

2023 Regular Session

HOUSE BILL NO. 386

BY REPRESENTATIVE BEAULLIEU

TAX CREDITS: Establishes a tax credit for infant adoptions and the Strong Louisiana Families Tax Credit for donations to certain social service organizations

1 AN ACT

2 To amend and reenact R.S. 47:297.21(A) and (C), to enact R.S. 47:297.21(D) and Chapter

3 3-A of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, to be

4 comprised of R.S. 47:6311 through 6318, and to repeal R.S. 47:293(9)(a)(xxiv),

5 relative to income tax credits; to authorize an income tax credit for certain infant

6 adoptions; to repeal an income tax deduction for those adoptions; to provide for the

7 amount of the infant adoption credit; to provide for refundability of the infant

8 adoption credit; to authorize an income tax credit for donations to certain charitable

9 organizations that provide social services; to name the credit the Strong Louisiana

10 Families Tax Credit; to establish the tax credit as a nonrefundable credit; to provide

11 for the amount of the credit; to authorize carrying forward of the credit; to provide

12 for claiming of the credit by corporations, individuals, estates, trusts, and partners

13 and members of entities not taxed as corporations; to provide for qualifications for

14 the credit; to provide for designation by the Department of Children and Family

15 Services of charitable organizations eligible to receive contributions qualifying for

16 the credit; to establish other duties of the Department of Children and Family

17 Services with respect to the credit; to establish duties of charitable organizations

18 receiving contributions qualifying for the credit; to provide for limitations with

19 respect to eligible charitable organizations; to provide for restrictions with respect

20 to eligible contributions; to require the secretaries of the Department of Revenue and

1 the Department of Children and Family Services, respectively, to promulgate  
2 administrative rules; to provide for definitions; to provide for applicability; to  
3 provide for termination; to provide for an effective date; and to provide for related  
4 matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:297.21(A) and (C) are hereby amended and reenacted and R.S.  
7 47:297.21(D) and Chapter 3-A of Subtitle VII of Title 47 of the Louisiana Revised Statutes  
8 of 1950, comprised of R.S. 47:6311 through 6318, are hereby enacted to read as follows:

9 §297.21. Tax ~~deduction~~ credit; private adoption of certain infants

10 A.(1) There shall be allowed a ~~deduction from tax table income~~ a refundable  
11 credit against the tax imposed by this Chapter for a taxpayer who adopts an infant  
12 who is unrelated to the taxpayer and who is less than one year of age through a  
13 private agency as defined in Children's Code Article 1169 or adopts an infant who  
14 is unrelated to the taxpayer and who is less than one year of age through an attorney.  
15 For purposes of this Section, the age of the infant shall be determined at the time of  
16 the adoption placement. The amount of the ~~deduction~~ credit authorized by this  
17 Section shall be ~~equal to~~ five thousand dollars and shall ~~be applicable~~ apply in the  
18 year the adoption becomes final. The amount of the ~~deduction~~ credit authorized by  
19 this Section shall not exceed the total taxable income of the taxpayer.

20 (2) The ~~deduction~~ credit authorized pursuant to the provisions of credit authorized  
21 by this Section shall be in lieu of the dependency deduction authorized in R.S.  
22 47:294.

23 \* \* \*

24 C. If the amount of the credit authorized pursuant to the provisions of this  
25 Section exceeds the amount of the taxpayer's tax liability for the taxable year, the  
26 excess tax credit amount shall constitute an overpayment as defined in R.S.  
27 47:1621(A), and the secretary of the Department of Revenue shall make a refund of  
28 the overpayment from the current collections of the taxes imposed pursuant to this  
29 Chapter. The right to a refund shall not be subject to the requirements of R.S.  
30 47:1621(B).



1        amount of eligible contributions to the eligible charitable organization or fifty  
2        thousand dollars, whichever is less.

3                B.(1) The total amount of credits granted by the Department of Revenue  
4        pursuant to the provisions of this Chapter shall not exceed ten million dollars per  
5        calendar year.

6                (2) The granting of tax credits authorized by this Section shall be on a  
7        first-come, first-served basis. If the total amount of credits claimed in a particular  
8        calendar year exceeds the amount of tax credits authorized for that year, the  
9        Department of Revenue shall treat the excess as having been applied for on the first  
10       day of the subsequent year. The department shall treat all requests received on the  
11       same business day as received at the same time. If the aggregate amount of the  
12       requests received on a single business day exceeds the total amount of available tax  
13       credits, the department shall approve tax credits on a pro rata basis.

14               C. The tax credit authorized by this Section may be used in addition to any  
15       federal tax credit or deduction earned for the same donation. However, a taxpayer  
16       shall not receive any other state tax credit, exemption, exclusion, deduction, rebate,  
17       or other state tax benefit for a donation for which the taxpayer has received a tax  
18       credit pursuant to this Chapter.

19               D. If the tax credit amount earned in accordance with this Chapter in a  
20       taxable year exceeds the total tax liability of a taxpayer in that year, the amount of  
21       the credit not used as an offset against the taxpayer's tax liability in the taxable year  
22       may be carried forward as a credit against subsequent income tax liabilities for a  
23       period not to exceed five taxable years.

24        §6313. Application and claiming of credit

25               The credit authorized in this Chapter may be claimed by corporations,  
26       individuals, and other entities in accordance with the following provisions:

27               (1) Individuals, estates, and trusts shall claim their share of any credit on  
28       their income tax return.

1           (2) Entities not taxed as corporations shall claim their share of any credit on  
2           the returns of the partners or members.

3           (3) Corporate partners or members shall claim their share of any credit on  
4           their corporation income tax returns.

5           (4) Individual partners or members shall claim their share of any credit on  
6           their individual income tax returns.

7           (5) Partners or members that are estates or trusts shall claim their share of  
8           any credit on their fiduciary income tax returns.

9           §6314. Designation of eligible charitable organizations; duties of the Department  
10           of Children and Family Services

11           A. The Department of Children and Family Services, referred to hereafter  
12           in this Subsection as the "department", shall designate as an eligible charitable  
13           organization any organization that meets all of the following requirements:

14           (1) The organization is exempt from federal income taxation under Section  
15           501(c)(3) of the Internal Revenue Code.

16           (2) The organization is domiciled in this state and incorporated as a nonprofit  
17           corporation under the provisions of R.S. 12:201 et seq.

18           (3) The organization provides any of the following services:

19           (a) Services to prevent child abuse, neglect, abandonment, or exploitation.

20           (b) Services to assist fathers in learning and improving parenting skills or to  
21           encourage greater engagement of absentee fathers in their children's lives.

22           (c) Furnishing of books to the homes of children who are eligible for a  
23           federal free or reduced-price meals program or who test below grade level in  
24           kindergarten through grade five.

25           (d) Services to assist families with children who have a chronic illness or a  
26           physical, intellectual, developmental, or emotional disability.

27           (e) Workforce development services for families of children eligible for a  
28           federal free or reduced-price meals program.

1           (4) The organization provides to the department accurate information  
2           concerning its operations. Such information shall include, at a minimum, all of the  
3           following:

4           (a) A description of any services listed in Paragraph (3) of this Subsection  
5           that the organization provides.

6           (b) The total number of individuals who received assistance from the  
7           organization through services listed in Paragraph (3) of this Subsection during the  
8           last calendar year.

9           (c) The total number of individuals who received assistance from the  
10          organization during the last calendar year as a result of eligible contributions made  
11          to the organization in accordance with this Chapter.

12          (d) Basic financial information regarding the organization including  
13          information on financing the costs of all services listed in Paragraph (3) of this  
14          Subsection that the organization provides.

15          (e) Information concerning the outcomes of any services listed in Paragraph  
16          (3) of this Subsection that the organization provides.

17          (f) Contact information for executive-level staff of the organization.

18          (5) The organization annually submits to the department a statement, signed  
19          under penalty of perjury by a current officer of the organization, affirming that the  
20          organization meets all criteria to qualify as an eligible charitable organization, has  
21          fulfilled its responsibilities as required by R.S. 47:6315 for the previous fiscal year  
22          if it received eligible contributions during that year, and intends to fulfill its  
23          responsibilities during the upcoming year.

24          (6) The organization provides all documentation requested by the department  
25          to verify its status as an eligible charitable organization or compliance with the  
26          applicable requirements of this Chapter.

27          B. The Department of Children and Family Services shall not designate as  
28          an eligible charitable organization any organization that meets either of the following  
29          criteria:

1           (1) The organization provides abortions or pays for or provides coverage for  
2           abortions.

3           (2) In the prior fiscal year, the organization received more than fifty percent  
4           of its total annual revenue from one or more governmental agencies, either directly  
5           or through one or more contractors of any governmental agency.

6           C. The Department of Children and Family Services shall do all of the  
7           following with respect to organizations that it designates as eligible charitable  
8           organizations in accordance with this Section:

9           (1) Annually redesignate eligible charitable organizations that have complied  
10          with all requirements of this Section.

11          (2)(a) Remove the designation of organizations that fail to meet all  
12          requirements of this Section.

13          (b) An organization that has had its designation removed pursuant to  
14          Subparagraph (a) of this Paragraph may reapply to the Department of Children and  
15          Family Services for designation as an eligible charitable organization. The  
16          department shall redesignate such organization if it meets the applicable  
17          requirements of this Chapter and demonstrates through its application that all factors  
18          leading to the removal of its eligible charitable organization designation have been  
19          adequately addressed.

20          (3) Publish information regarding the Strong Louisiana Families Tax Credit  
21          program and eligible charitable organizations on its website. The page of the  
22          department's website providing this information shall, at a minimum, feature all of  
23          the following:

24          (a) The requirements and process for becoming designated or redesignated  
25          as an eligible charitable organization.

26          (b) A list of all eligible charitable organizations that are currently designated  
27          by the department along with the information provided to the department in  
28          accordance with Paragraph (A)(4) of this Section for each organization, respectively.

1           D. The Department of Children and Family Services shall compel the return  
2           of monies donated to an eligible charitable organization through eligible  
3           contributions if that organization fails to comply with the requirements of this  
4           Section. Eligible charitable organizations required by the provisions of this  
5           Subsection to return donated monies shall be ineligible to receive contributions  
6           pursuant to this Chapter for a period of ten years after final action by the state to  
7           compel the return of those monies.

8           §6315. Responsibilities of eligible charitable organizations

9           An eligible charitable organization that receives an eligible contribution shall  
10          comply with all of the following requirements:

11           (1) Obtain state and national criminal history record information from the  
12          Louisiana Bureau of Criminal Identification and Information of the office of state  
13          police and the Federal Bureau of Investigation on each staff member and volunteer  
14          who works directly with children in any program funded wholly or partly with  
15          monies received through eligible contributions. Additionally, the organization shall  
16          perform a check of the Dru Sjodin National Sex Offender Public Website on each  
17          staff member and volunteer who works directly with children in any program funded  
18          wholly or partly with such monies.

19           (2) Expend the entirety of the eligible contribution on providing to Louisiana  
20          residents one or more of the types of services listed in R.S. 47:6314(A)(3).

21           (3) Annually submit all of the following to the Department of Children and  
22          Family Services:

23           (a) An audit of the eligible charitable organization conducted by an  
24          independent certified public accountant in accordance with generally accepted  
25          auditing standards. The audit report shall include a report on financial statements of  
26          the organization presented in accordance with generally accepted accounting  
27          principles. The organization shall provide the audit report to the Department of  
28          Children and Family Services within one hundred eighty days after completion of its  
29          fiscal year.

1           (b) A copy of the eligible charitable organization's most recent Return of  
2           Organization Exempt from Income Tax form (Form 990) filed with the Internal  
3           Revenue Service.

4           (4) Notify the Department of Children and Family Services within five  
5           business days after the eligible charitable organization ceases to meet any eligibility  
6           requirement provided in this Chapter or fails to fulfill its responsibilities as  
7           prescribed in this Section.

8           (5) Upon receipt of an eligible contribution, provide the taxpayer that made  
9           the contribution with a certificate of contribution. Each certificate of contribution  
10          shall include the taxpayer's name, the amount contributed, the date of the  
11          contribution, the name of the eligible charitable organization, and, if available, the  
12          taxpayer's federal employer identification number.

13          §6316. Eligible contributions; restriction

14          A taxpayer who makes an eligible contribution may not designate a specific  
15          child assisted by the eligible charitable organization as the beneficiary of the  
16          contribution.

17          §6317. Administrative rulemaking; Department of Revenue and Department of  
18          Children and Family Services

19          A. The secretary of the Department of Revenue and the secretary of the  
20          Department of Children and Family Services, respectively, shall promulgate rules  
21          in accordance with the Administrative Procedure Act as are necessary to implement  
22          the provisions of this Chapter.

23          B. The secretary of the Department of Revenue and the secretary of the  
24          Department of Children and Family Services shall collaborate in developing the rules  
25          required by this Section. Each secretary and may incorporate recommendations of  
26          the other in any final rules for implementation of the provisions of this Chapter.

27          §6318. Termination

28          The provisions of this Chapter shall terminate on December 31, 2028, and  
29          shall have no effect on and after that date.

1 Section 2. R.S. 47:293(9)(a)(xxiv) is hereby repealed in its entirety.

2 Section 3. This Act shall become effective on January 1, 2024.

### 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)]

HB 386 Original

2023 Regular Session

Beaulieu

**Abstract:** Establishes the Strong Louisiana Families Tax Credit for donations to certain charitable organizations designated by the Dept. of Children and Family Services; repeals a tax deduction for private infant adoptions and replaces it with a tax credit.

Present law establishes an income tax deduction in the amount of \$5,000 for a taxpayer who adopts an unrelated infant who is less than one year of age through either of the following:

- (1) A private agency as defined in present law (Ch.C. Art. 1169).
- (2) An attorney.

Proposed law repeals present law and establishes in lieu thereof a refundable tax credit of \$5,000 for taxpayers for such adoptions.

Proposed law authorizes a nonrefundable credit against individual or corporate income tax, to be known as the Strong Louisiana Families Tax Credit, for eligible contributions that a Louisiana taxpayer makes during a taxable year to an eligible charitable organization. Defines "eligible charitable organization" as an organization designated by the Dept. of Children and Family Services (DCFS) as eligible to receive contributions qualifying a taxpayer for the tax credit provided for in proposed law.

Proposed law provides that the amount of the credit shall be equal to the amount of eligible contributions to an eligible charitable organization or \$50,000, whichever is less. Caps the total amount of credits granted by the Dept. of Revenue pursuant to proposed law at \$10,000,000 per calendar year.

Proposed law allows the use of the credit in addition to any federal tax credit or deduction earned for the same donation. However, proposed law prohibits taxpayers from receiving any other state tax credit, exemption, exclusion, deduction, rebate, or other state tax benefit for a donation for which the taxpayer has received a tax credit pursuant to proposed law.

Proposed law provides that if the tax credit amount earned in a taxable year exceeds the total tax liability of a taxpayer in that year, the amount of the credit not used as an offset against the taxpayer's tax liability in the taxable year may be carried forward as a credit against subsequent income tax liabilities for a period not to exceed five taxable years.

Proposed law authorizes means for claiming of the credit by corporations, individuals, estates, trusts, and partners and members of entities not taxed as corporations.

Proposed law requires DCFS to designate as an eligible charitable organization any organization that meets all of the following requirements:

- (1) The organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

- (2) The organization is domiciled in this state and incorporated as a nonprofit corporation under the provisions of present law (R.S. 12:201 et seq.).
- (3) The organization provides any of the following services:
  - (a) Services to prevent child abuse, neglect, abandonment, or exploitation.
  - (b) Services to assist fathers in learning and improving parenting skills or to encourage greater engagement of absentee fathers in their children's lives.
  - (c) Furnishing of books to the homes of children who are eligible for a federal free or reduced-price meals program or who test below grade level in kindergarten through grade five.
  - (d) Services to assist families with children who have a chronic illness or a physical, intellectual, developmental, or emotional disability.
  - (e) Workforce development services for families of children eligible for a federal free or reduced-price meals program.
- (4) The organization provides to DCFS accurate information concerning its operations which information must include, at a minimum, all of the following:
  - (a) A description of any services listed in paragraph (3) above that the organization provides.
  - (b) The total number of individuals who received assistance from the organization through services listed in paragraph (3) above during the last calendar year.
  - (c) The total number of individuals who received assistance from the organization during the last calendar year as a result of eligible contributions made to the organization in accordance with proposed law.
  - (d) Basic financial information regarding the organization including information on financing the costs of all services listed in paragraph (3) above that the organization provides.
  - (e) Information concerning the outcomes of services listed in paragraph (3) above that the organization provides.
  - (f) Contact information for executive-level staff of the organization.
- (5) The organization annually submits to DCFS a statement, signed under penalty of perjury by a current officer of the organization, affirming that the organization meets all criteria to qualify as an eligible charitable organization, has fulfilled its responsibilities as required by proposed law for the previous fiscal year if it received eligible contributions during that year, and intends to fulfill its responsibilities during the upcoming year.
- (6) The organization provides all documentation requested by DCFS to verify its status as an eligible charitable organization or compliance with the applicable requirements of proposed law.

Proposed law prohibits DCFS from designating as an eligible charitable organization any organization that provides abortions, pays for or provides coverage for abortions, or, in the prior fiscal year, received more than 50% of its total annual revenue from one or more

governmental agencies, either directly or through one or more governmental agency contractors.

Proposed law requires DCFS to do all of the following with respect to organizations that it designates as eligible charitable organizations:

- (1) Annually redesignate eligible charitable organizations that have complied with all requirements of proposed law.
- (2) Remove the designation of organizations that fail to meet all requirements of proposed law and provide a process for redesignation of those organization which reapply with the department and come into compliance with requirements of proposed law.
- (3) Publish information regarding the Strong Louisiana Families Tax Credit program and a listing of eligible charitable organizations on its website.

Proposed law requires DCFS to compel the return of monies donated to an eligible charitable organization if that organization fails to comply with the requirements of proposed law. Provides that organizations required to return donated monies shall be ineligible to receive contributions pursuant to proposed law for a period of ten years.

Proposed law requires eligible charitable organizations to comply with all of the following requirements:

- (1) Obtain state and national criminal history record information and perform a check of the Dru Sjodin National Sex Offender Public Website on each staff member and volunteer who works directly with children in any program funded wholly or partly with monies received through eligible contributions.
- (2) Expend the entirety of eligible contributions it receives on providing to La. residents one or more of the types of services listed in proposed law.
- (3) Annually submit all of the following to DCFS:
  - (a) An audit of the eligible charitable organization conducted by an independent certified public accountant, the report from which shall be submitted within 180 days after completion of the organization's fiscal year.
  - (b) A copy of the organization's most recent Return of Organization Exempt from Income Tax form (Form 990) filed with the Internal Revenue Service.
- (4) Notify DCFS within five business days after it ceases to meet any eligibility requirement provided in proposed law or fails to fulfill its responsibilities as prescribed in proposed law.
- (5) Upon receipt of an eligible contribution, provide the taxpayer that made the contribution with a certificate of contribution that conforms with specifications provided in proposed law.

Proposed law stipulates that a taxpayer who makes an eligible contribution may not designate a specific child assisted by the eligible charitable organization as the beneficiary of the contribution.

Proposed law requires the secretary of the Dept. of Revenue and the secretary of DCFS, respectively, to promulgate administrative rules as are necessary to implement proposed law. Requires the secretaries to collaborate in developing the rules and authorizes each secretary

to incorporate recommendations of the other in any final rules for implementation of proposed law.

Proposed law becomes effective Jan. 1, 2024, and terminates on Dec. 31, 2028.

(Amends R.S. 47:297.21(A) and (C); Adds R.S. 47:297.21(D) and 6311-6318; Repeals R.S. 47:293(9)(a)(xxiv))