TESTIMONY ON BEHALF OF THE THEATRICAL TEAMSTERS LOCAL 817
TO THE JOINT ASSEMBLY AND SENATE
BUDGET PANEL ON ECONOMIC DEVELOPMENT
FEBRUARY 13, 2020

Good morning, Chairwoman Krueger, Chairwoman Weinstein, and distinguished members of the New York State Senate Finance Committee and the Assembly Ways and Means Committee. My name is Tom O'Donnell, and I am the President of Theatrical Teamsters Local 817. I thank you for the opportunity to provide testimony to describe the unparalleled success of the Empire State Film Production tax credit. In addition to Local 817, I also present this testimony on behalf of Motion Picture Studio Mechanics Local 52, IATSE; International Cinematographers Guild Local 600, IATSE; United Scenic Artists - Local USA 829, IATSE; the Writers Guild of America East; the Directors Guild of America; and the Screen Actors Guild - American Federation of Television and Radio Artists.

Our Union coalition extends its gratitude to the legislature for your long-term support of the film and television production community. In the 2020 legislative session, the Union coalition's top priority is ensuring the continuity and stability of New York's Empire State Film Production Credit. We thus testify today in support of including a five-year extension of the film production tax credit in the state budget. Additionally, we understand and largely support the concepts to reform the program proposed by the Governor in his Executive Budget. Building on the Governor's proposals to improve the efficiency and sustainability of the state's program, we also testify today in support of revising minimum spend requirements in furtherance of the Governor's objective.

Film and television production is a form of manufacturing that represents 4% of all US trade surplus (as of 2017). New York's commitment to incentivizing productions to site in the state has resulted in New York establishing itself as a preeminent location for film and television production. The foundation for this success is inarguably built upon the film production tax incentive. To that end, an independent report from HR&A Advisors, Inc. (commissioned by the Unions in 2018) proves our collective experiences that this program is both an economic driver and a jobs creator for the state and likewise deserves a long-term extension. The unprecedented success in expanding this industry's pie has greatly benefited the state in the form of billions of dollars in economic activity and by supporting roughly 50,000 jobs.

In 2004, at the inception of the first iteration of the tax credit program, New York was hemorrhaging film work. There was a smattering of feature films, mostly shooting location scenes, and the *Law and Order* franchise, with little other television. Our state simply could not compete with Canada and other states that had lucrative financial film incentives in place. Since the inception of the tax credit however, production studios have spent millions of dollars to expand sound stage capacity to meet demand, and our unions have experienced an enormous boom in the number of hours worked and a large influx of new members.

In 2017 alone, New York saw $3.9 billion in local spending injected into the state economy – a five-fold increase in spending from 2004. As a result of this investment and spending, the number of film and television production jobs have shot up 55% since 2004 (compared to 24% nationally), growing at a rate 4.5x faster than the overall state economy. In 2017, the production tax credit supported 48,300 jobs and $6.7 billion in economic activity across the state, in addition to countless non-qualified activities supported by the critical mass of local talent and infrastructure that the credit has enabled, with the state seeing approximately $780 million in fiscal revenues earned from qualified productions alone (a 1.18 return on investment). The average annual wage for workers in these credit-supported jobs is approximately $90,000.

For those of us representing labor, the tax credit at its core is first and foremost a union program. On the ground, our Unions fight to ensure high wages, full benefits, and robust protections for the growing number of workers in this industry. Speaking on behalf of my Union, Local 817 alone has seen a 250% increase in membership from 2003, as well as an increase in wages and benefits contributions from $70,000,000 to $380,000,000. And the Theatrical Teamsters are just one small slice of this employment pie.

Through the increased demand for labor created by the incentive, we can now point to the many new pathways to opportunity provided in this sector regardless of race, gender, or educational attainment. And in order to increase access to these opportunities, the Unions have spent millions of dollars, engaged in comprehensive outreach, and proposed and advocated for legislation to continue diversifying the industry's talent pipeline for minorities and woman in both above- and below-the-line jobs, 44% of which do not require a four-year college degree.

As of 2017, New York film and television jobs have increased to 18.3% of the total national share. One out of every three jobs added to this sector nationally is now created in New York. And the state is now in a golden age of television production, hosting a record number of TV series in 2017 (with 91 series and pilots supported by the tax credit). 56% of NYC film permits issued in 2017 were for TV series – these episodic television shoots have a typical duration of 8-10 months per season, providing stable employment for our growing workforce ranging from writers, actors, and directors to carpenters, grips, electrician, drivers, casting directors, cinematographers, scenic artists and more. However, if the credit's future becomes uncertain, or risk of an imminent sunset increases, all the progress and growth I have just discussed is placed at risk.

Simply put, without a stable incentive program, productions and the high paying union jobs they support will leave. We are in a truly global competition, with a number of countries and a majority of states offering tax incentives for film and television production. The argument that New York will always have its fair share of film work due to its locations and creative appeal is a fallacy. A production does not have to be physically present in New York to film a New York story.

And a long-term extension of the incentive is critical for episodic television series, which rely heavily on the budgeting predictability that a stable tax credit program affords. Production of episodic series is planned and budgeted many months in advance. The writing happens after that decision has been made and before shooting actually begins. Producers always hope (and plan for) multiple seasons for each series. If there is no assurance that the incentive will be available for seasons two or three or four, a prospective episodic production will locate elsewhere. These productions, including series for subscription-based video on demand ("SVOD") services like Netflix and Amazon, are paramount to sustaining long term, middle class jobs and the corresponding health and retirement benefits available to Union members.

And New York has empirical evidence to prove this point. When the renewal of the incentive was up for debate in 2009, the number of TV pilots filmed in New York State fell to nearly zero, down from 20 the year prior. Though the number of new productions recovered after a long-term extension of the incentive was secured, this scare demonstrates not only the need for the incentive, but the importance of certainty in regards to the future of the tax credit for the purposes of attracting and retaining television productions. The currently proposed one-year extension, coupled with a reduction in the rebate percentage, heightens concerns and weakens confidence in the program. New York needs to show its commitment to our industry by extending the program for an additional five years.

That is not to say the proposed reforms weaken the program. In contrast, these reforms acknowledge New York's success in capturing production and the state's determination to ensure a well-calibrated program into the future. Currently, one of a number of the reforms proposed includes requiring a minimum spend on projects (excluding pilots) of $1,000,000 in NYC, Westchester, Rockland, and Long Island ("downstate"), and a minimum spend on projects (excluding pilots) of $250,000 in the rest of the state ("upstate") in order to facilitate into the program. After careful consideration, we Unions collectively recommend that a downstate project should instead spend $1,500,000 to be eligible for the incentive, while an upstate project should spend $1,000,000 for eligibility.

In addition to additional program savings, the purpose of raising these project spend minimums is to ensure that the projects receiving the benefit of the tax incentive are paying fair wages and benefits. Projects with budgets below these dollar thresholds often do not ensure such payments and the state incentive should be supporting companies that treat workers fairly. In our collective experiences, most projects that produce dramatic motion pictures (TV or theatrical) with budgets below $1,500,000 do not properly treat crews as employees (including paying employer taxes and providing Workers' Compensation insurance). Audits have revealed that many of such productions cut costs by improperly treating crews as independent contractors. It is inappropriate to allow productions that avoid paying employer taxes to collect a taxpayer-funded subsidy. Low-budget independent productions have historically managed to secure financing with or without a film production incentive.

In summation, under the incentive program, coupled with the incredible depth of talent that lives and works here, New York is now a world hub for film production. Thousands of high paying union jobs have been created as a result, in addition to a multitude of ancillary workers, hotels, restaurants, and suppliers to the industry who have reaped the benefits program as well. It is the

Empire State Film Production tax credit that has made the difference, and this economic growth and the jobs it has seeded are dependent on its extension. So, for these reasons, myself and my brothers and sisters in the labor movement urge you to include a five year extension of the Empire State Film Production tax credit in the state budget and urge consideration of increasing the proposed minimum spend thresholds to facilitate projects into the program. Such an extension does not impact this year's fiscal plan. It will, however, give confidence to producers and employers that New York remains committed to the film and television production incentive for the long haul.

I thank you for your time and consideration, and I look forward to answering any questions the panel may have.