INTERNATIONAL ALLIANCE THEATRICAL STAGE EMPLOYEES
and MOVING PICTURE MACHINE OPERATORS of the UNITED STATES and CANADA

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TO: THE ONTARIO STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

FROM: JUSTIN ANTHEUNIS, PRESIDENT, INTERNATIONAL ALLIANACE OF THEATRICAL STAGE EMPLOYEES, LOCAL 58 TORONTO.

SUBJECT: ADOPTION OF A TAX CREDIT/REBATE FOR THE LIVE PERFORMANCE SECTOR IN ONTARIO

From Toronto to Stratford, Niagara-on-the-Lake to Ottawa, live performance and live events drive local economies. The arts and culture sector employs more than 250,000 workers in the province and contributes more than $25 billion to the Ontario economy. This $25 billion represents a larger portion of the GDP than the Agricultural, Forestry, Fishing and Hunting and Utilities industries combined. (Statistics Canada. Tables 36-10-0221-01 and 36-10-0400-01)

This sector is struggling because of the effects of COVID-19 on audience capacities and tourism. The unknowns — where the audiences have gone and when they might come back — mean we need to find ways to ensure that the economic driver that is live performance in this province can both bounce back quickly and expand further to reclaim the mantle of one of the top theatre centres in the English-speaking world. The easiest and most effective way to do so would be the introduction of a Live Performance Tax Credit/Rebate program in Ontario, similar to those in the Film and Television Sector and competing jurisdictions across North America.

BACKGROUND:

- Pre-pandemic provincial support for live performance was lagging due to the absence of a tax credit for the sector.
- Of the big four cultural industries, live performance will be the hardest hit by the pandemic.
- Performing arts tax credits have been introduced in competing jurisdictions. For more than a decade, jurisdictions outside of Ontario have been luring productions to their cities with tax credits, putting commercial producers at a significant disadvantage in Ontario.
- The hospitality and tourism sectors rely heavily on a robust live performance sector in Ontario.
- We know that every dollar invested by government in live entertainment feeds between $7-$9 back into the economy.
- The two leading performing arts cities in the English speaking world, New York City and London, both have performing arts tax credits to support those industries that are vital to their economies.
- A performing arts tax credit and rebate would grow with recovery, create jobs for Ontarians, and would be more affordable to implement than increased grants or emergency funds.

AFFILIATED WITH AMERICAN FEDERATION OF LABOUR — CONGRESS OF INDUSTRIAL ORGANIZATIONS
CANADIAN LABOUR CONGRESS — ONTARIO FEDERATION OF LABOUR AND METROPOLITAN LABOUR COUNCIL OF TORONTO

IMPORTANT FACTS:

- The Province of Ontario invested $750 million in Ontario cultural media tax credits in 2018 to support the film and television Sector in Ontario.
- Over its 855 performances, the production of *Come From Away* in Toronto generated $920 million dollars for the economy and created 9,000 employment weeks for cast, stage managers, musicians, crew members and front of house workers.
- The Stratford Festival generates more than $140 million in economic activity for the surrounding community. It also supports over 3,000 jobs in the area – 1,000 directly with the festival, and 2,000 indirectly through tourism and hospitality activities.
- Visitors who travel to Ontario to see a show spend an additional $10 locally for every dollar they spend on a commercial theatre ticket; visitors represent at least 50% of commercial theatre goers in Ontario.
- The National Ballet of Canada's annual production of the Nutcracker employs 200 Ontarians every performance on stage, in the orchestra pit and behind the scenes, not including ushers, bartenders and box office personnel.
- The upcoming production of Harry Potter and the Cursed Child will employ 35 Canadian actors, 35 Ontario technicians, 5 Ontario Stage Managers along with dozens of bartenders, ushers and box office personnel. Mounting this production will cost roughly $30 million with weekly payroll cost of about $325,000.
- Production costs typically commence 2-3 months prior to the first performance in front of an audience.
- Over 50% of weekly operating costs represent labour expenditures once a production is open.

LIVE PERFORMANCE TAX CREDITS/REBATES:

A tax credit program that would provide 20-25% tax credit/rebate on labour and production capital expenses for productions in Ontario would jumpstart the live performance sector coming out of the COVID-19 pandemic. It would provide sustainable funding to allow the sector to return to being one of the top destinations for live performance in the English-speaking world.

- The Live Performance Tax Credit/Rebate could work much like the existing Ontario Film and Television Tax Credit, a refundable tax credit on Ontario labour expenditures and production costs for live productions produced by Ontario-based companies.
- The Live Performance Tax Credit/Rebate requires the creation of Ontario jobs versus softer incentives for job creation in current supports.
- Tax credits/rebates can be implemented with both a minimum spend by producers as well as a maximum credit award, similar to other jurisdictions.
- A new program could be created, however the existing Ontario cultural media tax credit program facilitated by Ontario Creates could be adapted to include live performance (as is the case in Ohio) to expedite the availability of these credits to Ontario producers.
- The Governor of New York recently announced a doubling of the state tax credit from $100 million to $200 million, recognizing the importance of the sector to the economy.

SUMMARY OF TAX CREDIT PROGRAMS IN ONTARIO AND OTHER JURISDICTIONS:

Existing film and television tax credit programs in Ontario and theatre tax credit programs in a number of American states provide a blueprint for an Ontario Live Performance tax credit/Rebate program.

OVERVIEW

- Illinois and Ohio have tax credit programs that include long running productions AND pre-Broadway, pre-tour engagements.
- New York State and Louisiana focus on pre-Broadway “launch” productions, including the technical period
- The emphasis in all legislation is on job creation, training, creation of a permanent workforce, even if the credits are also for material/equipment expenditures.
- Some credits are refundable (if the amount of the credit is greater than the tax bill, the awardee is given a cheque) and some are transferable (Ohio no longer is).
- Most of the tax credit programs do not include marketing and advertising as eligible expenses.
- The Ohio program is $40million/year and includes awards to film and TV projects.
- Illinois’ program also includes a diversity & inclusion component.

Ontario:

The Ontario Film and Television Tax Credit (OFTTC) https://ontariocreates.ca/tax-incentives/ofttc is a refundable tax credit based upon eligible Ontario labour expenditures incurred by a qualifying production company with respect to an eligible Ontario production. The OFTTC is generally “harmonized” with the Canadian Film or Video Production Tax Credit. The OFTTC is generally calculated as 35% of the eligible Ontario labour expenditures.

The OFTTC is jointly administered by Ontario Creates – an agency of the Government of Ontario – and the Canada Revenue Agency. The amount of the credit, net of any Ontario taxes owing, will be paid to the qualifying corporation. If the qualifying corporation does not owe any taxes, the full amount will be paid out.

United States:

The states of Illinois, Louisiana, Ohio and New York have passed tax credit legislation for live performance. Highlighted below are the programs administered by the each of these states. Both Illinois and New York are comparable to the size and scope of the live performance sector in Ontario.

Illinois: Live Theater Production Tax Credit Program

https://www2.illinois.gov/dceo/whyillinois/Film/Pages/LiveTheatreCredit.aspx

- Amount of tax credits awarded pursuant to this Act shall not exceed $2,000,000 in any fiscal year; credits shall be awarded on a first-come, first-served basis
- Up to 20% of Illinois labour for each tax year

- Up to 20% of Illinois production spending for each tax year
- Up to 15% of Illinois labour expenditures generated by the employment of Illinois residents in geographic areas of high poverty or high unemployment in each tax year
- Eligible theaters must have a seating capacity of at least 1,200 seats.
- A production must either be Long-Run (runs longer than 8 weeks with at least 6 performances per week) or Pre-Broadway (scheduled for Broadway's Theater District in New York City within 12 months after its Illinois presentation).

New York: The Empire State Musical and Theatrical Production Tax Credit Program
https://esd.ny.gov/empire-state-music-and-theatrical-production-tax-credit-program
The program is designed to encourage musical and theatrical production companies to conduct pre-tour activities, technical rehearsals and to perform shows at locations in Upstate New York. Qualified companies may be eligible to receive a fully refundable credit of 25 percent of certain production and transportation expenditures directly related to the technical period at a qualified facility in Upstate New York. Program credits of $8 million per year can be allocated.

Eligible expenditures include:

- Pre-tour production costs for design, construction and operation, including sets, special effects, costumes, wardrobes, makeup, accessories and costs associated with sound, lighting and staging.
- All salaries, wages, fees, per-diems and other compensation, including related benefits for services performed. Total allowable expenses are not to exceed $200,000 per week.
- Technical and crew production costs, such as expenditures for qualified production facilities, or any part thereof, props, makeup, wardrobe, costumes, equipment used for special effects, sound recording, set construction and lighting.

New York City Musical and Theatrical Production Tax Credit – COVID Relief
https://esd.ny.gov/new-york-city-musical-and-theatrical-production-tax-credit
$100 million two-year program jump-starting the entertainment industry and supporting tourism in the New York City region. The Program offsets some of the costs associated with producing a show as New York's economy recovers from the COVID-19 pandemic. Shows can receive tax credits of 25% of qualified production expenditures. Shows can receive up to $3 million per production.

Eligible expenditures for qualified productions include:

- Production costs for sets, costumes, wardrobes, makeup, accessories and costs associated with sound, lighting and staging.
- Salaries, wages, fees, and other compensation, including related benefits for services performed. Total allowable expenses are not to exceed $200,000 per week.
- Technical and crew production costs, such as expenditures for qualified production facilities.

- Up to 50% of the advertising and marketing costs incurred and paid in NYS by the applicant.

Louisiana: The Musical and Theatre Production Tax Incentive
https://louisianaentertainment.gov/live
Program Credits of up to $10 million/year with 50% reserved for Not For Profit organizations and a $1 million cap per project. The credit is refundable or transferable on a one-time basis and is implemented on a gradual scale: 7% credit for expenditures in state between $100,000 and $300,000; 14% credit for expenditures between $300,000 and $1 million and a 18% credit for in state expenditures over $1 million. Also, an additional 7% credit for payroll expenditures for Louisiana residents.

Some Eligible Expenditures include:

- salaries directly related to in-state development of productions
- physical production costs directly related to in-state production
- artist and compensation directly related to performance days in Louisiana
- creative team and local and touring crew compensation related to work performed in Louisiana
- venue rental and associated fixed costs

Ohio: Motion Picture Tax Credits

- expanded in 2019 to include live theatre
- $40mm in tax credits each year, distributed bi-annually
- approved projects must have a minimum $300k spend and can get up to 30% tax credit on labour and in-state expenditures
- approval depends on providing new jobs and supporting a permanent Ohio workforce
- includes “long run productions” – live stage productions that are schedule to be performed for more than five weeks, which an average of at least six performances per week.

Supporting live performance is not just about buying tickets, it’s about investing in one of the key economic drivers in the province. A live performance tax credit/rebate is an important investment needed in this province to drive Ontario’s economy forward.

Submitted by:

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