Summary

Fixing Rhode Island's Historic Tax Credit program

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At this critical juncture when the creation of housing, and particularly affordable housing, is desperately needed, the functionality of the Rhode Island Historic Tax Credit program has broken down. Historic Tax Credits have been a key contributor to housing creation: available data suggests that since 2013 approximately 20% of Rhode Island's new housing units, including approximately 20% of the affordable units, have been created through Historic Tax Credit projects. The following actions are needed for this previously highly successful program to continue boosting housing production, revitalizing neighborhoods, and turning blighted properties into neighborhood assets.

Proposed solutions:

- **Create predictable funding for state historic tax credits**
  - Allocate funding to replenish the program and make predictable annual appropriations. The November 2024 State Revenue Estimating report documents 54 projects are in "queue", waiting for funding, requesting $90 Million in tax credits that would catalyze over $467 Million in rehabilitation investments.
- **Create incentives for housing projects**
  - Increase the percentage of the credit for housing projects from 20% to 30%
- **Make the new wage requirements useable**
  - Make more money available to pay for the new wage requirements so major jobs and housing generating historic rehabilitation projects can advance.
  - Raise the threshold that triggers the new wage requirements to $15 Million
  - Increase the per project cap of credits from $5 Million to $ 8 Million.
- **Fix administrative obstacles that hamper the program**
  - Convert RI's highest-in-the-nation processing fee to a deposit on the project
  - Increase time frames for construction starts.
  - Extend the sunset to no less than every five years.
  - Authorize making the status of the queue public information and manage the queue more efficiently.
  - Allow projects to seek reduced credits, tailored to their actual financial needs rather than projects' total qualified rehab expenditures.

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Long track record of benefits

Rhode Island's Historic Tax Credits are a proven economic and community development engine. Over the last 22 years more than 300 historic buildings have been rehabilitated, using $445.6 million of state Historic Tax Credits to catalyze more than $2.2 billion dollars in investments throughout Rhode Island in twenty-four cities and towns.

Despite the program's outstanding track record and the near universal consensus of the benefits to communities from repurposing historic buildings and turning blighted areas into revitalized neighborhood assets, Rhode Island has structured its Historic Tax Credit program almost as an obstacle course. Recent changes to the law make the program largely unworkable for construction projects over $10 Million.

The breakdown of Rhode Island's Historic Tax Credit program could not come at a worse time. This previously significant incentive to create housing is now severely limited, even as we're at the height of the housing crisis. Available data suggests that since 2013 Historic Tax Credit projects have provided approximately 20% of Rhode Island's new housing units including approximately 20% of the affordable units. The program is too important a contributor to helping Rhode Island's housing crisis to allow it to fall into disuse at this critical juncture.

Rhode Island doesn't exist in a geographic or economic development vacuum: Rhode Island historic rehab projects are being abandoned as developers shift to work in other states where historic tax credit programs are not plagued by our unique set of obstacles and risk.

Obstacles to accessing the RI Historic Tax Credit

- **Large Fee:** Rhode Island requires an up-front, large, nonrefundable fee of 3% of Qualified Rehabilitation Expenditures. This fee makes participation in the program risky. For large projects, the fee can rise to $750,000. The size of Rhode Island's fee is a true outlier.
    - No other state has anything approaching Rhode Island's fee structure. Nearby, neither Maine nor Massachusetts imposes any fee, and while Connecticut is allowed to charge a fee of $1,000, it is usually waived and not collected.
- **Opaque Queue:** In Rhode Island, projects wait in line until funding is available. The way the "queue" of projects is managed is not transparent which makes it difficult for projects to plan and meet deadlines. A project has no way to determine where they stand in the queue and when they might be offered credits. A project can be in queue

for years with no information provided on how close they are to receiving an allocation. Then, once they are notified that credits are available, projects have only 90 days to act.

  - The queue is inflexible, stalling the advancement of projects. Even if a project was willing to reduce its credit to match immediately available funds, there is no permission for such a negotiation and the queue continues to back-up.
  - Other states operate with more transparency about when projects can expect to learn about funding decisions.

- **Unrealistic Timeframes:** The requirement to commence construction within 12 months of receiving approval by the state is often impractical given lack of predictability of funding allocation, complexity of financing, and supply chain and workforce scarcity issues. The project launch, project progress, and completion schedule requirements of the program are inflexible, even in the face of understandable delays due to changing market conditions and interest rates.

- **Sunset:** In 2024, legislation was adopted that extended the previous one-year sunset to two years. While a step forward, this change still means that without new legislative action, the program will end on June 30, 2026. The sunset adds uncertainty and risk to participation in the program. Sunsets, especially those of short duration, seem unnecessary as appropriations already limit and control the future of the program. The 22-year program which has generated more than $2.2 billion in investment in the state, has earned the right to no longer be on such short "probation".
  - No other state threatens to sunset their program each year. Most programs don't sunset. Those states that do have a sunset have a three-to-five-year period. In 2024 Massachusetts committed increased funding for an additional ten years.

- **Disadvantages housing creation:** Despite Rhode Island's housing supply and affordability crises, the program currently disadvantages housing projects. While a commercial project is awarded a 25% credit, a housing project is limited to a 20% credit.
  - No other state disadvantages housing by providing a lower percentage than to commercial projects. To the contrary, three New England states give bonuses for housing projects: CT raises their credit from 25% to 30% for affordable housing projects; ME raises their credit by 10% so affordable housing projects receive a 35% credit; MA gives preferential selection for housing projects and recently doubled the funds available for the program.

- **New wage requirement:** In 2023 the law was amended to require that projects with total rehabilitation costs exceeding $10 million must meet new wage requirements.

- In the past the Historic Tax Credit was seen as a way to make rehabilitation projects feasible, given the higher costs of environmental remediation and structural repair required in rehabilitation versus new construction. Now, historic rehabilitation projects have another layer of costs whereas new construction does not.
- Only one other state in the country, New Jersey, has a wage requirement tied to a historic tax credit project, and that program provides a 40 - 45% credit (versus Rhode Island's 20 – 25% credit) doubling the cost to taxpayers. Rhode Island did not include any increase to the credit when it required the new wage rule.

- **Large Projects severely disadvantaged**: Many large RI historic rehabilitation projects, those costing over $10 million, are no longer financially feasible unless they receive additional subsidies from federal and state grant programs.
    - Large rehabilitation projects can't be done without the state Historic Tax Credit, but now, large projects also can't get done with the Historic Tax Credit.
    - Increased costs often more than negate the value of the credit, swelling costs to a point where the credit is a negative instead of a subsidy.
    - One purpose of Historic Tax Credit is to put rehabilitation on par with new construction, directing development away from "greenfields" and targeting blighted properties. The new wage provision adds daunting costs to historic rehabilitation projects, so they no longer are on par with new construction.
    - The increased per unit cost can make a historic rehabilitation project ineligible for affordable housing funding.
    - While increasing costs, there is no relief in either a higher percentage credit or per project funding cap that would accommodate increased costs.
    - The very projects that will have the biggest impact on Rhode Island's housing crisis are now in jeopardy.

- **Funding for historic tax credits is almost exhausted, and replenishment is not predictable:** The program is all but out of funding and there is no predictable allocation to ensure continued availability of credits. At the 2024 State November Revenue Estimating Conference, 54 projects were then in queue seeking more than $90 Million in credits that would leverage almost one half billion in rehabilitation investments. Unused credits remaining in the trust fund are not enough to fund the next project in line and projects have stacked up in queue with none moving forward.
    - Other states appropriate funds annually to their programs. Connecticut makes $31.7 Million available each fiscal year; Massachusetts recently

doubled its allocation to $110 Million per year for the next ten years. Maine's program does not have a spending cap.

Rhode Island is disadvantaged in the regional historic tax credit market

Given the obstacles of Rhode Island's Historic Tax Credit program, many developers have indicated they are no longer able to work in Rhode Island. Project financing cannot be determined, and developers have walked away from historic properties in desperate need of rehabilitation. A group of developers have identified more than 500 units of housing that could be created if the program were functioning. Sadly, planning for specific projects in Woonsocket and West Warwick has ceased and additional projects in Newport and Providence are searching for ways to go forward.

Possible solutions

1. **Increase credit to incentivize housing creation**
    - Increase the percentage of the credit for multi-family housing projects to 30%
2. **Make the new wage requirements useable**
    - Raise the project size threshold that triggers the new wage requirements to $15 Million
    - Allow flexibility for good faith exceptions, such as when there are no Prevailing Wage shops available for certain trades
    - Increase the per project cap of credits available from $5 Million to $8 Million.
3. **Fix administrative obstacles that hamper the program**
    - Lower the fee from 3% of Qualified Rehabilitation Expenditures to 1% and structure it to be refundable to the project at completion.
    - Increase time frames for construction- allowing a project to start within 24 months
    - Expand the definition of "taxpayer" to clarify how the credit may be used
    - Extend the sunset to five years.
    - Authorize the Division of Taxation to provide details about the status of the queue, making public an up-to-date list of projects in the queue including assigned project number, amount of credit requested, and address of project.
    - Allow projects to have flexibility to apply for the size of credit, as long as the requested credit is not more than the allowable percentage of the total Qualified Rehab Expenditures
4. **Make similar changes to the Rebuild RI program so there is parity in how the new wage requirements are treated.**
    - Rebuild credits are not awarded on a percentage of project size basis, so changing the threshold to the amount of the credit is appropriate for that program.
    - Allow flexibility for good faith exceptions, such as when there are no Prevailing Wage shops available for certain trades