many families. As of 2019, infant care in Missouri averaged \$9,880 per year – more than public college tuition (\$8,670).² While many employers report wanting to help their staff access child care, many are hesitant to get into the child care business themselves or face barriers related to cost or in meeting the physical requirements associated with offering on-site child care.

From the perspective of child care providers, payroll costs constitute a significant portion of their overhead and drive costs which are ultimately borne by families in child care rates. This reality often restricts many providers from being able to hire more staff or offer higher wages in order to retain staff, ultimately restricting child care providers' ability to keep their doors open, serve more children, and provide greater stability in their hours of service and other offerings.

In order to incentivize cost share participation or financial support from employers and mitigate ongoing costs for child care providers, three new state tax credit programs are being proposed:

1. Child Care Contribution Tax Credit

- A tax credit of up to 75% of a verified contribution to a licensed child care facility not to exceed \$200,000 per taxpayer. Minimum contribution is \$100.
- The contribution must be made directly to a child care provider to promote child care, including for the acquisition or improvement of facilities, equipment, or services, including the improvement of staff salaries, training, or the quality of child care.
- The program is capped at \$20 million per calendar year and includes a six-year sunset.
- If the maximum amount of tax credits allowed in any calendar year is authorized, the maximum amount of tax credits allowed for the \$20 million program shall be increased by 15%, 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 credit is non-refundable, unless an entity is a non-profit organization and does not have state tax liability. Such non-profit organizations may claim a refund of the tax credit on its tax return, exclusive of the return of the tax withholdings.
- The tax credit can be carried back one year and carried forward for five years.
- This program is similar to existing Missouri tax credit programs, including the following programs: Agricultural Product Utilization Contributor Credit, Champion for Children Tax Credit, Developmental Disability Care Provider Tax Credit, Diaper Bank Tax Credit, Domestic Violence Shelter or Rape Crisis Center Tax Credit, Food Pantry Tax Credit, and Pregnancy Resource Center Tax Credit.
- There are four known states that either have previously offered or are currently offering similar tax credit programs.³

2. Employer-Provided Child Care Assistance Tax Credit

- A tax credit for employers' eligible child care assistance expenditures. The tax credit is for up to 30% of child care expenditures, with a total taxable year limit of \$200,000 per taxing entity.
- The program is capped at \$20 million per calendar year and includes a six-year sunset.
- The credit is non-refundable, unless an entity is a non-profit organization and does not have state tax liability. Such non-profit organizations may claim a refund of the tax credit on its tax return, exclusive of the return of the tax withholdings.

² Council for a Strong America (2021). Child Care Challenges Undermine Missouri's Strength. <https://www.strongnation.org/articles/1697-child-care-challenges-undermine-missouri-s-strength>.

³ CO, CT, MS, OR

- If the maximum amount of tax credits allowed in any calendar year is authorized, the maximum amount of tax credits allowed for the \$20 million program shall be increased by 15%, 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 tax credit can be carried back one year and carried forward for five years.
 - There are 16 known states that either have previously offered or are currently offering similar tax credit programs.⁴
 - This proposal is modeled after the federal Employer-Provided Child Care Tax Credit. The federal program was created in 2001 and provides a federal income tax credit in an amount equal to the sum of (a) 25% of qualified child care expenditures; and (b) 10% of qualified child care resource and referral expenditures, up to \$150,000 in any taxable year. While this program has offered many businesses with a federal incentive to provide child care assistance to their employees, a recent GAO study found that use of the credit may be limited because of a variety of reasons, including concerns that the current size of the credit is too small to incentivize a business to offer child care, while others reported not having sufficient federal tax liability to use the credit. The proposed state tax credit is designed to complement the federal tax credit – providing state-level tax relief for employer-provided child care assistance.
- **Child Care Providers Tax Credit**
 - A tax credit for child care providers for:
 - Eligible payroll tax withholdings for employees that work at least 10 hours a week for at least a 3 month period (provider must have a minimum of three employees); and
 - Up to 30% of eligible capital improvements to their child care facility.
 - The tax credit is capped at \$200,000 per taxpayer, and the program is capped at \$20 million per calendar year and includes a six-year sunset.
 - If the maximum amount of tax credits allowed in any calendar year is authorized, the maximum amount of tax credits allowed for the \$20 million program shall be increased by 15%, 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 credit is non-refundable, unless the child care provider is non-profit organization and does not have state tax liability. Such exempt child care provider may claim a refund of the tax credit on its tax return, exclusive of the return of the tax withholdings.
 - The tax credit can be carried back one year and carried forward for five years.
 - We are not aware of any similarly structured tax credits in other states at this time. However, there are existing programs in Missouri designed to incentivize new or expanded business through payroll tax incentives (e.g., Missouri Works).

Proposal

Relating to tax credit programs for child care, with a delayed effective date.

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:

⁴ AR, CO, CT, GA, IL, KS, MD, MS, MT, NM, NY, OR, RI, SC, VI, WV

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;
- (5) "Department", the Missouri department of economic development;
- (6) "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;
- (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", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to chapter 143 and 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, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to chapter 143;
- (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, 2023, 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 up to seventy-five percent of the verified contribution to a child care provider. 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) The child care provider receiving a contribution shall, within sixty days of the date it received the contribution, issue the taxpayer a contribution verification and file a copy of the contribution verification with the department. 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, amount 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 departmental vendor number or license number, and the date the child care provider received the

contribution from the taxpayer. The contribution verification shall include a signed attestation stating the child care provider will use the contribution solely to promote child care.

(2) The failure of the child care provider 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.

4. A donation is eligible when:

(1) The donation is used directly by a 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, or improving staff salaries, staff training, or the quality of child care;

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

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

5. A child care provider 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 an ineligible purpose.

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

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 cumulative 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 cumulative 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 to such taxpayer. Upon receipt of the contribution verification, the department shall issue a tax credit certificate to the applicant.

(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, 2023, 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, 2029, unless reauthorized by the general assembly; and

(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; and

(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", the same as defined in section 210.201;

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

(4) "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 employees, scholarship programs, and for compensation to employees; or

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

(5) "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;

(6) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143 and 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, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143;

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

(8) "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, 2023, a taxpayer 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. The 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 the following conditions have been met:

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

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

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

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 cumulative 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 cumulative 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 claimed 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 taxpayer shall repay the department the applicable recapture percentage of the credit allowed 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.

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, 2023, 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, 2029, unless reauthorized by the general assembly; and

(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; and

(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", the same as defined in section 210.201;

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

(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;

(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, 2024, 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 credits 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. 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

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

6. 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 cumulative 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 cumulative 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, 2023, 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, 2029, unless reauthorized by the general assembly; and

(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; and

(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.