

LFC Requester:	Caroline Malone
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**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

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 2/3/2015
Bill No: HB 311

Sponsor: Jimmie C. Hall
Short Transfers & Reversions to
Title: General Fund

Agency Code: 305
Person Writing Dylan K. Lange, AAG
Phone: 827-7479 **Email** dlange@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	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

BILL SUMMARY

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.

Synopsis:

HB 311 would transfer current funds or accounts to the general fund for fiscal year 2016 and 2017. This transfer is necessary based on an emergency.

Section 1 would allow certain monies to be transferred to the 2016 general fund *operating reserve* from the following accounts:

- Legislative cash balances
- **Attorney General consumer settlement fund (\$1,000,000)**
- Weight distance tax id. permit fund
- Delinquent property tax fund
- General fund appropriation to Homeland Security Department
- General fund appropriation to Emergency Management Department
- General fund appropriation to the Public Education Department (\$10,000,000)
- *Tax stabilization reserve*

Section 2 would allow certain monies to be transferred to 2017 fiscal year *appropriation account* of the general fund from the following accounts:

- Local DWI grant fund
- State government unemployment compensation reserve fund
- Mortgage regulatory fund
- Insurance fraud fund
- Worker’s compensation administration fund
- Employment security department fund of the workforce solutions
- Rural infrastructure revolving loan fund
- Carnival ride insurance fund
- Professional engineers; and surveyor’ fund
- Hoisting Operators Safety Act fund
- Real estate recovery fund
- Construction Industries Division
- Barbers and Cosmetologists fund
- Athletic Commission fund
- Counseling and therapy practice board

- Chiropractic fund
- Nutrition and dietetics fund
- Nursing home administrators fund
- Board of examiners for occupational therapy fund
- Optometry fund
- Board of osteopathic medical examiners fund
- Podiatry fund
- Physical therapy fund
- Thanatopractice license fund
- Interior design board fund
- Land scape architects fund
- Speech language pathology
- Respiratory care fund
- Athletic trainer practice board
- Dentists and dental hygienists
- State financial regulation fund
- Manufactured housing
- Governmental gross tax receipts tax receipts

Section 2(D) directs that 50% of the FY 2017 distribution to the state under the Master Settlement Agreement entered into with tobacco product manufacturers be distributed to the tobacco settlement program fund.

FISCAL IMPLICATIONS

All of the bodies affected will take substantial financial blows to their overall fiscal spending.

SIGNIFICANT ISSUES

Both Subsection 1 and 2 start out with the broad encompassing language, “notwithstanding any restriction on the use of money in the funds or accounts...” This language whips away the intent of every statute enacted to restrict governmental use and expenditure of money allocated by the legislature.

For instance, sub-section 1(D) of the proposed bill would transfer \$147,500,000 from the tax stabilization reserve. The governing statute of the tax stabilization restricts the use of funds in this reserve. See NMSA 1978, § 6-4-2.2. The “notwithstanding” language of SB 311 does not require the state to follow the procedure for the appropriation or expenditure of any of the balance of the tax stabilization reserve.

PERFORMANCE IMPLICATIONS

All of the bodies affected will take a substantial financial blow to their overall fiscal spending.

All emergency programs affected will also be impacted in their ability to respond quickly and effectively to emergency situations.

The Office of the Attorney General's Consumer Protection division will lose leverage in consumer settlements with a reduction of \$1,000,000, as proposed.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 2 deals with the general fund appropriations, and SB 158 is the General Appropriation Act of 2016.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS