

HISTORIC PRESERVATION'S CRITICAL ROLE IN ECONOMIC & SUSTAINABLE DEVELOPMENT POLICY IN NEW YORK STATE

I. EXECUTIVE SUMMARY & OVERVIEW OF RECOMMENDATIONS

Historic preservation should be recognized as a central component of effective policies that will achieve the Administration's goals of Economic Development, Urban Regeneration, and Smart Growth for New York State.

Historic preservation has a key role to play in the Spitzer – Paterson Administration. The public policy benefits of historic preservation are clear and [well documented at both the state and national level](#)¹. Preservation is a key catalyst for [job creation in local and regional economies, stimulates tax-base growth, and protects municipal investments in existing infrastructure](#)². In addition to preservation's [central role in stimulating the economic regeneration of communities](#)³, it serves the additional benefit of protecting open space and working farmland by guiding appropriate development to historic urban cores and neighborhoods.

For these reasons, the [Preservation League](#)⁴ has worked for over thirty years to encourage and promote reinvestment in New York's cities, towns, and villages. Our experience and research show us that reinvestment in and continued use of New York's historic buildings and Main Streets is one of the best ways to promote economic and community development in the form of sustainable growth.

As such, historic preservation should be recognized as a central component of effective policies that will achieve the Administration's goals of Economic Development, Environmental Conservation, Urban Regeneration, Green Building and Smart Growth for New York State. In support of these goals, the League offers our initial recommendations to further advance historic preservation's benefits for New York State:

1. Revise the New York State Rehabilitation Tax Incentive Programs to expand impacts
2. Reform the RESTORE New York Program to encourage better development practices
3. Support the administration and implementation of New York State Building Code to encourage rehabilitation
4. Promote legislative passage of the Community Preservation Act to provide new planning tools
5. Support efforts to broaden "standing" qualifications of the State Environmental Quality Review Act to aid environmental enforcement
6. Fund State Department of Transportation implementation of management plan commitments to historic bridges

7. Develop and codify statewide siting guidelines for commercial scale wind energy facilities to assure protection of historic resources and landscapes
8. Initiate a systematic statewide historic resource survey program to provide an enhanced inventory for environmental reviews.
9. Increase staffing and budget resources for the State Historic Preservation Office to meet program needs

In support of these and other recommendations, our support for these needs and programs are outlined below. We would welcome the chance to discuss these programs in greater detail.

II. REVISE & EXPAND THE NEW YORK STATE REHABILITATION TAX INCENTIVE PROGRAMS - Chapter 547 of the Laws of 2006

Significant enhancements of the Rehabilitation Tax Incentive are required to assure that New York's program will match the economic and community redevelopment successes seen in other states.

In 2006, New York State became the 28th state nationally to enact a tax incentive to encourage the rehabilitation of historic commercial and residential properties. While the League welcomed the Legislature's establishment of this program, significant enhancements are required to assure that this program will match the economic and community redevelopment successes seen in other states.

More robust tax credits in other states [generate state and local sales tax revenues in advance of state fiscal impacts, and those states report economic gains that well offset the revenue costs](#)⁵. These programs leverage [downtown and community revitalization and guide new investment back to existing municipal infrastructure](#)⁶. Such tax credits spur tax-base growth by increasing property values, aid the retention of existing community residents, attract new homeowners back to existing neighborhoods, address affordable housing needs and generate significant work for local and regional craftsmen and contractors, tradesmen and businesses.

Existing NYS Program

The Rehabilitation Tax Incentives program received a near-unanimous vote of support in both the New York State Assembly and Senate. If further developed, the program will offer the Spitzer - Paterson Administration a significant new tool for community revitalization and economic development.

Revise & Expand the New York State Rehabilitation Tax Incentive Programs, continued:

This legislation takes effect on January 1, 2007. The New York State Historic Preservation Office (NYSHPO) has responsibility for program implementation. Until specific program information and materials are available from OPRHP, the [legislative language \(A.11987 / S.8392\)](#)⁷ is the best reference for program details.

The New York State tax incentive for **historic commercial (income producing) properties** will complement the existing [Federal Historic Preservation Tax Incentive program](#)⁸. National Register-listed (or NR-eligible properties with a commitment to list) commercial properties that have been approved to receive the 20% federal rehabilitation credit now qualify for the additional New York State credit, equal to 30% of the federal credit value taken in a given tax year, up to \$100,000. This new credit equates to an additional 6% of qualified rehabilitation expenses.

The **historic residential properties** program authorized by this legislation is for [State and National Register-listed, owner-occupied](#)⁹ residential structures, limited to those structures located in distressed census tracts, defined as a “targeted areas” under section [143\(j\) of the Internal Revenue Code \(IRC\)](#)¹⁰. The New York State Income Tax credit will cover 20% of qualified rehabilitation costs of residential structures, up to a credit value of \$25,000 per project.

The League projects that only 4100 residential structures are currently qualified for this severely limited residential program, representing merely 32% of the pool of eligible housing defined as “distressed” in the original legislative versions, and only 8.5% of a statewide pool of nearly 48,000 State and National Register-listed historic residential structures throughout the state. The distressed areas qualified for the current program are primarily in urban neighborhoods, and generally divided between New York City and the Hudson and Erie Canal corridors.

Specific changes are recommended for both the commercial and residential programs, and should be considered for inclusion in the 2007-2008 Executive Budget Proposal:

Proposed Changes to the Structure of the Residential Credit:

There are several changes that should be considered by the Spitzer - Paterson Administration to extend the benefits of this program. Many of these were components of the original legislation promoted by the Assembly and Senate:

- **Expand the definition of distressed area**, so as to include [State Empire Zones](#)¹¹.
- **Make the program available in the form of a rebate**, as well as credit, **in distressed areas**. This will allow greater use of the program by homeowners with lower incomes and others without significant state income tax liability.
- **Increase the credit value in distressed areas**. Raise credit value to \$50,000 to increase the reinvestment incentive for such areas, as well as to acknowledge the increased rehabilitation costs of vacant and distressed property.
- **Make locally designated landmarks** eligible to claim the tax credit. This would qualify a range of additional housing on Long Island, in particular, as well as support the establishment of local preservation ordinances in communities.
- **Extend the program to all State and National Register-listed properties statewide**, as per the original Assembly and Senate bills.

Proposed Changes to the Structure of the Commercial Credit:

Developers specializing in historic preservation work are concerned that both the rate of credit (30% of federal credit value) and the cap on the credit (\$100,000 per project) are too modest to stimulate significant new rehabilitation investments above the level already occurring in New York. Suggested changes include:

- **Eliminate or raise the \$100,000 per project cap and increase the rate of the credit** to a sufficient amount (20 or 25% of direct project rehabilitation costs vs. 30% of federal credit value) to stimulate new use of the program.

- **Create a parallel “small projects” credit that would not require use of federal credit** to qualify for the New York State program, in order to encourage use by smaller projects, such as buildings along “Main Street” commercial districts in upstate New York
- Allow greater flexibility in the allocation of the New York State credit, to encourage a greater range of investor participation in rehabilitation projects.

III. REFORM THE RESTORE NY PROGRAM

This program provides a significant new source of state funding that puts building demolition on an equal footing with other community development activities, undercutting preservation planning and rehabilitation.

Existing Program

The newly established [RESTORE NY](#)¹² program, under the administration of the Empire State Development Corporation (ESDC) provides a significant state funding match to municipalities for the demolition, deconstruction, rehabilitation or reconstruction of vacant, abandoned, surplus or condemned commercial and/or residential buildings within municipal control. In 2006, \$300 million was appropriated for the program, with \$250 million available for post-2007 funding rounds.

The League is concerned that this program provides a significant new source of state funding that puts building demolition on an equal footing with other community development activities. In League meetings with ESDC, we have made clear that the highest and best use of this program is to encourage reuse and rehabilitation of existing structures to the maximum extent practicable. This change would parallel a recent change in municipal law sought by the Preservation League which provides for bonding authority for building repairs and stabilization (Chapter 190 of the Laws of 2006; [A.8854-A/S5759-A](#))¹³.

Proposed Changes:

- Make RESTORE NY funding available for the purpose of building stabilization and mothballing, in order to prepare a deteriorating building for future reuse. This significant program enhancement would signal a significant commitment by the state to local municipalities regarding neglected community resources.
- Lower the grant amounts made for building demolition purposes.

- Other funding gaps and program inconsistencies were identified in the 2006 funding round and will require new program language to address.

IV. SUPPORT ADMINISTRATION AND IMPLEMENTATION OF REVISIONS TO THE NEW YORK STATE BUILDING CODE

It is critical that the New York State Building Code for Existing and Historic Buildings incorporate the flexibility and mechanisms that will allow cost effective rehabilitation of historic buildings

The New York State Building Code has been under a multi-year revision by the [Codes Division at the New York State Department of State](#) (DOS)¹⁴. The League has monitored this reform process closely and has strongly advocated for a new code that protects public safety while providing greater flexibility in the renovation of historic buildings. The building code is a highly technical yet critical component of community redevelopment and economic renewal efforts, and it is important that the code incorporate the flexibility and mechanisms that will allow cost effective rehabilitation of historic buildings.

Full adoption of the [new code for “existing and historic buildings”](#)¹⁵ has not yet occurred, but some of the changes already implemented have been noted by developers as a positive improvement over the former code. However, additional program components are needed to support and extend this reform:

- **Establish a New York State Building Code Historic Structures Variance Board for the purpose of mediating the resolution of code issues related to historic and existing structures.** This can be achieved through administrative order or support of legislative action.

V. SUPPORT LEGISLATIVE PASSAGE OF THE COMMUNITY PRESERVATION ACT

The historic preservation benefits of the Community Preservation Act deserve equal recognition as the open space and farmland protection benefits of this enabling legislation.

The Community Preservation Act ([A.6450 / S.3153 - 2006](#))¹⁶ is proposed statewide legislation that would enable municipalities to create a local community preservation plan and fund, financed through a variety of funding mechanisms, including a real estate transfer fee. Community plans, subject to local referenda, would guide and fund the preservation of open space, working farmland, and historic resources.

The Preservation League supports this legislation, and has worked in collaboration with a wide range of organizations to advance this program in the New York State legislature. While the open space and farmland protection benefits of the Community Preservation Act are well recognized, the historic preservation benefits of this state enabling legislation deserve equal recognition, as the range of local preservation programs that could be funded would offer important benefits to community centers in rural and urban areas across the state.

- The new Administration should prominently support this key piece of environmental and historic preservation legislation.
- The Administration should advocate that cities be made eligible to utilize this program.

VI. SUPPORT EFFORTS TO BROADEN “STANDING” QUALIFICATIONS FOR THE STATE ENVIRONMENTAL QUALITY REVIEW ACT

Citizen enforcement of the State Environmental Quality Review Act (SEQRA) has proven a tremendous challenge, particularly as it pertains to historic resources, with the ability of the League and our constituents to establish standing severely and inconsistently curtailed by the court system in New York State.

- The League supports administrative and legislative remedies to more broadly define standing, as well as to establish citizen suit provisions that would allow citizens and organizations the right to bring civil actions against violators of SEQRA.

VII. TRANSPORTATION POLICY REFORM AND BUDGET NEEDS

The League recognizes that the state’s transportation network is the backbone of New York’s economic vitality. Public safety, infrastructure reliability, and speed of transport are critical responsibilities of New York State Department of Transportation (NYSDOT). However, in the continuing development and improvement of the state transportation network, we seek to assure that the built environment of the past does not pay too heavy a price for the future.

The [Context Sensitive Solutions \(CSS\)](#)¹⁷ approach initiated under the Pataki Administration represents a significant step forward for assessing and addressing the agency’s

environmental and historic resource impacts. However, the implementation of this program has been inconsistently adopted across NYSDOT's 11 administrative regions. Furthermore, the agency needs to undertake aggressive promotion of this new approach with county and local highway departments, as 85% of the road miles in New York State are under local municipal jurisdiction, and deserving of equally thoughtful planning, design, and maintenance.

Commissioner Appointment

NYSDOT has become a national leader in efforts to balancing safe transportation with concerns for the natural environment as well as the built (historic and cultural) environment. These efforts should continue to be priorities in the new Administration, and a focal point for the next NYSDOT Commissioner.

Funding for Historic Bridge Management Plan Implementation

Few states in the nation retain the degree or integrity of engineered resources that reflect the history of transportation developments as does New York State. Illustrative of this claim is New York's extensive legacy of historic bridges, which represent a unique record of engineering, materials, and design innovations spanning more than two centuries. Unfortunately, that legacy is threatened by ongoing losses of historic bridges.

In 1999, NYSDOT launched a statewide inventory of historic bridges on public highways, concluding that nearly 600 were listed or eligible for listing on the State and National Registers. Consistent with NYSDOT's [Environmental](#)¹⁸ and Context Sensitive Solutions initiatives, as well as responsibilities to state and federal preservation law, the agency developed a [management plan to promote maintenance and encourage rehabilitation of these specific bridges](#)¹⁹.

Despite these new tools and renewed commitment, practice at NYSDOT has not changed significantly. Replacement of historic bridges appears to remain the preference of NYSDOT engineers, with the threatened demolition and replacement of the historic Lake Champlain Bridge in Essex County the most notable current example. Additionally, many historic bridges are the responsibility of county and local highway

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departments, agencies that lack access to funding which can aid them in historic bridge preservation efforts.

- The administration should allocate funding for a historic bridge rehabilitation grant program to provide a new source of state assistance for local municipalities seeking to meet their obligations to public safety and historic resource protection.

Rural Road Protection

New York State has over 97,000 miles of roads under the jurisdiction of local and county highway departments. Many miles of county and local roads are critical to daily rural life and New York State's overall economy. Often, these rural roads are an integral part of the contextual and cultural fabric of the communities they serve.

Over the past few decades, there has been ever-increasing pressure for straightening, widening, and clearing of these roads and roadside features, actions which have the potential to dramatically alter the countryside setting. These actions are frequently undertaken as a result of misunderstanding the application of State and Federal guidelines for such efforts.

To educate and assist State and local transportation officials to address this issue, the Preservation League is nearing completion of *Empire Roads: a Guide to Rural Scenic and Historic Road Protection in New York State*, which has been informed by the assistance of NYSDOT.

- The Administration should direct NYSDOT to ensure that State and local transportation agencies apply appropriate standards that preserve the outstanding rural settings of New York State while protecting public safety and ensuring cost-effective road management.

VIII. ENERGY POLICY – COMMERCIAL SCALE WIND ENERGY SITING IMPACTS & ARTICLE X REFORM

The League is concerned that industrial-scale wind energy development is occurring on a significant and landscape-altering scale without sufficient regulatory guidelines to assure protection of the state's important legacy of historic and cultural resources.

The League recognizes the serious concerns that exist about climate change and the importance of developing alternative renewable energy resources along with complementary pollution reduction, conservation and efficiency initiatives. The leadership shown by the Attorney General's office on these issues was welcome, and the League supports continued efforts to develop a diverse renewable energy portfolio for New York State.

In the short term, commercial scale wind energy development is the technology intended to advance renewable energy production in New York State. While the state ranks 15th nationally in terms of wind energy potential, renewable energy supply mandates throughout the Northeastern states and technological advances in wind turbine design have made heretofore marginal winds of New York State financially viable for commercial-scale production.

Notably, as many as 2200–3300 wind turbines are currently planned for construction in New York, with as many as 60 separate projects currently proposed for 31 different counties. Based on this projected buildout, and GIS-based mapping to assess potential historic resource impacts, the League is concerned that industrial-scale wind energy development is occurring on a significant and landscape-altering scale without sufficient regulatory guidelines and review standards necessary to assure protection of the state's important legacy of historic and cultural resources. This buildout represents a fundamental transformation of the New York landscape.

It is the League's view that once these facilities are constructed, it is impossible to directly mitigate their negative impacts, and indirect mitigation offers little meaningful relief. This harm can manifest itself in any number of ways including altering the setting and context of a resource in a way that negatively impacts its interpretation and integrity.

Permitting review by local authorities under SEQRA is inadequate due to a lack of benchmark standards for conducting environmental review for these facilities, resulting in inconsistently administered review processes by local municipalities, and barriers to agency or citizen enforcement of SEQRA provisions. Local governments issue permits and approvals for these projects without the

benefit of statewide, resource-specific siting regulations, such as those applied to landfills, transfer stations and resource recovery facilities. The lack of siting guidance or uniformity places historic resources at risk. The consequence is that wind project development is proceeding in numerous historic and scenic areas of the state.

Codification of Site Selection, Assessment and Development Guidelines Is Needed

Development and codification of guidance and standards regarding wind energy siting are required to assure uniformity and appropriate protections for this new utility type. Guidance and standards must address three critical contexts: preliminary site selection, comprehensive site review and site development and construction practices.

- The League urges the new Administration to create and codify comprehensive statewide site selection, site review and site development guidelines for industrial scale wind energy facilities.
- As a component of these regulations, locales that have been recognized at the local, state, or federal level for the density and/or significance of their historic, cultural, and scenic resources should be off limits and adequately buffered from wind energy siting proposals.

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Public Service Law - Article X

Under the [former Article X framework](#)²⁰, the law supplanted existing historic resources review process under Section 14.09 of the Parks, Recreation and Historic Preservation Act as well as the Coastal Zone Consistency Review processes conducted by the Department of State. Notably, the former Article X did not restate the “feasible and prudent” standard of review established by the State Historic Preservation Act. As such, it contained no substantive standards relative to historic resources impacts and fell short of offering the protection that historic resources require. As both NYSHPO and DOS lacked seats on the Siting Board, they did not directly review utility sitings that impact resources of concern to either agency.

Article X also contained (as do current legislative proposals) an express local law preemption provision.

The former Article X contained no substantive standards relative to historic resources impacts and fell short of offering the protection that historic resources require.

This language essentially forecloses on the ability of local government to curtail the impacts of large-scale utility proposals or subject such proposals to review under a local preservation ordinance, if applicable. Given the number of New York State communities that have taken steps to protect community resources with local laws that restrict wind energy siting, preemption provisions raise grave concerns for the protection of home rule provisions.

Suggested Changes to Article X Reform Legislation

If reform and re-implementation of Article X is pursued by the new Administration, key changes are needed, including:

- The Commissioner of OPRHP and Secretary of State should join the commissioners of the Department of Environmental Conservation (DEC) and Department of Health (DOH) with voting seats on the Siting Board. The statutory structure of former and proposed legislation warrants their inclusion on the Board to the same extent as DEC and DOH, since resources within their jurisdiction may be impacted by the construction of major electric generating facilities.

IX. OFFICE OF PARKS, RECREATION, & HISTORIC PRESERVATION BUDGET & STAFFING NEEDS

Appointment of Commissioner

Among the Administration’s new appointments to state agency positions, the Commissioner of the [Office of Parks, Recreation & Historic Preservation](#)²¹ has the most direct role in promoting the public policy benefits of historic preservation. In addition to requisite experience with park, historic sites, recreation and tourism issues, the new OPRHP commissioner should have commensurate experience and commitment to advancing historic preservation policy in New York State.

The long-vacant Deputy Commissioner position must be filled to provide preservation leadership and advocacy for New York State.

Appointment of Deputy Commissioner for Historic Preservation.

This long-standing position is crucial to the functioning of the NYSHPO, but has been vacant for several years now. This staff person provides integrated oversight to its various preservation programs and functions, including the Historic Preservation Field Services Bureau, the Bureau of Historic Sites and the Heritage Areas Program. The position should be filled as early as possible in the new administration in order to provide the requisite leadership and advocacy to assure that historic preservation is recognized as a key component in the revitalization of New York's communities and economy.

Barns Restoration and Preservation Program

New York State has been fortunate to have had a dedicated [Barns Restoration and Preservation Program](#)²² to provide funding for the preservation of historic barns, allowing the state to document and preserve an extraordinarily broad agricultural history, reflected in a diverse legacy of historic barns which document nearly 300 years of state agricultural history.

New York State has received significant national recognition for this funding initiative. Since 2001, more than 340 grants totaling \$6 million dollars have been awarded. No funding was allocated to this program in 2006-07.

- This program should be redeveloped to establish a linkage between structural preservation of New York State's barns and complementary efforts to assure farmland and rural conservation, so that these structures can be preserved in the context of their agricultural landscape.

New York State Historic Preservation Plan

As required by the federal government, NYSHPO must [undertake a comprehensive statewide planning effort for its historic preservation activities](#)²³ every five years. In 2007, a new plan will be needed to address preservation planning in New York State.

- The League would welcome the opportunity to advise the development of this plan with the administration.

The League supports the staffing requests of the State Historic Preservation Office and requests the establishment of a new funding line for a comprehensive historic resource survey program.

NYSHPO Staffing and Program Needs

In the last decade, the [New York State Historic Preservation Office](#) has been forced to conduct its work under a hiring freeze and deep cuts in its primary federal funding source. The League supports the funding requests of the NYSHPO, which call for the addition of new staff position in each of its four primary program areas

Two specific programmatic needs also deserve funding in the FY 2007-08 Executive Budget Proposal:

- An increased budget for the purpose of updating and expanding NYSHPO's technological capabilities. While NYSHPO is among the national leaders in digitization and Internet access of agency data, there remain additional priorities, including digitalization of existing historic resource inventory forms and development of electronic form submission capabilities. A second priority, critical to municipal planning at both the municipal and agency level, is converting data on structures and sites eligible for the State and National Register into a GIS layer, for the purpose of informing State Environmental Quality Review Act (SEQRA) reviews. This funding will make this office more efficient in delivering programs and services.
- Funding to initiate a comprehensive, statewide survey program is critically needed. Outside of a modest grant program funded by the New York State Council for the Arts and administered by the League, there is currently no dedicated state funding available for the purpose of identifying historic resources and listing them on the State and National Registers of Historic Places. Many parts of the state are incompletely surveyed, and a significant number of nominations from the 1970s and 1980s are outdated and thus incomplete for the purpose of informing current planning and permitting review. The lack of dedicated survey funding is a glaring absence in the services provided by this agency.

X. SUPPORT FOR FEDERAL LEGISLATION AND HISTORIC PRESERVATION FUNDING

The New York State Congressional delegation should be encouraged to support key preservation policy and funding issues that will have a significant impact on preservation programs in New York State.

We encourage the Spitzer - Paterson Administration to make historic preservation and program funding a priority of its federal lobby agenda. Several issues deserve the full support of the New York State Congressional delegation:

Tax Issues: Improving the Federal Rehabilitation Tax Credit for Commercial Properties

Critically-needed amendments to the [Federal Rehabilitation Tax Credit](#) Program²⁴ are required to extend the use of the credit to smaller projects and more communities, making a number of new rehabilitation projects financially feasible. While this program has already leveraged tremendous private investment toward rehabilitation of historic structures, the benefits of the proposed changes would be significant, particularly in the upstate real estate market.

- Advocate for amendments to the Federal Rehabilitation Tax Credit with the New York State Congressional delegation.

Funding: Adequate Federal Funding for the New York State Historic Preservation Office

Forty years ago, the [National Historic Preservation Act of 1966](#)²⁵, created a network of State Historic Preservation Offices to carry out federal preservation policy and functions at the state level.

Funding for this program comes from the federal [Historic Preservation Fund](#) (HPF)²⁶, modeled after the federal [Land and Water Conservation Fund](#)²⁷. The HPF receives annual deposits of \$150 million from off-shore oil-lease revenues, but has never been fully allocated by Congress.

Authorization for these deposits expired in 2005; efforts in the 109th Congress have been focused on reauthorizing this fund through 2015 ([H.R.3446/S.1378](#))²⁸.

Despite this dedicated funding source, the national historic preservation program has never been financially supported at even close to an adequate level in federal appropriations. In fact, New York State's share of funding from this program has decreased 35% since 2001 (versus an average of 24% decreases nationally), resulting in an increased demand on a strained New York State budget and a decrease in programs and services that stimulate historic

preservation and resulting in a slow down in environmental review.

- Advocate reauthorization of the Historic Preservation Fund with the New York State Congressional delegation
- Advocate for full allocation of the Historic Preservation Fund.
- Advocate for restoration of the New York State allocation of Historic Preservation Fund monies to 2001 levels, or higher.

XI. Summary

The League believes the Spitzer - Paterson Administration's support for these priority recommendations will offer significant new and refined tools for achieving our shared goal of building a stronger, more economically diverse and vital New York.

We welcome the opportunity to meet with you and your policy staff to discuss these recommendations, and look forward to working constructively with you and your administration in the future.

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End Notes follow Appendix

APPENDIX:

New York State Historic Preservation Office - Existing Programs

State and National Register of Historic Places

New York State currently has more than 85,000 resources (derived from nearly 4800 nominations) listed on the [State and National Registers of Historic Places](#) (State/National Register)²⁹. Designation by this program provides access to federal and state tax incentives, grants, and other resource protection incentives. These designations also serve as triggers for enhanced environmental review under state and federal historic preservation law.

Nominations to the State and National Registers of Historic Places continue to rise. The total number of listings in New York State has increased 30% over the past 10 years, and New York leads the nation in the total number of nominations. A vast number (over 100,000) of structures and sites have been determined eligible for the State and National Registers, but are not yet listed on the Registers or catalogued in a publicly accessible digital database, indicating significant continued workload for this program.

Federal Historic Rehabilitation Tax Credit Program

The [Federal Reinvestment Tax Credit Program \(ITC\)](#)³⁰ provides a 20% federal tax credit for the rehabilitation of National Register-listed, income-producing structures. While the League is aware of past frustrations expressed by developers about some aspects of this program, the extraordinary work performed by New York's State Historic Preservation Office in administering this federal program must be acknowledged.

Over the past fifteen years, more than 260 projects have been approved in New York with a combined credit value of almost \$1.8 billion dollars. In the last five years in New York State alone, this program has leveraged \$5 billion dollars in private funding for rehabilitation of historic buildings, and NYSHPO's accomplishments in implementing this program represent a significant economic development catalyst.

The number of Federal Rehabilitation Tax Credit projects has remained fairly steady on an annual basis, but in recent years has shifted to smaller projects as well as a higher percentage of upstate projects. NYSHPO staff report that the biggest workload increase for staff in this area is related to approving applications for façade easements on historic structures (this protection results in a federal tax benefit for the property owner).

Historic Preservation Grants (EPF)

Over the past decade, both the New York State [Environmental Protection Fund \(EPF\)](#)³¹ and the Clean Water/Clean Air (CW/CA) Bond Act together served as the largest source of state funding for historic preservation. The CW/CA Bond Act's historic preservation grant funding was fully expended several years ago, and the EPF is now the sole source of state funding for historic preservation grants. These matching state grant program funds are administered by the Grants Bureau at OPRHP, with funding priorities set by the OPRHP Commissioner on an annual basis.

Over time, the EPF's [Historic Preservation Grant Program](#)³² has funded 376 acquisition and/or rehabilitation projects with \$50.4 million in grants, supplemented by \$19.1 million for 124 historic preservation projects from CW/CA Bond Act. The EPF's [Heritage Areas](#)

[System Program](#)³³ has funded 153 projects, totaling \$34 million, for facilities, exhibits and programs related to the legislatively-designated [State Heritage Area System](#)³⁴ (formerly the Urban Cultural Parks program).

Environmental Review Program

Under [Section 106 of the National Historic Preservation Act](#)³⁵ and [Section 14.09 of the State Historic Preservation Act](#)³⁶, the [NYSHPO Environmental Review Program](#)³⁷ assesses the impact to State and National Register -listed and -eligible historic resources whenever state and federal agencies fund, license or approve projects in New York State. NYSHPO's role in the review process is to ensure that impacts on historic properties are considered and avoided or mitigated during project planning. Under the provisions of the [State Environmental Quality Review Act \(SEORA\)](#)³⁸, NYSHPO also advises communities on environmental reviews affecting historic resources.

The office's environmental review workload, mandated by state and federal preservation laws, has increased 55% over the last 10 years, reaching a projected 6900 projects in 2006. There has been a 22% increase in compliance review since 2003, despite the agency's initiation of "streamlining" initiatives. Advent of the RESTORE NY program (with 80% of funding remaining to be allocated in 2007-08) and an exponential increase in the number of wind energy development site reviews (50+ statewide) are the sources of the most recent increase in the compliance workload.

Certified Local Government Program

The [Certified Local Government Program](#) (CLG)³⁹ is a federal initiative established in 1980 to foster partnerships between SHPOs and municipalities to advance local preservation efforts, including the establishment of local preservation laws. Designation as a CLG community requires that NYSHPO and the National Park Service (NPS) certify that local government has enacted local landmark designation legislation that meets state and federal standards. Communities are eligible to apply for [grants that support community preservation activities](#)⁴⁰, including commission training, technical assistance and public outreach opportunities.

In recent years, the NYSHPO has reinvigorated its promotion of the Certified Local Government Program, through designation of a dedicated staff person to service and monitor these communities, of which there are now 55. Requests for certification are increasing. Since 1997, nearly \$1 million in federal pass-through monies have been granted to CLG communities in New York; unlike other states, New York State has never supplemented this federal money with state-side dedicated funding.

END NOTES:

¹ <http://www.achp.gov/economic-statewide.html>

² <http://www.columbia.edu/cu/china/DRPAP.html>

³ http://www.wisconsinhistory.org/hp/smartgrowth/economic_power_of_restoration.pdf

⁴ <http://www.preservenys.org/>

⁵ <http://www.dnr.mo.gov/pubs/pub1230.pdf>

⁶ http://www.marylandhistoricaltrust.net/1.04tax_credit_report.pdf

⁷ <http://assembly.state.ny.us/leg/?bn=A11987&sh=t>

⁸ <http://www.cr.nps.gov/hps/TPS/tax/incentives/index.htm>

⁹ http://www.nysparks.com/shpo/register/criteria_evaluation.htm

¹⁰ <http://www.fourmilab.ch/ustax/www/t26-A-1-B-IV-A-143.html>

¹¹ http://www.tax.state.ny.us/sbc/empire_zone.htm

12 <http://www.empire.state.ny.us/restoreNY/>
13 <http://assembly.state.ny.us/leg/?bn=A08854>
14 <http://www.dos.state.ny.us/CODE/ls-codes.html>
15 <http://www.dos.state.ny.us/CODE/pdf/appendixK.pdf>
16 <http://assembly.state.ny.us/leg/?bn=A06450>
17 <http://www.dot.state.ny.us/design/css/css.html>
18 <http://www.dot.state.ny.us/eab/envinit.html>
19 <http://www.dot.state.ny.us/eab/bridge/historicbridgemanagementplan.pdf>
20 <http://www.dps.state.ny.us/articlex.htm>
21 <http://www.nysparks.com/>
22 <http://www.nysparks.com/grants/programs/barns.asp>
23 <http://www.nysparks.com/shpo/state/HP5YRPLAN.PDF>
24 <http://www.cr.nps.gov/hps/TPS/tax/brochure1.htm>
25 <http://www.achp.gov/nhpa.html>
26 http://www.cr.nps.gov/hps/hpf/hpf_t.htm
27 <http://www.nps.gov/ncrc/programs/lwcf/>
28 <http://thomas.loc.gov/>
29 <http://www.nysparks.com/shpo/register/index.htm>
30 <http://www.nysparks.com/shpo/investment/index.htm>
31 <http://www.dec.state.ny.us/website/dlf/opensp/opepf14.html>
32 <http://www.nysparks.com/grants/programs/historic.asp>
33 <http://www.nysparks.com/grants/programs/heritage.asp>
34 http://www.nysparks.com/heritage/herit_area.asp
35 <http://www.achp.gov/106summary.html>
36 <http://nysparks.state.ny.us/shpo/environ/regulations.htm>
37 <http://nysparks.state.ny.us/shpo/environ/regulations.htm>
38 <http://www.dec.state.ny.us/website/regs/part617.html>
39 <http://www.nysparks.com/shpo/certified/index.htm>
40 <http://www.nysparks.com/grants/programs/certified.asp>