F I S C A L   I M P A C T   R E P O R T

SPONSOR Wirth **ORIGINAL DATE** 2/19/09 **LAST UPDATED** 3/5/09 **HB**

SHORT TITLE Cultural Property Transfer Income Tax Credit **SB** 440

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
		($17.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates,Relates to,Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		***			Recurring	TRD Operating

(Parenthesis ( ) Indicate Expenditure Decreases)

*** TRD previously reported a significant administrative impact but now reports only a minor impact.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Cultural Affairs

SUMMARY

Synopsis of Bill

Senate Bill 440 increases the caps on the cultural property tax personal income and corporate income tax credits. For the personal income tax credit for cultural property preservation, the cap is increased to from $25 thousand to $50 thousand for properties on the official NM historic register and up to $75 thousand if the property is also in an arts and cultural district. For the corporate income tax the cap is raised from $25 thousand to $125 thousand (up to $250 thousand if in an arts and cultural district). The credit is for half of the eligible rehabilitation and preservation costs up to the cap for the personal income tax. For the corporate income tax, SB440 changes the eligible costs from 50 percent of rehabilitation and preservation costs to 20 percent of these costs.

SB440 also makes the credit transferable and requires TRD to uniquely number the credits and keep track of the transfer of the credits from one taxpayer to another. The credit can only be transferred once and only in $3,000 increments. The personal income tax credit can be carried forward for four additional tax years and the corporate income tax credit can be carried forward for 19 additional tax years.

The changes are effective for projects receiving approval after January 1, 2010.

FISCAL IMPLICATIONS

According to the Department of Cultural Affairs, an average of 60 cultural property preservation tax credit applications are approved each year. The majority of credits are below the credit cap amount, and thus will be unaffected by the cap amount change. Using this information, TRD calculated the fiscal impact assuming 40 percent of credits are carried forward.

The much higher level for corporate income tax credits may increase the accessibility of the credit to businesses that renovate properties for office space. However, it is difficult to know how much of the costs of rehabilitating a historic property for commercial use would be for preservation and approved rehabilitation and how much would be for modernization to accommodate modern requirements.

SIGNIFICANT ISSUES

DCA has outlined the benefits of the credit:

> Job Creation - the reuse of older and historic buildings itself is a powerful tool for job creation and employment retention. Rehabilitation generally uses about 20 percent more labor and, in turn, produces a greater number of jobs than new construction. As compared to new construction, every $1 million spent to rehabilitate a building results in:
>
> - $120,000 more dollars initially remaining in the community;
> - Five to nine more construction jobs created;
> - An average of 4.7 more new permanent jobs created;
> - Household incomes in the community increasing by $107 more than through new construction;

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc

Enhanced local revenues: Rehabilitation activity, and the increased property value that results, enhances local property tax revenue. Retail sales in the community increase by $142,000 – $34,000 more than through new construction; and real estate companies, lending institutions, service vendors, and restaurants receive more direct monetary benefits.

Business and retail activity: Rehabilitation of historic buildings in New Mexico's downtowns, Main Street districts and Arts and Culture Districts results in enhanced retail and business activity.

Catalyst effect: Rehabilitation activity serves as a catalyst for additional economic development. The rehabilitation of a single prominent building is in some cases sufficient to galvanize the revitalization of an entire area. In other cases, a series of smaller rehabilitations can ultimately result in the "critical mass" necessary to bring the neighborhood back to prosperity. The dynamics vary from case to case, but examples abound of historic neighborhoods that were once undesirable, depressed, and dangerous but are now among the most vibrant and desirable real estate in their cities

Tourism: Studies have shown that visitors who stop at historic attractions stay longer, visit twice as many places, and spend, on average, over 2 ½ times more money than do other visitors. Through the use of the rehabilitation tax credits, these destination attractions are supported by historic neighborhoods where visitors can stay in bed and breakfast inns, shop in restored commercial areas, dine in creatively adapted buildings, and stroll through living neighborhoods showcasing a wealth of historic architecture and settlement patterns.

PERFORMANCE IMPLICATIONS

DCA's performance as an agency is partially judged on the amount of rehabilitation of cultural properties annually.

ADMINISTRATIVE IMPLICATIONS

TRD previously reported that the cost to comply with the provisions of SB440 was $1 million for computer equipment but the agency now reports minor administrative impact:

Moderate impact on the Revenue Processing Division. Revise forms, instructions, and publications for the credit claim forms and PIT, CIT, PTE, and FID tax programs. Create a credit transfer process, instructions, and new form. The addition of the new requirement to apply with the Taxation and Revenue Department (TRD) before claiming the credit can cause delays for the taxpayer, so it is advisable to coordinate with the Preservation of Cultural Properties Office and the Arts and Cultural District Office. TRD estimates it will take a 1/3 FTE to approve and track the credits.

Low Impact IT. Set up a new business credit for PIT with revenue accounting and testing – 120 hrs.

TECHNICAL ISSUES

DCA reports ambiguous language in the applicability section:

> Section 3, APPLICABILITY.--presently reads in such a manner that it could be construed to be applicable to projects that were initiated in previous years, potentially resulting in capture of previous tax years.
>
> HPD recommends the following language to clarify that point:
>
> SECTION 3. Applicability.-- The provisions of this act shall apply to tax credits applications for projects approved in writing by the Committee on or after January 1, 2010 for commencement of preservation activities.

TRD reports Page 5, Subsection H (under personal income tax) allows the credit to be transferred to any taxpayer, yet Page 10, Subsection G (under corporate income tax) allows the credit to be transferred only to any corporate taxpayer.

NF/mc