

2015 Regular Session

HOUSE BILL NO. 604

BY REPRESENTATIVE STOKES

TAX CREDITS: Requires verification of qualified expenditures for certification of certain tax credits by the Dept. of Economic Development

1 AN ACT

2 To amend and reenact R.S. 47:6007(B)(9) through (11), (D)(2)(c) through (e),

3 6015(B)(3)(i)(i), (4) and (5)(introductory paragraph) and (F)(5), 6022(C)(10)(b)(vii),

4 (F)(2), (3)(b) and (c), 6023(B)(1), (D)(2)(c) and (d), (4) and (5), and 6034(B)(4) and

5 (7)(b), and (E)(1)(e) and (f), and to enact R.S. 36:104(B)(9) and 104.1, R.S.

6 47:6007(C)(1)(e) and (D)(2)(f), 6015(B)(6), 6023(D)(2)(e), and 6034(E)(2)(c),

7 relative to tax credits; to provide for the powers and duties of the Department of

8 Economic Development; to require an independent verification of expenditures for

9 certification of certain tax credits; to establish procedures and program requirements;

10 to provide definitions; to authorize the imposition of a fee; to authorize contracting

11 with certain private entities; to establish requirements for certain contracting entities;

12 to authorize rulemaking; to provide for applicability; to provide for effectiveness;

13 and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 36:104(B)(9) and 104.1 are hereby enacted to read as follows:

16 §104. Powers and duties of the secretary of economic development

17 * * *

18 B. The secretary shall have the authority to:

19 * * *

1 (9) Establish and collect a verification report fee, as defined in R.S. 36:104.1,
2 as required for a Department of Economic Development incentive program. The fee
3 shall be established and collected as provided in R.S. 36:104.1, and as may be further
4 provided by rule promulgated in accordance with the Administrative Procedure Act.

5 §104.1. Fee for independent certified public accountant or tax attorney verification
6 reports required for certain Department of Economic Development programs

7 A. In order to protect the integrity of its programs by ensuring that tax credits
8 are only certified for eligible expenditures, and to provide for uniformity in
9 expenditure verification reporting, the Department of Economic Development shall
10 directly engage and assign an independent certified public accountant, hereinafter
11 referred to as "CPA" or tax attorney to prepare for the department any required
12 expense or expenditure verification report on a tax credit applicant's cost report of
13 expenditures or claimed expenditures for all of the following programs:

14 (1) Motion picture investor tax credit program, R.S. 47:6007.

15 (2) Research and development tax credit program, R.S. 47:6015.

16 (3) Digital interactive media and software tax credit program, R.S. 47:6022.

17 (4) Sound recording investor tax credit program, R.S. 47:6023.

18 (5) Musical and theatrical production income tax credit program, R.S.
19 47:6034.

20 (6) Any other program as provided by statute or department rule.

21 B. For purposes of this Section, the term certified public accountant, or
22 "CPA", shall mean a person who meets all of the following qualifications:

23 (1) Maintains an active unrestricted original certified public account license.

24 (2) Maintains a current Louisiana certified public account firm permit.

25 (3) Actively participates in a Peer Review Program approved by the State
26 Board of Certified Public Accountants of Louisiana.

27 (4) Completes eight hours of continuing professional education in approved
28 Department of Economic Development tax credit attestation courses per reporting
29 cycle.

1 (5) Capable of conducting two levels of review within the CPA firm or, if
2 not within the firm, then through a cooperative endeavor with another CPA for the
3 review of a verification report prior to its issuance.

4 C. The applicant seeking certification of tax credits shall be responsible for
5 and assessed an expenditure or expense verification report fee which shall be equal
6 to the actual cost of the verification report. The fee shall not exceed twenty-five
7 thousand dollars and shall be based upon either an hourly rate not to exceed two
8 hundred twenty-five dollars per hour for contract services, or the pro rata cost of
9 salary and benefits for a department-employed CPA.

10 D. The applicant seeking certification of tax credits shall be required to
11 submit an up-front deposit of the expenditure or expense verification report fee,
12 which shall not exceed fifteen thousand dollars, as required by the relative program
13 statute or rules.

14 E. The applicant seeking tax credits shall make all records related to the tax
15 credit application available to the CPA or tax attorney assigned by the department
16 to prepare and submit to the department a verification report on the applicant's cost
17 report of expenditures or expenses.

18 F. The term "verification report" shall include any agreed upon procedure,
19 tax opinion, attestation, or other report required by statute or department rule. Prior
20 to submission to the department, a verification report shall require two levels of
21 review either within a CPA firm, or a second review through a cooperative endeavor
22 with another CPA.

23 Section 2. R.S. 47:6007(B)(9) through (11), (D)(2)(c) through (e), 6015(B)(3)(i)(i),
24 (4) and (5)(introductory paragraph) and (F)(5), 6022(C)(10)(b)(vii), (F)(2), (3)(b) and (c),
25 6023(B)(1), (D)(2)(c) and (d), and 6034(B)(4) and (7)(b), and (E)(1)(e) and (f), are hereby
26 amended and reenacted, and R.S. 47:6007(C)(1)(e) and (D)(2)(f), 6015(B)(6), 6023(D)(2)(e),
27 and 6034(E)(2)(c) are hereby enacted to read as follows:

1 §6007. Motion picture investor tax credit

2 * * *

3 B. Definitions. For the purposes of this Section:

4 * * *

5 (9) "Production ~~audit~~ expenditure verification report" means ~~an audit~~ a report
6 issued by a qualified accountant who is unrelated to the motion picture production
7 company and that is a report of the qualified accountant's ~~audit~~ verification of the
8 motion picture production's cost report of production expenditures. The production
9 ~~audit~~ expenditure verification report shall contain an opinion from the qualified
10 accountant stating that the production's cost report of production expenditures
11 presents fairly, in all material aspects, the production expenditures expended in
12 Louisiana pursuant to the provisions of this Section. The production ~~audit~~
13 expenditure verification report shall ~~require~~:

14 (a) ~~The production audit report to be~~ Be performed in accordance with the
15 ~~auditing~~ accounting standards generally accepted in the United States.

16 (b) ~~The production cost report to be~~ Be addressed to the party which has
17 engaged the qualified accountant.

18 (c) ~~The production cost report to contain~~ Contain the qualified accountant's
19 name, address, and telephone number.

20 (d) ~~The production cost report to contain~~ Contain a certification that the
21 qualified accountant is unrelated to the motion picture production company.

22 (e) ~~The production cost report to be~~ Be dated as of the date of completion of
23 the qualified accountant's field work.

24 (f) ~~The production cost report to contain~~ Contain a statement of
25 acknowledgment by the qualified accountant that the state is relying on the qualified
26 ~~cost~~ production expenditure verification report in the issuance of the tax credits
27 under the provisions of this Section.

1 (10) "Production expenditures" means preproduction, production, and
 2 postproduction expenditures in this state directly relating to a state-certified
 3 production, including without limitation the following: set construction and
 4 operation; wardrobes, makeup, accessories, and related services; costs associated
 5 with photography and sound synchronization, lighting, and related services and
 6 materials; editing and related services; rental of facilities and equipment; leasing of
 7 vehicles; costs of food and lodging; digital or tape editing, film processing, transfer
 8 of film to tape or digital format, sound mixing, special and visual effects; and
 9 payroll. This term shall not include expenditures for marketing and distribution,
 10 non-production related overhead, amounts reimbursed by the state or any other
 11 governmental entity, costs related to the transfer of tax credits, amounts that are paid
 12 to persons or entities as a result of their participation in profits from the exploitation
 13 of the production, the application fee, the production expenditure verification report
 14 fee, or state or local taxes.

15 (11) "Qualified accountant" means an independent certified public
 16 accountant selected by the office, who is authorized to practice in this state ~~who~~ and
 17 has sufficient knowledge of accounting principles and practices generally recognized
 18 in the film and television industry.

19 * * *

20 C. Investor tax credit; specific productions and projects.

21 (1) There is hereby authorized a tax credit against state income tax for
 22 Louisiana taxpayers for investment in state-certified productions. The tax credit
 23 shall be earned by investors at the time expenditures are made by a motion picture
 24 production company in a state-certified production. However, credits cannot be
 25 applied against a tax or transferred until the expenditures are certified by the office
 26 and the secretary. For state-certified productions, expenditures shall be certified no
 27 more than twice during the duration of a state-certified production unless the motion
 28 picture production company agrees to reimburse the office for the costs of any

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 additional certifications. The tax credit shall be calculated as a percentage of the
2 total base investment dollars certified per project.

3 * * *

4 (e) Motion picture investor tax credits shall only be certified upon the receipt
5 and approval by the office of a production expenditure verification report submitted
6 by a qualified accountant in accordance with the provisions of Subparagraph (a) of
7 Paragraph (2) of Subsection D of this Section.

8 * * *

9 D. Certification and administration.

10 * * *

11 (2)

12 * * *

13 (c)(i) The office shall directly engage and assign a qualified accountant to
14 prepare a production expenditure verification report on an applicant's cost report on
15 production expenditure. The applicant shall be responsible for payment of the
16 production expenditure verification report fee in accordance with R.S. 36:104.1, and
17 shall make all records related to the tax credit application available to the department
18 and the accountant.

19 (ii) The applicant will be assessed the department's actual cost for the
20 production expenditure verification report fee. The maximum fee for the report shall
21 be fifteen thousand dollars for verification of a cost report reflecting qualified
22 production expenditures between three hundred thousand dollars and twenty five
23 million dollars, and the maximum fee shall be twenty five thousand dollars for
24 verification of a cost report reflecting qualified production expenditures in excess of
25 twenty five million dollars.

26 (iii) At the time of application, the applicant shall submit a deposit of the
27 production expenditure verification report fee of seven thousand five hundred dollars
28 for a production with qualified expenditures projected to be between three hundred

1 thousand dollars and twenty five million dollars, and a deposit of fifteen thousand
2 dollars for those projected to be in excess of twenty five million dollars.

3 (d) The office and the secretary shall submit their initial certification or
4 written denial of a project as a state-certified production to investors and to the
5 secretary of the Department of Revenue indicating the total base investment which
6 shall be expended in the state on the state-certified production within sixty days of
7 their receipt of all required information. The initial certification shall include a
8 unique identifying number for each state-certified production.

9 ~~(d)(i) Prior to any final certification of the state-certified production, the~~
10 ~~motion picture production company~~ (e)(i) Upon project completion, the applicant
11 shall make a request to the office to proceed to final certification by submitting to the
12 office a cost report of production expenditures to be formatted in accordance with
13 instructions of the office. The applicant shall make all records related to the cost
14 report available for inspection by the office and the qualified accountant selected by
15 the office to prepare the production expenditure verification report. After review
16 and investigation of the cost report, the accountant shall submit to the office and the
17 secretary a production ~~audit~~ expenditure verification report. The office and the
18 secretary shall review the production ~~audit~~ expenditure verification report and may
19 require additional information needed to make a determination. Within one hundred
20 twenty days of the receipt of the production ~~audit~~ expenditure verification report and
21 all required supporting information, the office and the secretary shall issue a tax
22 credit certification letter indicating the amount of tax credits certified for the state-
23 certified production to the investors for all qualifying expenditures verified by the
24 office. Any expenditures for which tax credits were neither denied nor certified due
25 to insufficient information or other issues, the office and secretary shall diligently
26 work to resolve the outstanding issues in a timely manner, and the office and
27 secretary may subsequently issue a supplemental tax credit certification at the time
28 of such resolution.

1 (ii) The department may request an additional production ~~audit~~ expenditure
2 verification report of the expenditures submitted by the motion picture production
3 company with the cost of the additional report paid by the motion picture production
4 company. The motion picture production company may submit an amended
5 ~~production audit cost~~ report of production expenditures if additional expenditures
6 are incurred or discovered after the approval of the initial production ~~audit reports~~
7 expenditure verification report issued pursuant to Item (i) of this Subparagraph, and
8 the office and secretary may issue a supplemental tax credit certification if so
9 warranted.

10 ~~(e)~~(f) In addition to the requirements of Subparagraph ~~(d)~~ (e) of this
11 Paragraph, prior to any final certification of a state-certified production or
12 infrastructure project, the motion picture production company or infrastructure
13 project applicant shall submit to the office a notarized statement demonstrating
14 conformity with, and agreeing to, the following:

15 * * *

16 §6015. Research and development tax credit

17 * * *

18 B.

19 * * *

20 (3) Each taxpayer seeking the credits authorized in this Section shall apply
21 to the Department of Economic Development for the credits. The taxpayer shall
22 remit an application fee of two hundred fifty dollars with the application. The
23 application shall include all of the following:

24 * * *

25 (i) A taxpayer who employs less than fifty employees may apply for credits
26 without providing a federal income tax return as required by Subparagraph (a) of this
27 Paragraph if all of the following criteria are met:

28 (i) Unless waived by the secretary of the department, ~~the taxpayer provides~~
29 ~~the department with a report from~~ either a certified public accountant authorized to

1 practice in the state of Louisiana or a tax attorney authorized to practice in the state
2 of Louisiana shall be engaged and assigned by the department to prepare and submit
3 to the department an expenditure verification report on the taxpayer's claimed
4 qualified research expenditures. The report shall be rendered based upon procedures
5 and regulations developed by the department in accordance with the Administrative
6 Procedure Act.

7 (aa) The taxpayer shall be responsible for payment of the expenditure
8 verification report fee in accordance with R.S. 36:104.1, and shall make all records
9 related to the tax credit application available to the certified public accountant or tax
10 attorney selected by the department to prepare the expenditure verification report.

11 (bb) The taxpayer will be assessed the actual cost for the expenditure
12 verification report fee. The maximum fee for the report shall be fifteen thousand
13 dollars for verification of an application with claimed qualified research expenditures
14 of up to one million dollars, and the maximum fee shall be twenty five thousand
15 dollars for verification of an application with claimed qualified research expenditures
16 in excess of one million dollars.

17 (cc) At the time of application, the taxpayer shall submit a deposit of the
18 expenditure verification report fee of seven thousand five hundred dollars for an
19 application with claimed qualified research expenditures of up to one million dollars,
20 and a deposit of fifteen thousand dollars for an application with claimed qualified
21 research expenditures in excess of one million dollars.

22 * * *

23 (4) Research and development tax credits shall only be certified upon the
24 receipt and approval by the Department of Economic Development of an expenditure
25 verification report as provided for in Item (i) of Subparagraph (i) of Paragraph (3)
26 of this Subsection.

27 (5) The Department of Economic Development shall approve or disapprove
28 each application. No credits shall be granted to a taxpayer under this Section unless
29 the credit is approved by the Department of Economic Development.

1 the cost report, the accountant shall submit to the office a cost report of production
2 ~~expenditures. The report of expenditures shall be subject to an agreed-upon~~
3 ~~procedures engagement conducted by a certified public accountant in accordance~~
4 ~~with statements on standards for attestation engagements established by the~~
5 ~~American Institute of Certified Public Accountants. The accountant shall issue a~~
6 ~~report in the form of procedures and findings. The accountant shall be a certified~~
7 ~~public accountant licensed in the state of Louisiana and shall be an independent third~~
8 ~~party unrelated to the company. The agreed-upon procedures shall be established by~~
9 ~~the office and secretary, with assistance from the Society of Louisiana Certified~~
10 ~~Public Accountants.~~ an expense verification report. The ~~department~~ office may
11 request additional ~~audits~~ expense verification reports for any additional cost
12 reports of the project expenditures for production expenses, the cost of which shall
13 be borne by the company.

14 (c) ~~Upon completion of all or a portion of a state-certified production, the~~
15 Digital interactive media and software tax credits shall only be certified upon the
16 receipt and approval by the office of an expense verification report submitted by a
17 certified public accountant in accordance with the provisions of Subparagraph (b) of
18 this Paragraph. The office shall review the production expenses and, if approved by
19 ~~the office and secretary,~~ expense verification report, and for those expenses found
20 to be qualified by the department shall issue a final tax credit certification letter to
21 the company. The certification letter shall include the identifying number assigned
22 to that state-certified production in the initial certification.

* * *

24 §6023. Sound recording investor tax credit

* * *

26 B. Definitions. For the purposes of this Section:

27 (1) "Base investment" shall mean the actual investment made and expended
28 in the state by a state-certified production as production-related costs or as capital
29 costs of a state-certified sound recording infrastructure project. Expenditures

1 comprising the base investment shall not include the expenditure verification report
2 fee paid by the sound recording production company for purposes of verification of
3 the company's cost report for production or project expenditures.

4 * * *

5 D. Certification and administration.

6 * * *

7 (2)

8 * * *

9 (c)(i) The Louisiana Department of Economic Development shall directly
10 engage and assign a certified public accountant to prepare an expenditure verification
11 report on a sound recording production company's cost report of production or
12 project expenditures. The applicant shall be responsible for payment of the
13 expenditure verification report fee in accordance with R.S. 36:104.1, and shall make
14 all records related to the tax credit application available to the department and the
15 accountant.

16 (ii) The applicant will be assessed the department's actual cost for the
17 expenditure verification report fee. The maximum fee for the report shall be five
18 thousand dollars for verification of a cost report reflecting production or project
19 expenditures of between five thousand dollars and fifty thousand dollars, and a
20 maximum fee of fifteen thousand dollars for verification of a cost report reflecting
21 production or project expenditures in excess of fifty thousand dollars.

22 (iii) At the time of application, the applicant shall submit a deposit of the
23 expenditure verification report fee of two thousand five hundred dollars for
24 productions or projects with qualified expenditures projected to be between five
25 thousand dollars and fifty thousand dollars, and a deposit of five thousand dollars for
26 those projected to be in excess of fifty thousand dollars.

27 (d) The Louisiana Department of Economic Development shall submit its
28 initial certification of a project as a state-certified production or a state-certified
29 sound recording infrastructure project to investors and to the secretary of the

1 Department of Revenue. The initial certification shall include a unique identifying
2 number for each state-certified production or state-certified project.

3 ~~(d) Prior to any certification of the state-certified production or infrastructure~~
4 ~~project, the sound recording production company shall submit to the Louisiana~~
5 ~~Department of Economic Development a cost report of production or project~~
6 ~~expenditures which the Louisiana Department of Economic Development may~~
7 ~~require to be prepared by an independent certified public accountant. The Louisiana~~
8 ~~Department of Economic Development~~

9 (e) Upon project completion, the applicant shall make a request to the
10 Louisiana Department of Economic Development to proceed to final certification by
11 submitting to the department a cost report of production or project expenditures to
12 be formatted in accordance with instructions of the department. The applicant shall
13 make all records related to the cost report available for inspection by the department
14 and the accountant selected by the department to prepare the expenditure verification
15 report. After review and investigation of the cost report, the accountant shall submit
16 to the department an expenditure verification report. Sound recording investor tax
17 credits shall only be certified upon the receipt and approval by the department of an
18 expenditure verification report submitted by a certified public accountant in
19 accordance with this Subparagraph. The department shall review such expenditures
20 and the expenditure verification report, and for those expenditures found to be
21 qualified the department shall issue a tax credit certification letter to the investors
22 indicating the amount of tax credits certified for the state-certified production or
23 state-certified infrastructure project.

24 * * *

25 ~~(4) Any taxpayer applying for the credit shall be required to reimburse the~~
26 ~~Louisiana Department of Economic Development for any audits required in relation~~
27 ~~to granting the credit.~~

28 ~~(5) With input from the Legislative Fiscal Office, the Louisiana Department~~
29 ~~of Economic Development shall prepare a written report to be submitted to the~~

1 House Committee on Ways and Means and the Senate Committee on Revenue and
 2 Fiscal Affairs no less than sixty days prior to the start of the Regular Session of the
 3 Legislature in 2007, and every second year thereafter. The report shall include the
 4 overall impact of the tax credits, the amount of the tax credits issued, the number of
 5 new jobs created, the amount of Louisiana payroll created, the economic impact of
 6 the tax credits and sound recording industry, the amount of new infrastructure that
 7 has been developed in the state, and any other factors that describe the impact of the
 8 program.

9 * * *

10 §6034. Musical and theatrical production income tax credit

11 * * *

12 B. Definitions. For the purposes of this Section:

13 * * *

14 (4) "Infrastructure expenditures" means expenditures directly related to a
 15 state-certified infrastructure project or state-certified higher education infrastructure
 16 project including land and land acquisition costs, construction costs, design fees,
 17 furniture, fixtures, and equipment purchased subject to a sale agreement or capital
 18 lease. Infrastructure expenditures shall not include indirect costs such as general
 19 administrative costs, insurance, ~~or~~ any costs related to the transfer or allocation of
 20 tax credits, or the expenditure verification report fee. The Department of Economic
 21 Development may determine whether expenditures submitted as production-related
 22 costs of capital costs related to an infrastructure facility represent legitimate
 23 expenditures for the actual costs of related goods or services that have economic
 24 substance and a business purpose related to the certified production or facility, or
 25 such costs constitute constructive dividends, self-dealing, inflated prices or similar
 26 transactions entered into for the purpose of inflating the amount of tax credits earned
 27 rather than for the benefit of the production or facility.

28 * * *

1 (7)

2 * * *

3 (b) "Production expenditures" shall not include any indirect costs, any
4 expenditures later reimbursed by a third party, and costs related to the transfer of the
5 tax credits, ~~or~~ any amounts that are paid to persons or entities as a result of their
6 participation in profits from the exploitation of the production, or the expenditure
7 verification report fee.

8 * * *

9 E. Certification and administration:

10 (1)

11 * * *

12 (e) ~~Prior to the final certification of a production or infrastructure project, the~~
13 ~~applicant shall submit to the Department of Economic Development an audit of the~~
14 ~~final amount of expenditures qualifying for credits pursuant to this Section, which~~
15 ~~report the Department of Economic Development may require to be prepared by an~~
16 ~~independent certified public accountant. The Department of Economic Development~~
17 ~~shall review the audit and~~ Upon project completion, the applicant shall make a
18 request to the Department of Economic Development to proceed to final certification
19 by submitting to the department a cost report of production or project expenditures
20 to be formatted in accordance with instructions of the department. The applicant
21 shall make all records related to the cost report available for inspection by the
22 department and the certified public accountant selected by the department to prepare
23 the expenditure verification report. After review and investigation of the cost report,
24 the accountant shall submit to the department an expenditure verification report.
25 Musical and theatrical production income tax credits shall only be certified upon the
26 receipt and approval by the department of an expenditure verification report
27 submitted by a certified public accountant in accordance with the provisions of
28 Subparagraph. The department shall review the expenditure verification report, and
29 for those expenditures found to be qualified the department shall issue a final tax

1 credit certification letter, certifying the applicant and indicating the type and amount
2 of tax credits for which the applicant or other companies or financiers are eligible
3 pursuant to this Section.

4 ~~(f) An applicant applying for the credits shall be required to reimburse the~~
5 ~~Department of Economic Development for any audits required in relation to granting~~
6 ~~the certification or tax credits.~~

7 (2)

8 * * *

9 (c)(i) The department shall directly engage and assign a certified public
10 accountant to prepare an expenditure verification report on an applicant's cost report
11 of production or project expenditures. The applicant shall be responsible for the
12 payment of an expenditure verification report fee in accordance with R.S. 36:104.1,
13 and shall make all records related to the tax credit application available to the
14 department and the accountant.

15 (ii) The applicant will be assessed the department's actual cost for the
16 expenditure verification report fee. The maximum fee shall be five thousand dollars
17 for verification of a cost report of production or project expenditures reflecting
18 expenditures of between five thousand dollars and fifty thousand dollars, and the
19 maximum fee shall be fifteen thousand dollars for verification of a cost report
20 reflecting expenditures in excess of fifty thousand dollars.

21 (iii) At the time of application, the applicant shall be required to submit a
22 deposit of the expenditure verification report fee of two thousand five hundred
23 dollars for a production or project with qualified expenditures projected to be
24 between five thousand dollars and fifty thousand dollars, and a deposit of five
25 thousand dollars for those projected to be in excess of fifty thousand dollars.

26 * * *

27 Section 2. The provisions of this Act shall be applicable for all projects and
28 productions receiving initial certification on or after December 31, 2015.

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 604 Original

2015 Regular Session

Stokes

Abstract: Requires a verification of expenditures by an independent CPA or tax attorney before certification of expenditures for purposes of receiving the entertainment industry tax credits and the research and development tax credit, all administered by the Dept. of Economic Development.

General Provisions

Present law establishes the following four tax credit programs for the entertainment industry, and the research and development tax credit, all of which provide for tax credits based on expenditures which are eligible for "certification" by the Dept. of Economic Development ("DED"). The amount of the tax credit is derived from the amount of eligible expenditures.

- (1) Motion picture investor tax credit program, R.S. 47:6007.
- (2) Digital interactive media and software tax credit program, R.S. 47:6022.
- (3) Sound recording investor tax credit program, R.S. 47:6023.
- (4) Musical and theatrical production income tax credit program, R.S. 47:6034.
- (5) Research and development tax credit program, R.S. 47:6015.

Present law requires that cost reports of expenditures be submitted to DED for consideration for the granting of tax credits based on "certification" of the expenditures as eligible for the tax credit.

Proposed law changes present law by requiring the preparation and submission of a verification report prepared by a CPA who is engaged and assigned by DED to provide independent verification of the cost reports of expenditures submitted by a production company or a business seeking for purposes of certification of tax credits.

Proposed law establishes certain requirements for a CPA engaged by DED, including licensing and continuing education.

Proposed law authorizes DED to impose and collect a verification report fee to reflect the actual cost of the report. The amount of the fee shall be established by rule promulgated in accordance with the Administrative Procedure Act, it shall not exceed \$25,000, and shall be based upon either an hourly rate not to exceed \$250 per hour for contract services, or the pro rata cost of salary and benefits for an internal CPA.

Proposed law requires that an applicant seeking certification of expenditures for tax credits shall be responsible for and assessed the fee, and further requires an up-front deposit of the fee, not to exceed \$15,000.

Proposed law requires that an applicant seeking tax credits make all records related to the tax credit application available to the CPA or tax attorney assigned by the department to prepare and submit to the department the verification report on the applicant's cost report of expenditures.

Proposed law defines "verification report" as any agreed upon procedure, tax opinion, attestation, or other report required by statute or department rule. Further, prior to submission to DED, a verification report shall require two levels of review either within a CPA firm or through a cooperative endeavor with another CPA.

Proposed law provides that only those expenditures which are confirmed verified within the verification report shall be eligible for certification for tax credit purposes.

Proposed law provides, for purposes of the motion picture investor tax credit and the digital interactive media and software tax credit program, the following amounts required for the deposit and maximum fee for a verification report as follows:

- (1) A deposit of \$7,500 and a maximum report fee of \$15,000 for verification of a cost report reflecting qualified production expenditures between \$300,000 and \$25,000,000.
- (2) A deposit of \$15,000 and a maximum report fee of \$25,000 fee for verification of a cost report reflecting qualified production expenditures in excess of \$25,000,000.

Proposed law provides, for purposes of the sound recording investor tax credit program and the musical and theatrical production income tax credit program, the following amounts required for the deposit and maximum fee for a verification report as follows:

- (1) A deposit of \$2,500 and a maximum report fee of \$5,000 for verification of a cost report reflecting qualified production expenditures between \$5,000 and \$50,000.
- (2) A deposit of \$5,000 and a maximum report fee of \$15,000 fee for verification of a cost report reflecting qualified production expenditures in excess of \$50,000.

Proposed law provides, for purposes of the research and development tax credit program, the following amounts required for the deposit and maximum fee for a verification report as follows:

- (1) A deposit of \$7,500 and a maximum report fee of \$15,000 for verification of a cost report reflecting qualified production expenditures of up to \$1,000,000.
- (2) A deposit of \$15,000 and a maximum report fee of \$25,000 fee for verification of a cost report reflecting qualified production expenditures in excess of \$1,000,000.

Provisions of this Act shall be applicable for all projects and productions receiving initial certification on or after December 31, 2015.

(Amends R.S. 47:6007(B)(9)-(11), (D)(2)(c)-(e), 6015(B)(3)(i)(i), (4) and (5)(intro. para.) and (F)(5), 6022(C)(10)(b)(vii), (F)(2), (3)(b) and (c), 6023(B)(1), (D)(2)(c) and (d), (4), and (5), and 6034(B)(4) and (7)(b), and (E)(1)(e) and (f); Adds R.S. 36:104(B)(9) and 104.1, R.S. 47:6007(C)(1)(e) and (D)(2)(f), 6015(B)(6), 6023(D)(2)(e), and 6034(E)(2)(c), and to repeal R.S. 47:6034(E)(1)(f))