153rd GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**HOUSE BILL NO. 364**
SPONSOR:	**Representative Harris**
DESCRIPTION:	**AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO A DELAWARE ENTERTAINMENT PRODUCTION TAX CREDIT.**

Assumptions:

1. This Act is effective upon signature by the Governor. The provisions of this Act take effect July 1, 2026. No applications for the credits authorized by this Act may be submitted after June 30, 2031.
2. This Act establishes a Delaware Production Tax Credit. A qualified company is entitled to a credit equal to 30% of qualified expenditures for qualified activities where:
    a. "Qualified activities" include the creation of media projects and the creation of digital interactive entertainment.
    b. "Qualified company" means a company primarily engaged in or created to engage in qualified activities, which is either incorporated in Delaware or doing business in Delaware.
    c. "Qualified expenditures" means preproduction, production, and postproduction expenditures incurred in the State that are directly used in a qualified production activity or a qualified digital entertainment activity.
3. A qualified company must demonstrate that expenditures resulting from qualified activities exceed $500,000 during any twelve consecutive month period to be eligible for a credit.
4. The credit established by this Act may be applied against personal income tax, corporation income tax, insurance premium tax or bank franchise tax liabilities. The maximum amount of credit awarded may not exceed $10 million in any fiscal year.
5. Credits may be transferred, sold or assigned to another entity and unused credits may be carried forward for five years. Credits cannot be carried back to prior fiscal years. Because the credits are awarded only after qualified activities are completed and audited, it is assumed that the General Fund revenue loss due to claiming awarded tax credits in Fiscal Year 2027 would be less than $10 million, and for purposes of this fiscal projection, is assumed to be $5 million factoring in the timing of the launch of this program.
6. This Act provides that the Department of State, Division of Small Business (DSB), shall implement and administer the Entertainment Production Tax Credit and other provisions. The DSB estimates a need for an additional FTE to assist with promulgating regulations, establishing a competitive program, and covering ongoing operating costs associated with maintaining the program throughout its authorization. The Fiscal Year 2027 costs are estimated at $549,870, and one-time costs are estimated at $7,300 and are as follows:
    a. Recurring Costs – $549,870
        i. $98,290 in the Fiscal Year 2027 Personnel Costs (9 months of funding), including OECs at 33.41%, for 1.0 FTE, Administrative Management to provide program administration, coordinate producer outreach and recruitment, and provide small business and local industry support.

ii. $1,580 for projected contractual service needs relating to Secure End User Services (SEUS) costs, eSTAR timekeeping costs, and supplies and material needs relating to the establishment of the new position.

iii. $200,000 for projecting marketing needs for the program, including the creation, build-out, and maintenance of an appropriate website, support for program operations, promotional materials, and addressing annual reporting needs.

iv. $250,000 for core producer tools, including creation and maintenance of an inventory of possible Delaware film locations, and an inventory of local industry businesses, as well as providing sponsorship opportunities for lower-budget projects to allow for current Delaware production studio participation.

b. One-Time Costs - $7,300 for computer and technology equipment, and office furniture startup costs for the new position.

7. All Fiscal Year 2027 personnel costs have been estimated for nine months of funding, with the annualization of the remaining three months incorporated into subsequent year estimates. Additionally, a 2% inflation factor has been included to account for projected increases in salaries, health insurance, and OECs.

	Ongoing Cost:	**One-Time:**	**General Fund Revenue Loss:**
Fiscal Year 2027:	$549,870	$7,300	$5.0 million
Fiscal Year 2028:	$585,255		$10 million
Fiscal Year 2029:	$587,928		$10 million

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