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Testimony

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Committee on Ways and Means

Hearing on Energy Tax Incentives Driving the Green Job Economy

Chairman Levin, Ranking Member Camp, and distinguished Members of the Committee I appreciate the opportunity to submit a statement for the record highlighting the economic and environmental benefits of promoting energy efficiency in the Nation's vast array of commercial buildings, specifically those designated historic and older, non-historic buildings.

My name is John Leith-Tetrault and I have the distinct honor of being Chairman of the Historic Tax Credit Coalition (HTCC). The HTCC is a newly formed Coalition comprised of a broad base of developers, syndicators, lenders, architects, lawyers and accountants from across the country that interact with the credit on a daily basis. The main purpose of the Coalition is to advocate for and support changes to the Rehabilitation or Historic Tax Credit (HTC), section 47 of the IRC, so it can remain an efficient and effective credit for economic development through the adaptive reuse of historic and older, non-historic buildings. The hearing today is timely given the increased national focus on reducing carbon emissions while creating "green" jobs and Congress' interest in tackling both of the important issues.

In recent years, Congress has enacted legislation that provides incentives to encourage energy use reduction technologies in the country's commercial buildings and residential homes – Section 179D and Section 45L respectively. These incentives are an important tool to help moderate the amount of carbon emissions released by these two sectors of the real estate market. Currently, according to the latest statistics, commercial buildings account for thirty-eight percent of carbon emissions while homes account for another twenty-one percent.

However, it is my belief that Congress has overlooked one segment of the commercial real estate market when it originally constructed these policies and that is the special energy efficiency challenges of older buildings built before World War II including the 1.3 million historic buildings that are listed in or contribute to historic districts on the National Register of Historic Places. Given the number of historic and older buildings and the added expense to rehabilitate them, it is important for Congress to take a serious look at legislation that would specifically target the 20% and 10% Rehabilitation Tax Credits to help achieve significant energy use reductions in these buildings. There is legislation that would accomplish this task and create thousands of jobs but before I describe the proposal I think it would be useful to provide some background on the credit itself.

The concept of using a credit to promote the adaptive re-use of historic and older buildings was passed as part of a broad economic stimulus package known as the Economic Recovery Tax Act of 1981. The original and continuing purpose of the credits is to spur economic investment, create jobs, and produce affordable housing while preserving our cultural heritage. And by all accounts the HTC has successfully achieved each of these four goals.

According to a recently released report by Rutgers University the HTC has created

over 1.8 million jobs (58,000 last year alone), leveraged \$85 billion in private investment (\$5.6 billion in 2008) and was responsible for the creation of over 405,000 housing units. Again, according to Rutgers, the credit has been responsible for encouraging over 40,000 rehabilitation projects across the Nation.

It is clear from this research that the HTC is an economic driver. However, what is not highlighted is the fact the HTC is environmentally sensitive as well. If you take a step back and look at the credit, it was essentially designed to encourage the recycling of old buildings. So, in addition to its obvious economic stimulus benefits, the rehabilitation credit is also responsible for reducing landfill waste and eliminating the energy use needed to manufacture new building materials. Rehabilitating old buildings also reuses existing transit, educational, road and utility infrastructure. The rehabilitation credit is clearly a credit that provides a win-win situation for those concerned about encouraging environmental stewardship and job creation.

While the credit itself is already environmentally friendly, there is a need for Congress to help, as it did with new buildings and residential homes, to encourage a reduction in energy use. As I mentioned earlier, legislation has been introduced by Congresswoman Allyson Schwartz and Congressman Pat Tiberi, H.R. 3715, the Community Restoration and Revitalization Act, (Senators Blanche Lincoln and Olympia Snowe have introduced identical legislation in the Senate) which contains a set of provisions that will modernize the HTC and allow it to meet the President's and Congress's goal of making buildings more energy efficient while creating jobs.

The Community Restoration and Revitalization Act encourages the reduction of energy use of newly renovated historic or older buildings through the creation of an Energy Efficiency Supplement (EES). The EES would encourage building owners who are in the process of rehabilitating their properties to strive for substantial energy savings by providing a supplement to the HTC based on the energy savings achieved. Besides saving energy the EES will also create additional jobs. Based on projections from the Preservation Economic Impact Model, the EES and its related energy saving provisions will create an additional 59,000 jobs over 10-years.

The EES has several components:

The provision would provide an EES to the 20-percent and 10-percent credits that are already available for historic rehabilitations by adding an additional \$2.00 to \$5.00 per square foot in credits depending on the achievement of a range of energy savings over a baseline starting at 30 percent and graduating up to 50 percent. The added incentive may not exceed 50 percent of the total cost of a building's rehabilitation. For example, a prototypical 100,000 square foot building rehabilitation would earn a 21.6 percent credit for achieving a 30% efficiency improvement over documented prior building energy use or accepted national standards for similar buildings.

The provision would allow equipment and materials contributing to energy reduction located outside the building (such as solar collectors and geothermal piping) to be eligible for the 20-percent or 10-percent tax credit. Currently the law only allows rehabilitation expenses within the building to qualify for the credit, which makes the use of alternative energy sources less feasible for most property owners.

The provision allows for the "twinning" of the Section 48 Renewable Energy Tax Credits with the HTC to create an added incentive to achieve the highest possible energy savings. This provision allows the HTC to be combined with Section 48 credit in the same way it is currently combined with the Low-Income Housing Tax Credit. The basis of the Energy Credit would be reduced dollar-for-dollar by the amount of historic tax credits taken.

The provision also encourages standalone retrofits that encompass energy efficiency improvements only to historic buildings that are otherwise in good

condition. For this purpose, the provision eliminates the current substantial rehabilitation test that requires minimum rehabilitation expenditures of 100% of adjusted basis.

It should be noted that unlike other rehabilitations that don't use the HTC, a developer may only claim the credit if he or she works within the constraints of the Secretary's Standards, which are a set of technical guidelines that govern every change made to the building's envelope and interior and is administered by the National Park Service. It is this additional burden to preserve the historic character of the building that increases the cost of the rehabilitation making further investments in energy efficiencies less feasible. The EES is a carefully crafted provision, which mirrors energy related legislation enacted by Congress in the past.

Besides the support from every member of the Historic Tax Credit Coalition this legislation is supported by our partners in the architectural and preservation communities including the National Trust for Historic Preservation, Preservation Action, the National Council of State Historic Preservation Officers, and the American Institute of Architects.

Again, I would like to thank Chairman Levin for allowing me to submit this testimony and look forward to answering any questions the Members of the Committee may have regarding this very important provision.

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