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| LFC Requester: | Jon Clark |
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date February 23, 2015
Bill No: HB 330s

Sponsor: Rep. Carl Trujillo/HEENC sub **Agency Code:** Attorney General's Office - 305
Short Electric Coop Lines through **Person Writing** Tannis L. Fox, AAG
Title: Tribal Lands **Phone:** 827-6695 **Email** tfox@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY15 | FY16 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY15 | FY16 | FY17 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis:

The HEENC substitute for HB 330 proposes to amend the Rural Electric Cooperative Act to provide that a “cooperative shall provide retail utility service on lands subject to the jurisdiction or control of a tribe pursuant to the same rates, rules and forms that are applicable to the cooperative's other members.”

FISCAL IMPLICATIONS N/A

SIGNIFICANT ISSUES

1. The substitute for HB 330 raises a serious jurisdictional question as to whether the State can require electric cooperatives to provide service and to regulate that service on lands that are subject to the jurisdiction of a tribe.
2. While the substitute for HB 330 would require a cooperative to provide services on lands subject to tribal control, HB 330 does not set forth how to determine which cooperative, whose service area would not include tribal lands, would be required to provide service.
3. Tribes may have their own laws regarding the provision of utilities on tribal land; HB 330 does not take account of how such laws would impact a cooperative.
4. An electric cooperative may prescribe the limitations and qualifications of its members. NMSA 1978, § 62-15-8(A). HB 330, however, appears to require a cooperative to take on undefined members in an undefined area (that is subject to tribal jurisdiction).

PERFORMANCE IMPLICATIONS N/A

ADMINISTRATIVE IMPLICATIONS N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP None identified.

TECHNICAL ISSUES None identified.

OTHER SUBSTANTIVE ISSUES None identified.

ALTERNATIVES None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL Status quo.

AMENDMENTS