

# **Governor's FY 2014 Budget: Articles 22 & 23**

Staff Presentation to the House Finance Committee  
March 5, 2013

# Articles 22 & 23 - Background

2001 Assembly Enacted:  
Historic Structures – Tax Credit

- Effective January 1, 2002
- Incentive to promote the rehabilitation, redevelopment, and reuse of Rhode Island's historic structures
- Improve property values

# Articles 22 & 23 - Background

- Mechanism: State tax credits equal to 30.0% of qualified rehabilitation expenses (QREs)
  - If unclaimed, in whole or in part, may be transferred or conveyed in whole or in part
  - Used by developers to secure capital for projects

# Articles 22 & 23 - Background

Qualification: 3 phases of applications submitted to Historical Preservation and Heritage Commission

- Phase I:
  - Recognized as an historic structure
  - National Historic Register
  - State Historic Register
  - Contributing structure to an historic district

# Articles 22 & 23 - Background

- Phase II:
  - Planned rehabilitation must be at least 50% of the property's adjusted basis ("substantial rehabilitation")
  - Planned rehabilitation must satisfy standards set by Secretary of the Interior
- Scope and value of work to determine credit
- Processing fee due to Commission with Phase II application

# Articles 22 & 23 - Background

- Phase III:
  - Application filed to certify completion of work
    - Confirmed by Commission
    - Audited expenditures submitted, proving substantial rehabilitation
  - Credits may be used following approval of Phase III application
  - Credits may be carried forward 10 years

# Articles 22 & 23 - Background

Developer approved for \$3.6 million credits

Developer sells credits to intermediary for capital



Intermediary buys credits for \$2.6 million

Developer invests \$2.6 million in project



Intermediary sells credits to 3<sup>rd</sup> Party for \$3.0 million

3<sup>rd</sup> Party uses \$3.6 million credits when building is put in service

# Articles 22 & 23 - Background

## 2005 Assembly Change: Article 27 of FY 2006 Budget

- Increased processing fee
  - 2.25% of QREs
  - Lowered the effective rate of the credits to 27.75%
    - Previous fee structure tiered \$500 - \$2,000



# Articles 22 & 23 - Background

FY 2009 Governor's Budget Recommended:  
Article 20 of 2008 H-7024

- \$20.0 million cap for tax year 2007
- \$40.0 million cap for tax years 2008 – 2017
  - Uncertainty regarding use of credits would make them less marketable
  - Project financing often dependent on sale of credits

2008 Assembly sought more workable solution  
for all stakeholders

# Articles 22 & 23 - Background

2008 Assembly Changes:

2008 H-8016 Substitute A, as amended

- Effectively ended program but provided commitment to honor certain credits still in play
- Projects in service by December 31, 2007 were still eligible for 30% credit
- No project approvals after December 31, 2007
  - Unpaid processing fee renders project ineligible

# Articles 22 & 23 - Background

- Projects in service January 1, 2008 or after eligible for reduced credit
  - Processing fee paid by May 15, 2008
  - New credit and processing fee schedule:

<b>Credit</b>	<b>Processing Fee</b>	<b>Effective Credit</b>
27.0%	5.0%	22.0%
26.0%	4.0%	22.0%
25.0%	3.0%	22.0%

- Projects must be well underway by May 15, 2013

# Articles 22 & 23 - Background

## 2008 Assembly Changes: Article 4 of FY 2009 Budget

- EDC to issue maximum of \$356.2 million of bonds to satisfy the obligations for remaining tax credit program
  - \$299.9 maximum for project fund – to reimburse state for claimed credits
  - Provided budget stability similar to Governor Carcieri's proposed cap – projected annual debt service of \$40 million

# Articles 22 & 23 - Background

## 2012 Assembly Change: Article 27 of FY 2013 Budget

- Transferred processing fee restricted account to the Historic Preservation Credit Trust Fund
  - Refund or reimburse developers' processing fees on abandoned or overpaid projects
  - Satisfy Governmental Accounting Standards Board requirements

# Articles 22 & 23 - Background

State regulations define:

- “Substantial Construction”
  - Initial processing fee paid
  - Planned rehabilitation has been certified by the Commission as consistent with existing standards
  - 10% of Qualified Rehabilitation Expenditures expended by May 15<sup>th</sup>, 2013

# Articles 22 & 23 - Background

State regulations define:

- “Abandoned Projects”
  - Projects approved prior to January 1, 2008
  - Initial processing fee paid by May 15, 2008
  - Substantial construction not met by five years from the payment of initial processing fee
  - Entities will be reimbursed processing fees

# Articles 22 & 23 - Background

## November 2012 Revenue Estimating Conference:

- Abandoned Projects

Project Phases	15
Total Cost	\$103.6 million
Estimated Credits	\$25.9 million

- Remaining Projects

Project Phases	65
Total Cost	\$605.4 million
Estimated Credits	\$151.4 million



# Articles 22 & 23 - Background

As of March 5, three more phases completed:

Phases (30 projects)	62
Total Cost	\$597.4 million
Estimated Credits	\$149.4 million

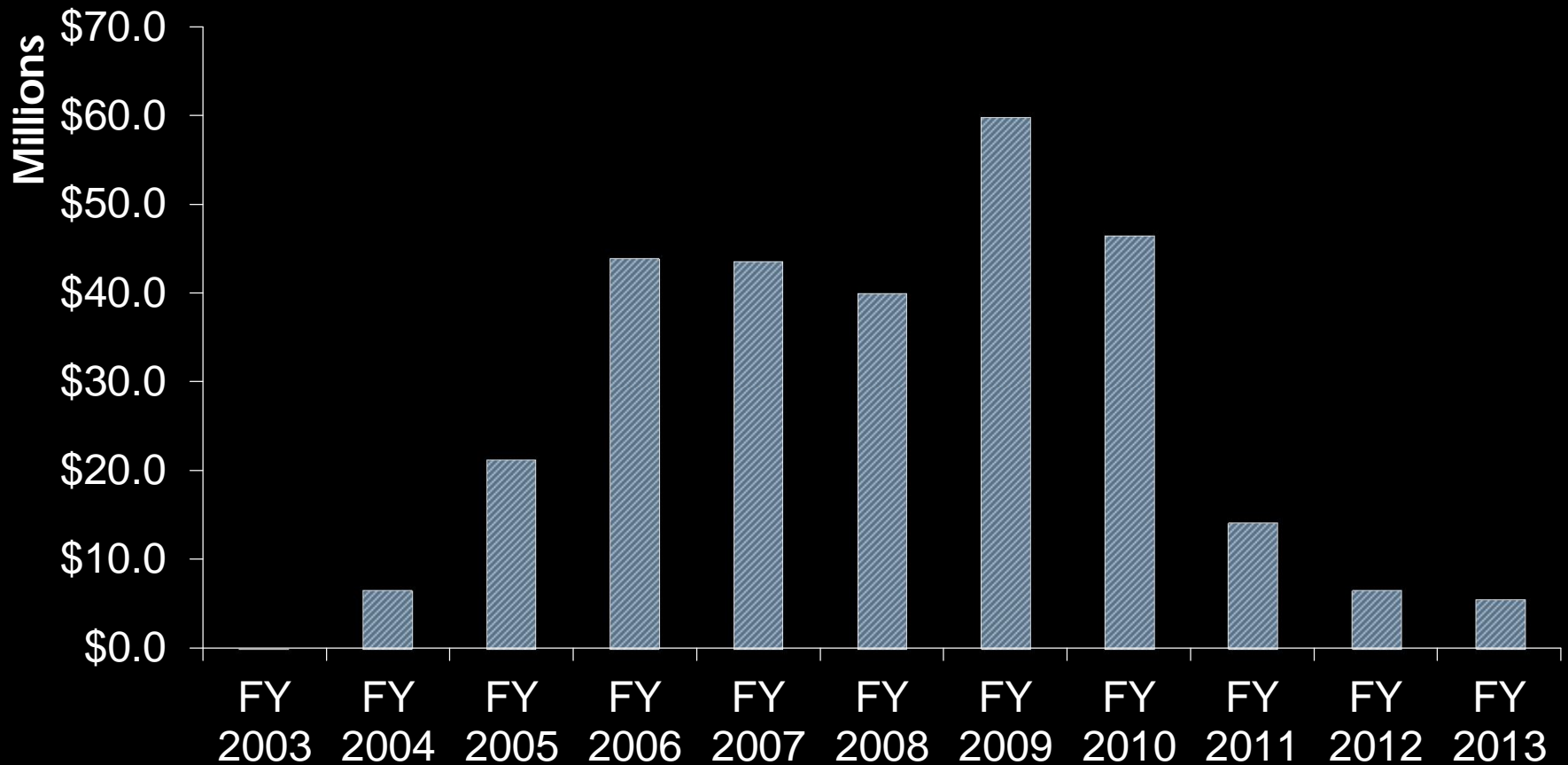
<b>Tax Credit Fees</b>	
Collected on Active Phases	\$15.8 million
Total Still Owed	\$ 2.3 million

# Articles 22 & 23 - Background

<b>Credits Used by Taxpayers (in millions)</b>				
FY 2003	\$0.06		FY 2009	\$59.7
FY 2004	\$6.6		FY 2010	\$46.4
FY 2005	\$21.2		FY 2011	\$14.2
FY 2006	\$43.9		FY 2012	\$6.6
FY 2007	\$43.5		FY 2013	\$5.5
FY 2008	\$40.0		<b>Total</b>	<b>\$287.7</b>

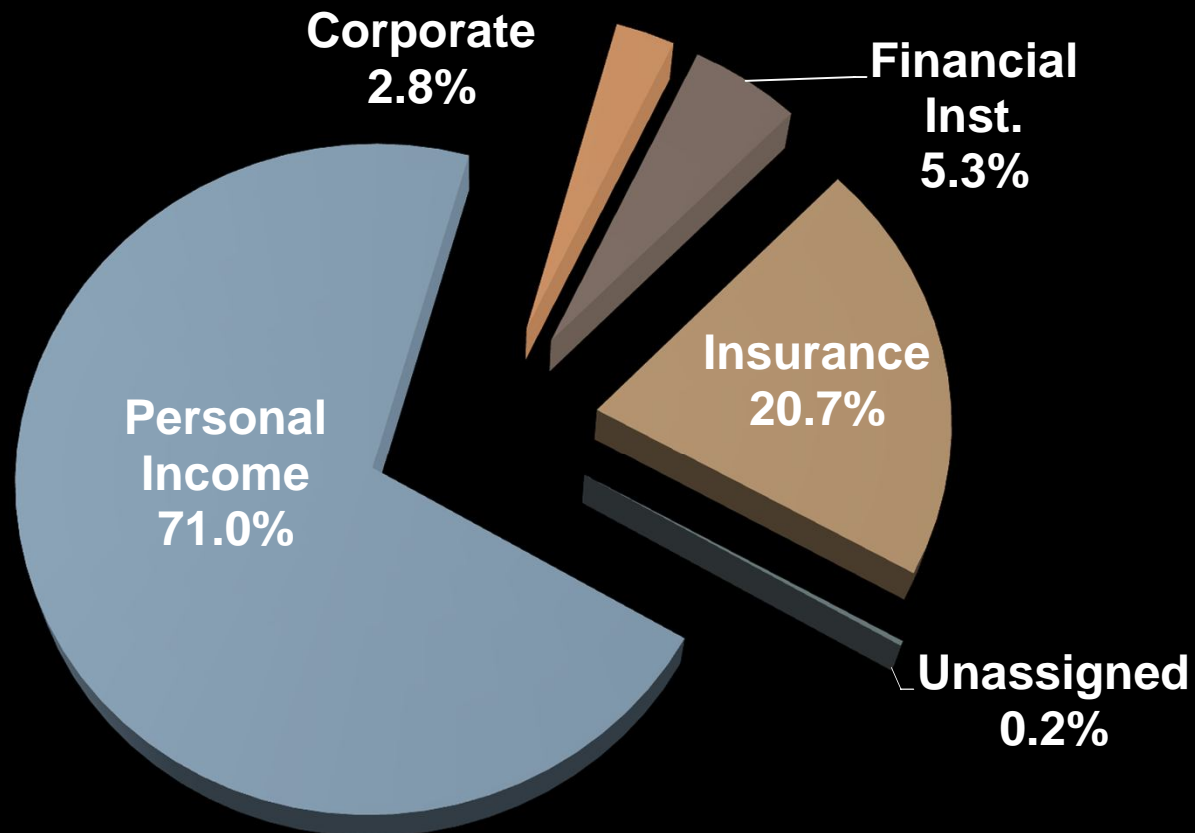
# Articles 22 & 23 - Background

Total Tax Credit Usage as of November 2012:



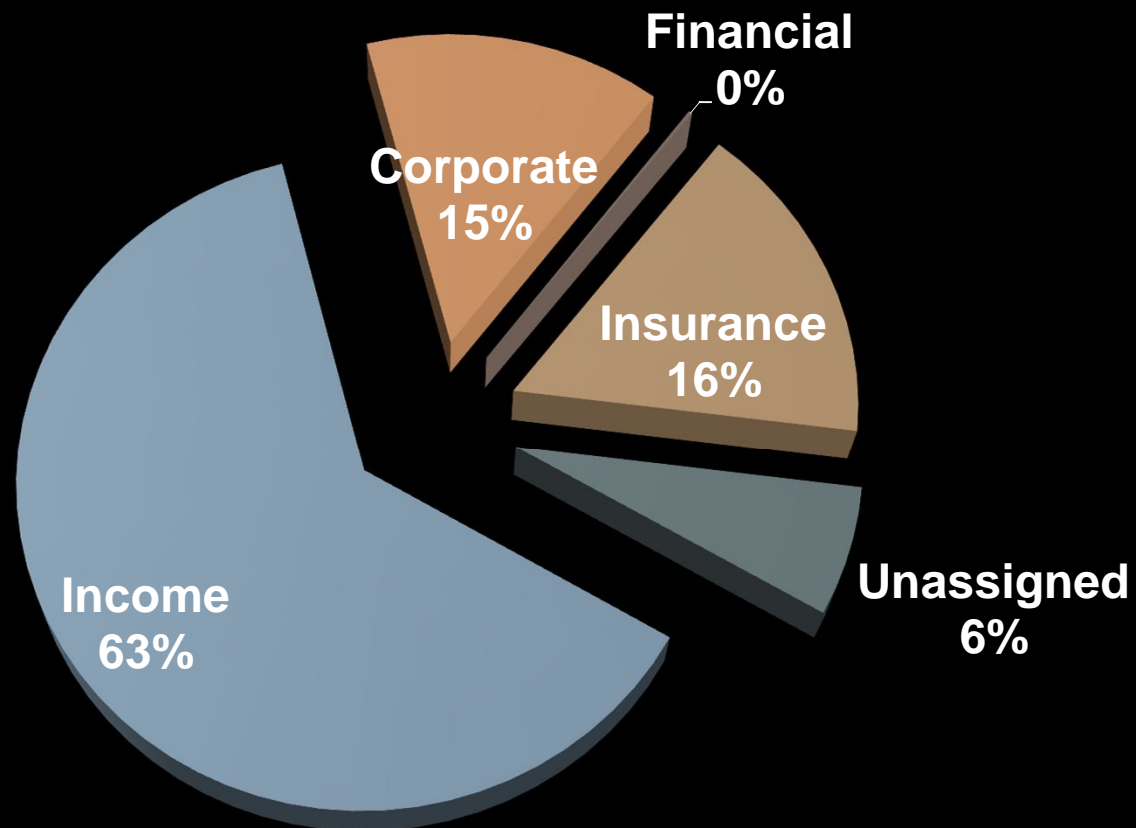
# Articles 22 & 23 - Background

## Who Uses Historic Tax Credits:



# Articles 22 & 23 - Background

Unused Credits by Tax Type:



# Articles 22 & 23 - Background

Tax Payments from Historic Tax Credit Trust Fund (in millions):

FY 2009	\$56.2
FY 2010	\$46.4
FY 2011	\$14.2
FY 2012	\$6.6
FY 2013 (to date)	\$5.5
<b>Total</b>	<b>\$128.9</b>

# Article 22 – Historic Preservation Tax Credit Trust Fund

Reiterates EDC's authorization to issue bonds in support of program

- Maximum of \$356.2 million to be issued
- Maximum to be issued for deposit in project fund of \$299.9 million

Specifies that bond proceeds may be used to pay processing fee reimbursements

- Division of Taxation received guidance that proceeds may currently be used

# Article 23 – Historic Structures Tax Credits

Restarts and expands existing tax credit program

- Defines replacement projects
  - Adds new type of project
- Provides for priority approval for:
  - Shovel Ready projects / 24 month completion
  - Distressed Communities
- Codifies current regulations' definitions for abandoned projects and substantial construction



# Article 23 – Historic Structures Tax Credits

- Scattered site developments allowed
  - Rehabilitation of units in two or more buildings within one mile diameter
    - Defined by neighborhood revitalization plan
    - Multiple single-family dwelling units allowed under certain conditions - previously excluded
- EDC role added to statute
  - Solicitation of replacement projects with Commission
  - Selection of replacement projects (selection process undefined) with Commission

# Article 23 – Historic Structures Tax Credits

- Requires monthly reporting of abandoned credits
  - First report due July 1, 2013
  - From Division of Taxation
  - Reported to the Economic Development Corporation, Commission, Budget Officer, House Fiscal Advisor, and Senate Fiscal Advisor

# Article 23 – Historic Structures Tax Credits

New section added to statute (§ 44-33.2-3.1)  
“Replacement Projects”:

- Must satisfy all existing requirements for approval (Phases I, II, and III)
- Additional restrictions for replacement projects:
  - Total credits available cannot exceed total of abandoned credits
  - Non-refundable processing fee 3% of QREs
    - Paid within 90 days of project acceptance

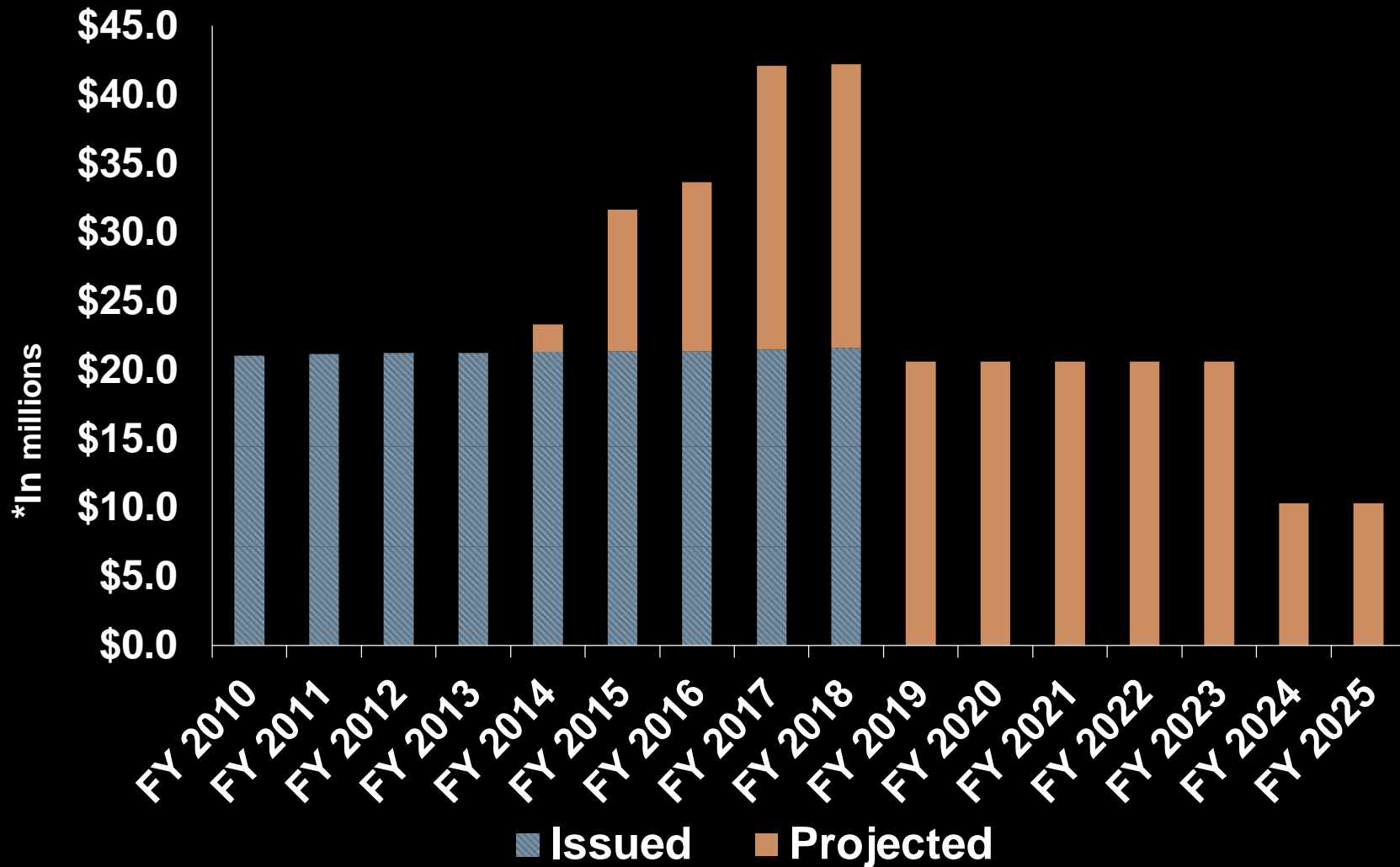
# Article 23 – Historic Structures Tax Credits

- Additional restrictions, cont.:
  - Tax credits no more than 25% of QREs
    - Effective rate of 22%
  - Substantial construction must be met within one year of project commencement
    - Standards for commencement undefined
  - QREs exceed \$10.0 million must use Class A Apprenticeship Program contractors

# Article 23 – Historic Structures Tax Credits

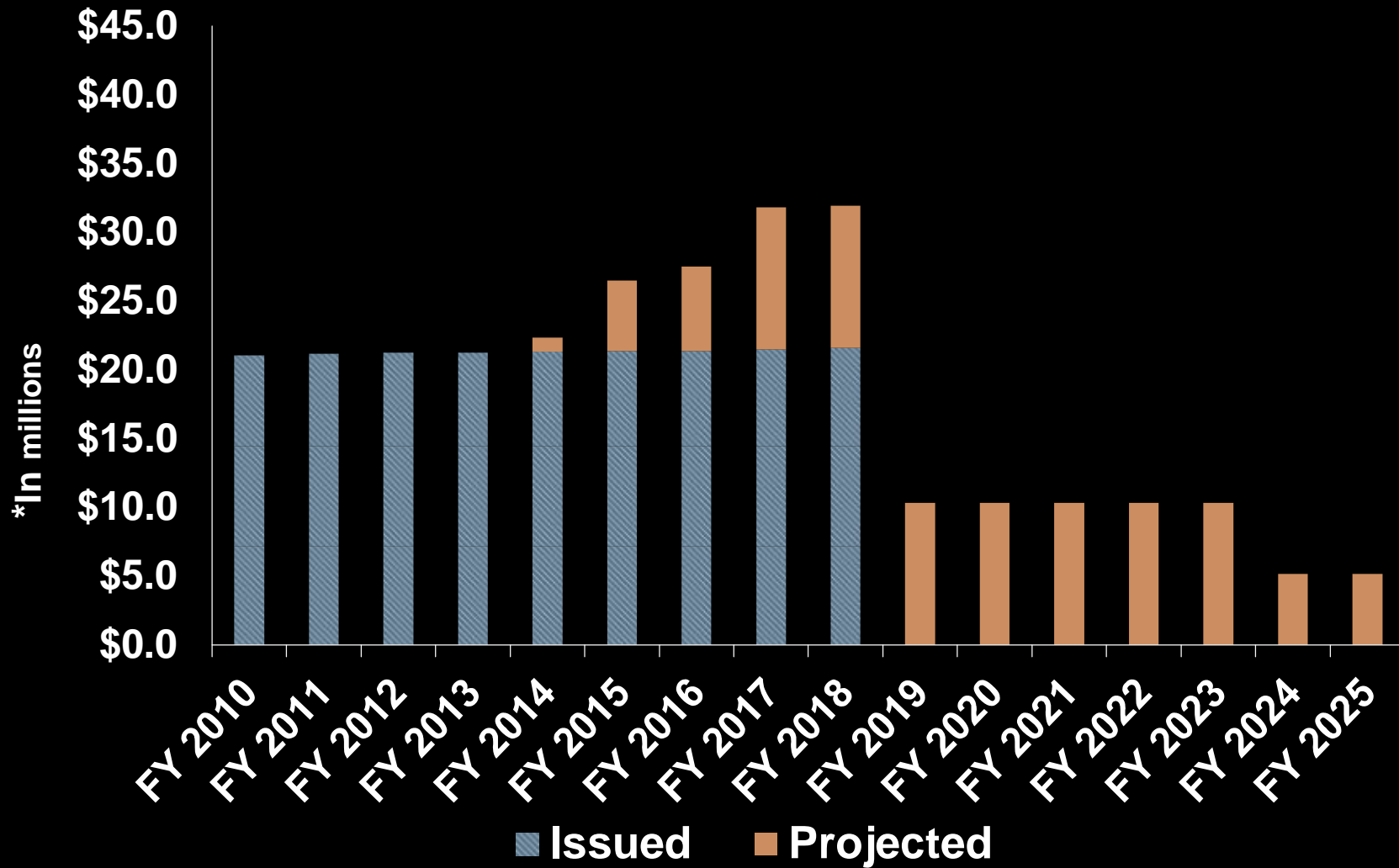
<i>Cumulative (millions)</i>	<b>Borrowing</b>	<b>Debt Service</b>
<b>FY 2009</b>	\$150	-
<b>FY 2013</b>	\$150	\$ 84.7
<b>FY 2014</b>	\$225	\$108.1
<b>FY 2015</b>	\$300	\$139.7
<b>FY 2025</b>	\$300	\$381.6

# Article 23 – Historic Tax Credits: Debt Service



# Historic Tax Credits: Debt Service

— *Current Law if 50% of projects complete*



# Historic Tax Credits: Debt Service

—*Current Law if 33% of projects complete*

