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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Dow/Garcia, M. **ORIGINAL DATE** 2/10/2025

BILL

SHORT TITLE Public Contract Reimbursement & Wages **NUMBER** House Bill 305

ANALYST Garcia

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
State agencies	See fiscal impact**	See fiscal impact**	See fiscal impact**	See fiscal impact**	Recurring	General Fund
Total	See fiscal impact**	See fiscal impact**	See fiscal impact**	See fiscal impact**	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

**Fiscal impact is contingent on the enactment of legislation increasing New Mexico's minimum wage, but this increase is not specified in the bill described below.

Relates to House Bill 246 and House Bill 11 and conflicts with House Bill 119.

Sources of Information

LFC Files

Agency Analysis Received From

Children, Youth and Families Department (CYFD)
 General Services Department (GSD)
 Department of Health (DOH)
 Workforce Solutions Department (WSD)
 Early Childhood Care and Education Department (ECECD)

Agency Analysis was Solicited but Not Received From

Health Care Authority (HCA)
 Department of Transportation (DOT)
 Public Education Department (PED)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of House Bill 305

House Bill 305 (HB305) would add a new section to the Minimum Wage Act to require the state to hold contractors and subcontractors harmless, increasing reimbursement, to fund any increase in wages necessitated by a state minimum wage or cost increase resulting from a change to statutory benefits. The bill notes that individuals pursuant to a contract or subcontract who are paid a minimum wage will receive a wage increase concurrent with the state minimum wage increase.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

House Bill 305 could significantly increase state contracting costs by requiring the state to increase reimbursement to contractors and subcontractors in the event the state increases the minimum wage or requires any potential compensation or benefit to hold contractor and subcontractor wages harmless.

The Workforce Solutions Department (WSD) notes, given the placement of the provision in the Minimum Wage Act, it is unclear who is responsible for funding the potential wage or benefit increases required in the bill. This analysis assumes the intent is to increase state government contracts to fund any future minimum wage increases or benefits required in statute. WSD notes the agency's budget could likely be impacted by unfunded contract price increases.

The bill could have a significant fiscal impact on the Early Childhood Care and Education Department (ECECD), which contracts with early childhood care and education providers to provide services including childcare, home visiting, early intervention, and other programs. However, it is difficult to assess the specific fiscal impact of this bill because it would require reimbursement increases for any potential future increase to wage or benefit analysis. According to Workforce Solutions Data, the state employs 2,180 childcare workers who make an average wage of \$14.54 per hour. Given the state's expansion of childcare assistance eligibility and the extent to which childcare providers rely upon state revenue, a \$1 increase to the minimum wage could cost the state at least \$3 million annually to increase contract costs to early childhood care and education providers.

The bill could also likely have a significant impact on the Health Care Authority (HCA) and state Medicaid program, which would likely need to seek increased reimbursement rates for Medicaid providers due to any future statutory adjustments to the minimum wage or other compensation and benefits. The Medicaid program is currently supported by \$2 billion in general fund appropriations and requirements to increase reimbursements would have a substantial, but currently incalculable, impact on the general fund. As an example, a compensation increase that would result in a 1 percent increase to Medicaid costs would increase recurring annual costs to the General Fund by \$2 million.

The General Services Department (GSD) noted the potential fiscal impact, particularly in the Facilities Management Division, may be significant but cannot be projected. GSD noted the bill could have an impact on project completion.

The Department of Health (DOH) reports the agency is managing approximately \$50 million in contractual services, which employs thousands of health care providers and provides other services. This bill could have a significant but indeterminate fiscal impact on the agency.

The Children, Youth, and Families Department (CYFD) did not note a specific fiscal impact. However, the agency could experience fiscal impacts on contractual services, as the agency relies upon contractors to provide a variety of services, including behavioral health services for children and domestic violence support providers.

While other agencies did not provide specific analysis, this bill could likely have significant fiscal implications for contractual service expenditures across state government.

Because it is unclear how future laws might impact employee minimum wage and benefits, it is not possible to calculate the potential fiscal impact of House Bill 305, but the potential fiscal impact could be significant.

SIGNIFICANT ISSUES

WSD reported:

“HB305 effectively shifts the financial burden of state-mandated minimum wage increases and other legally required cost increases from contractors and subcontractors with state service contracts to taxpayers, creating an uneven playing field. While private businesses must absorb wage increases and statutory costs on their own, business with government contractors would be reimbursed, giving them a financial advantage over businesses without government contracts...contractors bidding on state service contracts should already be factoring in expected minimum wage increases, particularly given that bills contemplating minimum wage increases tied such increases to the consumer price index. The bill would also create procurement unfairness. In an RFP process, a bidder who proposes higher costs because of higher wages may be penalized, even though a bidder who proposes lower labor costs would ultimately have any labor cost increases absorbed by the state.”

GSD notes:

“as written the proposed provision would be in conflict with NMAC Procurement Code Regulations (1.4.11[B]), which states, ‘no contract governed by this rule shall contain any provision whereby a state agency agrees to indemnify a contractor or provide a contractor with a limitation or liability or provide a contractor with insurance for non-tort risks.’ Based on a recent opinion of the New Mexico Attorney General, this duty to reimburse or hold harmless may be in violation of the debt provisions of the New Mexico Constitution, Article IX, Section 8.”

DOH reported an employer cannot be ordered to pay additional wages through state contracts; statute confers the authority to determine prevailing wages but does not grant the power to order an employer to pay specific wages.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to House Bill 246, which would increase the state’s minimum wage to \$17 per hour and require that future minimum wage increases be tied to the Consumer Price Index.

This bill relates to House Bill 119, which would similarly require funding increases for state contracts with statutorily required compensation and benefit increases.

The bill relates to House Bill 11, which would implement a paid family medical leave program in the state, a statutorily required benefit.

TECHNICAL ISSUES

Agency analysis noted the bill does not define “hold harmless,” however the law would likely be interpreted to mean state agencies would have an obligation to reimburse or pay contractors and subcontractors for either minimum wage increases or statutory benefit requirements.

OTHER SUBSTANTIVE ISSUES

The bill would apply to future legislation and require the legislature to make appropriations to contractual services to offset any future minimum wage or benefit increases. The bill could commit future legislatures to appropriation increases as well as increase the estimated fiscal impact of potential future bills.

ALTERNATIVES

The Legislature could consider any minimum wage or benefit impacts to businesses when developing state agency contractual services budget appropriations, as the Legislature has done historically.

RMG/hj/SR