

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 239

51st Legislature, 1st Session, 2013

Tracking Number: .191739.1

Short Title: Cultural Property Preservation Tax Credit

Sponsor(s): Senator Pete Campos

Analyst: Ian Kleats

Date: February 26, 2013

Bill Summary:

Effective January 1, 2014, SB 239 amends sections of the *Personal Income Tax Act* and the *Corporate Income and Franchise Tax Act* to extend the definition of “cultural property” under an existing tax credit for the preservation of cultural property to include eligible property:

- subject to the *Main Street Act*; or
- otherwise found to merit preservation pursuant to the *Main Street Revolving Loan Act*.

The changes would apply to taxable years beginning on or after January 1, 2014.

Fiscal Impact:

SB 239 does not contain an appropriation. The estimated revenue impact is illustrated in the table below, adapted from the analysis by the Taxation and Revenue Department (TRD).

Estimated Revenue Impact*				R or NR**	Fund(s) Affected
FY 13	FY 14	FY 15	FY 16		
0	0	(88)	(88)	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss.

** Recurring (R) or Non-Recurring (NR).

LESC staff defer to the TRD estimate. Using data from the Economic Development Department (EDD) Main Street Program and New Mexico personal income tax data, the TRD estimate assumes that five properties would qualify under the broader definition of cultural property. The number of newly eligible properties was multiplied by the average credit claim of approximately \$17,500 to estimate the fiscal impact.

The Historic Preservation Division of the Department of Cultural Affairs notes in its bill analysis that SB 239 could potentially make 12 new project areas defined as Main Street communities eligible for the tax credit, which might suggest that the TRD analysis has underestimated the potential revenue impact of the credit.

Fiscal Issues:

The estimated fiscal impact of SB 239 could reduce General Fund revenue by approximately \$88,000 in FY 15 and each year thereafter.

Based on *General Appropriation Act* appropriations for the last five years, the Legislature has appropriated approximately 43.5 percent of General Fund revenue for public education. The reduction of revenue from the General Fund as proposed in this bill could result in decreased annual appropriations of \$38,000 for public education.

Substantive Issues:

SB 239 could create further incentive for the preservation of culturally important buildings. Those buildings could impart a significant historical or cultural value to New Mexico. If they fell into disrepair, that value could be compromised or lost.

The social benefit of any tax expenditure should be judged relative to multiplier effects from the likely use of the foregone government revenue. General Fund appropriations comprise many diverse uses, with the largest proportion going to fund public education. Without strong evidence to the contrary, an assertion that the expansion of this tax credit has a social benefit larger than that associated with public education or any other governmental program might be considered speculative.

Moreover, New Mexico's State Equalization Guarantee education funding formula implies that over 40 percent of government revenue would be spread equitably across the state, affecting small rural communities in a proportionate level to larger urban communities. It is unclear whether this incentive could ensure the same equitable impact to all communities that public school funding would provide, even absent any discussion of the relative social benefit of the tax policy.

Committee Referrals:

SCORC/SFC

Related Bills:

SB 130 *Transfer Tax Credits Between Taxpayers*

HB 298 *Cultural Property Preservation Tax Credit* (dential)