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## FISCAL IMPACT REPORT

SPONSOR Robinson DATE TYPED 2/10/04 HB \_\_\_\_\_

SHORT TITLE Low-Income Home Alternative Energy Projects SB 560

ANALYST Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
\$850.0			See Narrative	Recurring	General Fund

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Energy, Minerals & Natural Resources (EMNRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 560 appropriates \$850 thousand from the General Fund to EMNRD to contract for services with three statewide energy, electric and natural gas advocacy organizations with a track record of not less than five years to provide and assist with basic start-up costs for low-to-moderate income homes and homes without basic services.

#### Significant Issues

EMNRD has provided the following:

This bill promotes alternative energy and renewable energy, specifically targeting lower-income New Mexicans. There are an estimated 5,000 households in the state, mostly on Indian land and in *colonias*, without basic electrical services that may benefit from the legislation. However, this appropriation is not included in the Governor's priority list for funding and, therefore, could compete with other sought-after legislative appropriations for similar projects.

SB 560 appropriates funds for expenditure in Fiscal Year 2004. However, there is no emergency clause attached to the bill, thereby making its effective date 90 days after signature by the governor.

The provision for EMNRD to contract with non-profit organizations to assist with basic start-up costs for low to medium income homes and homes without basic electricity services already violate the anti-donation clause in the state Constitution, Article IX, Section 14. Paragraph E of Section 14 provides that counties or municipalities may provide or pay the costs of infrastructure necessary to support affordable housing projects. It does not provide for the State to do this.

In addition, the Constitution requires the legislature to pass enabling legislation that defines affordable housing and establishes criteria for recipients of infrastructure, and requires the county or municipality to give prior formal approval by ordinance for a specific affordable housing project. This bill will give the money to the state to distribute to non-profits rather than a county or municipality. Affordable housing is not defined, criteria for recipients is not established, and a county or municipality has not given prior formal approval for a specific affordable housing project.

### **FISCAL IMPLICATIONS**

The appropriation of \$850 thousand contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2004 shall revert to the General Fund.

This bill allows a reasonable percentage of the appropriation to be used for administrative costs, but this percentage may not exceed twenty percent. Administrative costs do not include staff costs.

### **ADMINISTRATIVE IMPLICATIONS**

EMNRD may have to conduct rulemaking to determine low-to-moderate eligibility requirements and procedures for the program administration. EMNRD would likely require at least 0.5 FTE for program administration and management, yet the bill prohibits any of the appropriation from being used for staff costs.

### **POSSIBLE QUESTIONS**

Since the appropriation in this bill is for Fiscal Year 2004, should there be an emergency clause? Can the services be provided by the end of FY04 which is June 30, 2004?

**DW/dm**