

Regular Session, 2013

HOUSE BILL NO. 698

BY REPRESENTATIVE THOMPSON

TAX CREDITS: Provides relative to the School Readiness Tax Credits

1 AN ACT

2 To amend and reenact R.S. 47:6102, 6103(A)(1) and (2), and 6109(A), to enact R.S.  
3 47:6110, and to repeal R.S. 47:6104 through 6109, relative to income tax credits; to  
4 provide relative to school readiness tax credits; to provide for certain definitions; to  
5 provide for the administration of such credits; to provide for School Readiness  
6 Expense Tax Credits; to provide for the eligibility of applicants and qualifications  
7 for such credits; to provide for certain notifications; to authorize the promulgation  
8 of rules and regulations; to provide for penalties for certain violations; to provide for  
9 the recovery of such credits under certain circumstances; to provide for  
10 effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:6102, 6103(A)(1) and (2), and 6109(A) are hereby amended and  
13 reenacted to read as follows:

14 §6102. Definitions

15 For purposes of this Chapter, the following terms shall have the following  
16 definitions:

- 17 (1) "Child" or "children" means people who are five years of age or less.
- 18 (2) "Child care facility" means any entity which the ~~Department of Children~~  
19 ~~and Family Services~~ state administrator of the Child Care Development Fund  
20 determines is eligible to participate in the quality rating system according to criteria

1 set forth by rule adopted in the manner provided for in R.S. 47:6103, has applied to  
2 the Department of Children and Family Services for evaluation under such system,  
3 and is participating in the system.

4 (3) "Child care provider" means a taxpayer who owns an eligible child care  
5 facility or facilities.

6 (4) "Child care resource and referral agencies" means those agencies with  
7 whom the ~~Department of Children and Family Services~~ department has contracted  
8 to provide child care resource and referral.

9 (5) "Department" shall mean the state agency designated as the state  
10 administrator of the Child Care Development Fund and responsible for distributing  
11 and managing tax credits associated with the fund.

12 (6) "Eligible business child care expenses" means the total of the following  
13 expenses of a business that supports quality child care as provided for in R.S.  
14 47:6107:

15 (a) For the construction, renovation, expansion, or major repair of an eligible  
16 child care facility, or for the purchase of equipment for such facility, or for the  
17 maintenance and operation thereof, not to exceed fifty thousand dollars in expenses  
18 per tax year.

19 (b) For payments made to an eligible child care facility for child care  
20 services to support employees not to exceed five thousand dollars per child per tax  
21 year.

22 (c) For the purchase of child care slots at eligible child care facilities actually  
23 provided or reserved for children of employees not to exceed fifty thousand dollars  
24 per tax year.

25 ~~(6)~~ (7) "Eligible child care director" means an individual as defined in Title  
26 48 of the Louisiana Administrative Code, as amended, enrolled in the state  
27 practitioner registry developed and maintained by the ~~Department of Children and~~  
28 ~~Family Services~~ department, and who is employed in an eligible child care facility  
29 which participates in the quality rating system.

1           ~~(7)~~ (8) "Eligible child care facility" means a child care facility which has  
2 applied to the ~~Department of Children and Family Services~~ department for an  
3 evaluation under its quality rating system and is participating in the quality rating  
4 system.

5           ~~(8)~~ (9) "Eligible child care staff" means an individual enrolled in the state  
6 practitioner registry developed and maintained by the ~~Department of Children and~~  
7 ~~Family Services~~ department and who is employed in an eligible child care facility  
8 which participates in the quality rating system and who otherwise meets the  
9 qualifications provided for in Title 48 of the Louisiana Administrative Code, Chapter  
10 53, as amended.

11           ~~(9)(a)~~ (10)(a) "Quality rating" means the number of "stars" awarded to an  
12 eligible child care facility by the quality rating system.

13           (b) The quality rating of the facility shall be based on the initial rating of the  
14 facility if it is the facility's first year participating in the quality rating system.  
15 Thereafter, the quality rating shall be the rating of the facility as of July first of each  
16 year.

17           ~~(10)~~ (11) "Quality rating system" means a rule promulgated by the  
18 ~~Department of Children and Family Services~~ department implementing the Louisiana  
19 Quality Rating System which establishes criteria for evaluating and rating the quality  
20 of an eligible child care facility in terms of the award of "stars", with five "stars"  
21 being the highest quality child care facility.

22 §6103. Implementation

23           A.(1) The ~~Department of Children and Family Services~~ department shall  
24 promulgate rules and regulations for the purpose of developing and implementing  
25 the provisions of this Chapter in accordance with the provisions of the  
26 Administrative Procedure Act.

27           (2) The ~~Department of Children and Family Services~~ department is  
28 authorized to use the emergency rulemaking process for the first set of rules  
29 developing and implementing this Chapter. Prior to adoption of the emergency rule,

1 the department shall provide written notification that it intends to publish such rule  
2 in the State Register and the rule shall be subject to approval by the Senate  
3 Committee on Revenue and Fiscal Affairs and the House Committee on Ways and  
4 Means. However, if such committees do not take action on the rule within sixty days  
5 of publication in the State Register, the rule shall become effective.

6 \* \* \*

7 §6109. Recapture of credits

8 A. If the ~~Department of Children and Family Services or the Department of~~  
9 ~~Revenue find~~ department finds that a child care facility, a business, or an individual  
10 has obtained a tax credit in violation of the provisions of this Chapter, including but  
11 not limited to fraud or misrepresentation, then the taxpayer's state income tax for  
12 such taxable period shall be increased by such amount necessary for the recapture  
13 of the tax credit provided for in this Chapter.

14 \* \* \*

15 Section 2. R.S. 47:6110 is hereby enacted to read as follows:

16 §6110. School Readiness Expense Tax Credits

17 A. Beginning July 1, 2015, there shall be allowed an income tax credit for  
18 eligible school readiness expenses incurred by qualified persons and entities. The  
19 eligibility of an applicant for such credit shall be determined pursuant to the  
20 applicant's performance achievements pursuant to the uniform accountability system  
21 established by the State Board of Elementary and Secondary Education, hereinafter  
22 referred to as "board". The department shall notify persons and entities of their  
23 eligibility for such credits on forms to be furnished by the department. The  
24 department and the board shall notify applicants of their qualification for receipt of  
25 a tax credit as a result of the applicant's performance on the uniform accountability  
26 system established by the board.

27 B. The board shall promulgate rules and regulations in accordance with the  
28 Administrative Procedure Act to establish guidelines regarding qualifications for the  
29 tax credits, notification of eligible applicants, the amount of such tax credits, and the

1 distribution and administration of such tax credits. All rules and regulations  
 2 promulgated pursuant to the provisions of this Section shall be subject to oversight  
 3 by the House Committee on Ways and Means and Senate Committee on Revenue  
 4 and Fiscal Affairs.

5 C. The department shall strive to ensure that the eligibility of applicants and  
 6 the amount of school readiness expense tax credits granted pursuant to the provisions  
 7 of this Section shall be equitable in comparison to the eligibility of applicants and  
 8 the amount of school readiness tax credits granted prior to July 1, 2015, provided that  
 9 the applicant maintains their eligibility.

10 D.(1) If the department or the Department of Revenue finds that an applicant  
 11 granted a tax credit pursuant to the provisions of this Section obtained the credit in  
 12 violation of any provision of this Chapter or rule promulgated by the board,  
 13 including but not limited to fraud or misrepresentation, the applicant granted the  
 14 credit shall be subject to all applicable civil and criminal penalties.

15 (2) The secretary of the Department of Revenue may recover any credits  
 16 granted and subsequently disallowed as authorized pursuant to the provisions of R.S.  
 17 47:1561.2. Persons or entities shall have the right to appeal decisions of the  
 18 secretary as permitted in accordance with the provisions of R.S. 47:1565.

19 Section 3. R.S. 47:6104 through 6109 are hereby repealed in their entirety.

20 Section 4. Sections 1 and 4 of this Act shall become effective July 1, 2013, and  
 21 Sections 2 and 3 of this Act shall become effective on July 1, 2015.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Thompson

HB No. 698

**Abstract:** Repeals, beginning July 1, 2015, the school readiness tax credits and establishes, beginning July 1, 2015, the school readiness expense tax credit.

Present law establishes school readiness tax credits in order to promote quality child care for children five years of age or less. Present law requires the Dept. of Children and Family Services (DCFS) to determine the eligibility of child care facilities, child care providers, child care directors, and staff for receipt of tax credits.

Proposed law retains present law but deletes references to DCFS and adds a definition for "department" which shall mean the state agency designated as the state administrator of the Child Care Development Fund. Further provides that the department shall be responsible for distributing and managing tax credits associated with the fund.

Present law provides for an individual income tax credit for child care expenses based on the quality rating of the child care facility which the child attends. The amount of the credit varies depending on the quality rating of the child care facility.

Present law provides for a refundable income or corporation franchise tax credit for child care providers. The amount of the credit shall be equal to an amount based upon the average monthly number of children who either participate in the Child Care Assistance Program or who are foster children in the custody of DCFS, and who are attending a child care facility or facilities operated by the child care provider, multiplied by an amount which shall be based upon the quality rating of each child care facility operated by the child care provider.

Present law provides for a refundable individual income tax credit for eligible child care directors and eligible child care staff. The amount of the credit varies based upon the qualifications of the provider.

Present law provides for a refundable income tax or corporation franchise tax credit for eligible business child care expenses supported by a business. The amount of the credit shall be based on a percentage of eligible business child care expenses depending upon the quality rating of the child care facility to which the expenses are related or the quality rating of the child care facility the child attends. Present law provides for an additional refundable income or corporation franchise tax for the payment by a business of fees and grants to child care resource and referral agencies not to exceed \$5,000 per tax year.

Proposed law repeals, beginning on July 1, 2015, the school readiness tax credits established pursuant to present law in favor of establishing a school readiness expense tax credit.

Proposed law provides beginning July 1, 2015, there shall be allowed an income tax credit for eligible school readiness expenses incurred by qualified persons and entities. The eligibility of a tax credit applicant shall be determined according to the applicant's performance achievements under the uniform accountability system established by the State Board of Elementary and Secondary Education, hereinafter the "board".

Proposed law requires the department to notify persons and entities of their eligibility for such credits on forms furnished by the department.

Proposed law requires the board to promulgate rules and regulations in accordance with the Administrative Procedure Act to establish guidelines regarding qualifications for the tax credits, notification of eligible applicants, the amount of such tax credits, and the distribution and administration of such tax credits. Further requires all rules and regulations to be subject to oversight by the House ways and means and Senate revenue and fiscal affairs committees.

Proposed law requires the department to strive to ensure that the eligibility of applicants and the amount of school readiness expense tax credits granted pursuant to proposed law is equitable in comparison to the eligibility of applicants and the amount of school readiness tax credits granted prior to July 1, 2015, provided the applicant maintains their eligibility.

Proposed law provides that if the applicant obtained a credit in violation of the law or any rule of the board, the applicant shall be subject to all applicable civil and criminal penalties. Additionally provides for the recovery of disallowed credits and the right of an applicant to appeal decisions of the secretary as permitted in accordance with present law.

Provisions of the present law and proposed law relative to the school readiness tax credit shall be effective July 1, 2013.

Provisions of proposed law establishing the school readiness expense tax credit shall be effective July 1, 2015.

(Amends R.S. 47:6102, 6103(A)(1) and (2), and 6109(A); Adds R.S. 47:6110; Repeals R.S. 47:6104-6109)