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## HISTORIC TAX CREDIT TOOL BOX 🌿

# Historic Tax Credit Legislation During an Election Year



CINDY HAMILTON, HERITAGE CONSULTING GROUP

**E**lection years are challenging times to advance legislation. Yet, the historic tax credit (HTC) community has succeeded this year in efforts to improve upon and expand the credit.

The Historic Tax Credit Coalition (HTCC), the industry organization that advocates for the HTC, plays a central role in engaging elected officials on the importance of the HTC as an economic development tool. Critical to the efforts of the HTCC is Patrick Robertson of Confluence Government Relations, who leads the HTCC government relations efforts on Capitol Hill. This article is the first in a two-part series that explores the role of government relations in advancing the HTC leading up to and following this year's election.

Following is our conversation, edited for brevity:

**Q: The HTCC has established itself as an organization vital to the continued improvement of the HTC. Can you give a**

**brief synopsis of what the HTCC is and why it has become so critical?**

A: The HTCC was formed in 2009 as a nonprofit industry organization that seeks to build upon the success of the HTC and identify improvements to make the credit a more efficient and effective means of providing financing critical in the rehabilitation of historic buildings. Today, the HTCC is comprised of 75 industry stakeholders, including investors, attorneys, accountants, developers, consultants and other industry professionals who view the HTC as an important tool in creating sustainable local economies through reinvestment in historic buildings. The HTCC is focused on advancing federal legislation to improve the HTC by engaging members of Congress and the administration to garner their support through frequent interaction.

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**Q: A major accomplishment this year for the HTCC was seeing the HTC Growth and Opportunities Act (HTC-GO) advance when it passed the House of Representatives as part of The Moving America Forward Act (H.R.2). How has this legislation resonated with the elected officials?**

A: HTC-GO was the result of a number of years of work and reflects the industry’s priorities, including making the credit more effective for smaller projects, more efficient to use on [low-income housing tax credit] LIHTC projects and providing greater flexibility for nonprofit entities to access the credit. The Moving Forward Act also added a temporary increase in the

credit to 30 percent to help projects recover from the economic effects of the pandemic. In the past two years since the last legislative election, the HTCC has been effective in obtaining support for the enhancements to the credit and identifying bipartisan legislative champions. Evidence shows that the credit is extremely impactful and anywhere that you look in the United States, in larger cities and in smaller communities, iconic historic rehabilitation projects are recognized by policymakers. The impacts of the credit are tangible and the projects are visible; in nearly any downtown, you are bound to see multiple buildings that have utilized HTC, which has led to the creation of vibrant communities. These successful projects are familiar to the legislators on both sides of the aisle and have strengthened our outlook that we can get meaningful improvements through Congress.

*Image: Courtesy of National Trust Community Investment Corporation*  
**Patrick Robertson of Confluence Government Relations prepares industry stakeholders for visits to Capitol Hill before COVID-19.**

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**Q: COVID-19 has changed the way people do business. How has your world been impacted and how has the pandemic affected the industry's advocacy initiatives in this election year?**

A: We have had to be creative in finding ways to engage members and the administration. Instead of in-person visits, we now do virtual fly-ins. It also helps to have lobbyists who already have relationships with offices and an understanding of the issues so they are not trying to meet people on the fly and start new education campaigns in the midst of a pandemic. Ordinarily in an election year, it is challenging to get legislation passed, yet the first six months of this year were very productive and we saw HTC-GO pass the House as part of the Moving America Forward Act. Typically, things wind down after July 1 in an election year, but during COVID-19, Congress has continued to move on legislation. We remain hopeful that we will get the HTC legislation through the Senate in 2020. If the Senate does not act this year, we will start again with the new Congress in 2021, spending time educating the new members and continuing to make the case for the HTC improvements with returning members. There is a very good chance of legislation moving that could carry HTC-GO in the next four months.

**Q: Historically, the HTC has enjoyed strong bipartisan support as a jobs creator that has proven to be revenue neutral. What has been your strategy for identifying supporters and champions?**

A: While the current political climate looks very confrontational from the outside, this year we saw the passage of the HTC legislation in the House because of a broad bipartisan base of support. The goal of the HTCC has been to convince elected officials of both parties that the HTC is a bipartisan issue that benefits

both Republican and Democratic districts. We have been effective in communicating that the HTC serves to fill financing gaps and that but for the credit, projects would not happen. A unique aspect of the HTC is that it is an incentive that comes at the completion of the project, which provides assurance that projects are not awarded the credit unless the goal of the incentive is met. We have been successful in communicating the effectiveness and efficiencies of the HTC, which is why we have seen such strong support for the HTC-GO provisions and the ultimate passage of those provisions in H.R.2.

On the Senate side, one of the most prominent champions has been Sen. Bill Cassidy (R. La.), who led the efforts to save the HTC during 2017 tax reform and has continued to show strong support for legislative improvements. Additional political backers of the bill are Sen. Ben Cardin (D-Md.), Sen. Susan Collins (R-Maine) and Sen. Maria Cantwell (D-Wash.) who with Sen. Cassidy introduced the Senate version of HTC-GO. These bipartisan champions have demonstrated strong commitment for the efforts of the HTCC and we are encouraged and optimistic that we will see continued advancement in 2020.

**Q: What does the HTCC need to continue its efforts and find additional co-sponsors?**

A: One advantage that the HTCC has over many other industry associations is that there is generally consensus among the members regarding identifying priorities, which makes implementation of our strategies much more streamlined. The HTCC would benefit from expanding our membership base and finding stakeholders who are willing to actively engage in translating the impacts of the credit around the country to legislators in Washington, D.C. Attendance at in-person lobbying days when possible or at our new virtual fly-ins is invaluable in sitting down with staff

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to discuss on the ground activities in the districts. We continue to emphasize the need to invite elected officials to ribbon cuttings to see the impacts the HTC has on their communities firsthand. We also want to demonstrate successes in twinning the HTC with other incentives such as the LIHTC, and the HTC-GO legislation includes provisions that will make it easier to twin these credits. We will continue to make sure that the legislation stays relevant in whatever political climate we are in and the HTCC will do our job which is to inform, inform and inform again.

### Outlook

The provisions in the Moving Forward Act represent the most significant improvements in the HTC to pass either house of Congress since 1986. This was encouraging and the industry remains optimistic that we will see some legislative changes on the Senate side by the end of 2020. If that does not happen, there is significant momentum to build upon in the next Congress. Continued advancements will require commitment from HTCC members to participate in educating our elected officials on the important role HTC plays in revitalizing community assets and aiding in economic development and recovery.

### Patrick Robertson

Patrick Robertson is the Principal of Confluence Government Relations, a full-service government affairs and business advisory firm based in Washington, D.C. Since 2009, Patrick has served as the government relations consultant for the HTCC, engaging with

members of Congress and the administration on the importance of the historic tax credit as a job creator and economic development tool. Patrick oversees the day-to-day operations of the HTCC and assists in strategic planning and the development of legislation to continue to improve upon and expand the HTC. ❖

*Cindy Hamilton is president of Heritage Consulting Group.*

### Moving Forward Act HTC Provisions

- ◆ Increases the historic rehabilitation tax credit (HTC) percentage for all projects from 20 percent to 30 percent for 2020 through 2024. The credit percentage is phased down to 26 percent in 2025, 23 percent in 2026, and returns to 20 percent in 2027 and thereafter.
- ◆ Makes it easier to complete small rehabilitation projects by increasing the credit from 20 percent to 30 percent for projects with less than \$2.5 million in qualified rehabilitation expenses.
- ◆ Makes more buildings eligible for HTCs by lowering the substantial rehabilitation threshold to 50 percent.
- ◆ Increases the value of HTCs by eliminating the requirement that the value of the HTC must be deducted from a building's basis (property's value for tax purposes).
- ◆ Makes the HTC easier to use by nonprofit organizations for projects such as community health centers, local art centers and affordable housing by eliminating IRS restrictions for non-government-owned buildings (the disqualified lease rules) that make it difficult to partner with developers.
- ◆ Makes public school buildings eligible for the HTC.

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