

Regular Session, 2005

SENATE BILL NO. 17

BY SENATOR FIELDS

TAX/INCOME/PERSONAL. Merges, expands and makes refundable the state income tax credits for child care and dependent care expenses. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:297.4 and to repeal R.S. 47:297.2, relative to individual  
3 income tax; to provide for a child and dependent care expense credit; to make  
4 changes to the child care and dependent care tax credits; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:297.4 is hereby amended and reenacted to read as follows:

8 §297.4. Reduction to tax due; certain child care expenses

9 A. There shall be a credit from the tax imposed by this Part for child **and**  
10 **dependent** care expenses ~~for which a resident individual claims a child care tax~~  
11 ~~credit on his federal tax return~~ **allowed against federal taxes for the same tax year**  
12 **pursuant to Section 21 of the Internal Revenue Code.** The credit shall be  
13 calculated using the following percentages of the **qualifying** credit for child **and**  
14 **dependent** care expenses ~~claimed on the resident individual's federal tax return~~  
15 **without regard as to whether the taxpayer claimed the federal credit:**

16 (1) If the resident individual's federal adjusted gross income is equal to or less  
17 than twenty-five thousand dollars, the credit shall be equal to ~~fifty percent~~ **one**

1           **hundred percent** of the federal credit.

2                   (2) If the resident individual's federal adjusted gross income is greater than  
3           twenty-five thousand dollars and less than or equal to thirty-five thousand dollars,  
4           the credit shall be equal to ~~thirty percent~~ **eighty percent** of the federal credit.

5                   (3) If the resident individual's federal adjusted gross income is greater than  
6           thirty-five thousand and less than or equal to ~~sixty thousand dollars~~ **forty-five**  
7           **thousand dollars**, the credit shall be equal to ~~ten percent~~ **sixty percent** of the federal  
8           credit.

9                   (4) If the resident individual's federal adjusted gross income is greater than  
10           ~~sixty thousand dollars~~ **forty-five thousand dollars and less than or equal to fifty-**  
11           **five thousand dollars**, the credit shall be equal to ~~the lesser of twenty-five dollars~~  
12           ~~or ten percent of the federal credit~~ **forty percent of the federal credit**.

13                   **(5) If the resident individual's federal adjusted gross income is greater**  
14           **than fifty-five thousand but less than sixty-five thousand dollars, the credit shall**  
15           **be equal to twenty percent of the federal credit.**

16                   B.(1) **The credit provided for in this Section shall be reduced by all other**  
17           **credits against the individual's income tax as provided by this Chapter.** If the  
18           credit for resident individuals whose federal adjusted gross income is equal to or less  
19           ~~than twenty-five thousand dollars~~ exceeds the amount of such individual's tax  
20           liability for the taxable year, then such excess tax credit shall constitute an  
21           overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund  
22           of such overpayment from the current collections of the taxes imposed under this  
23           Part **without interest**. The right to a refund of any such overpayment shall not be  
24           subject to the requirements of R.S. 47:1621(B).

25                   ~~(2) If the credit for resident individuals whose federal adjusted gross income~~  
26           ~~is greater than twenty-five thousand dollars exceeds the amount of such individual's~~  
27           ~~tax liability for the taxable period, then such excess tax credit may be carried forward~~  
28           ~~as a credit against any subsequent tax liability of such individual imposed by this~~  
29           ~~Part for a period not exceeding five years.~~

1 Section 2. R.S. 47:297.2 is hereby repealed.

2 Section 3. The provisions of this Act shall apply to tax years beginning on and after  
3 that January 1, 2005 date.

4 Section 4. This Act shall become effective upon signature by the governor or, if not  
5 signed by the governor, upon expiration of the time for bills to become law without signature  
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
8 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Riley Boudreaux.

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#### DIGEST

Present law provides a state income tax credit based on the following federal income tax credits:

1. The federal credit for child care expenses, calculated using various percentages of the federal credit [higher if the Louisiana taxpayer's adjusted gross income is lower] "claimed" on the resident individual's federal tax return. The federal credit is higher for low income federal taxpayers.

The Louisiana credit is 50% of the federal credit "claimed" if the taxpayer's federal adjusted gross income [AGI] is equal to or less than \$25,000; 30% if the taxpayer's AGI is greater than \$25,000 and less than or equal to \$35,000; 10% if the taxpayer's AGI is greater than \$35,000 and less than or equal to \$60,000; the lesser of 25 or 10% if AGI is greater than \$60,000.

The credit is refundable for taxpayers with AGI's equal to or less than \$25,000; for other taxpayers there is a 5-year carryforward.

2. The federal credit for dependent care expenses for a person who maintains a household which includes one or more dependents who are physically or mentally incapable of caring for themselves. The credit is equal to the "full amount of a tax credit equal to the applicable percentage of employment-related expenses allowable pursuant to Section 21 of the Internal Revenue Code." The credit is not refundable but may be carried forward for 5 years.

Proposed law merges the two state credits care credit and authorizes an individual to claim the combined state credit "without regard to whether he has claimed the federal credit" and further requires it to be reduced by all other credits against the individual's tax.

The credit is made refundable for all individuals notwithstanding their AGI, but specifies that the refund is made without interest.

The percentage of credit allowable for the new merged credit is increased from that now allowed for child care expenses as follows:

	<u>Present law</u>	<u>Proposed law</u>
If AGI = or less than \$25,000	50%	100%
If AGI is greater than \$25,000, but less than or = \$35,000	30%	80%
If AGI is greater than \$35,000, but less than or = \$45,000	10%	60%
If AGI is greater than \$45,000, but less than or = \$55,000	10%	40%
If AGI is greater than \$55,000, but less than or = \$60,000	10%	20%
If AGI is greater than \$60,000, but less than \$65,000	the lesser of \$25 or 10%	20%
If AGI is = or greater than \$65,000	the lesser of \$25 or 10%	0%

Effective upon signature of the governor or lapse of time for gubernatorial action and applicable to all tax years beginning on or after January 1, 2005.

(Amends R.S. 47:297.4; repeals R.S. 47:297.2)