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## FISCAL IMPACT REPORT

SPONSOR Youngblood ORIGINAL DATE 2/01/18  
LAST UPDATED \_\_\_\_\_ HB 189  
SHORT TITLE State Law Over Private Sector Employment Law SB \_\_\_\_\_  
ANALYST Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to identical bills, HB 169 and SB 179

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
New Mexico Attorney General (NMAG)  
Department of Workforce Solutions (DWS)

### SUMMARY

#### Synopsis of Bill

House Bill 189 would prohibit political subdivisions of New Mexico (i.e., cities, counties) from passing bills, resolutions or policies that would regulate benefits provided by private employers to their employees. The prohibition would apply to paid or unpaid leave, fringe benefits, or benefits that would be an expense to the employer.

### FISCAL IMPLICATIONS

There is no appropriation in this bill, and none of the agencies indicates a fiscal impact from the bill's provisions.

### SIGNIFICANT ISSUES

As noted by NMAG, it is not clear whether local minimum wage resolutions, laws, or policies would be prohibited. DWS states that "The New Mexico Court of Appeals has held (in *New Mexicans v. City of Santa Fe*) that a municipality may set a minimum wage higher than the state

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Minimum Wage Act because of the independent powers under the home rule provision of the constitution, unless the authority to do so is expressly denied by state law.” House Bill 189 would make that express denial in the case of benefits, and perhaps wages.

Currently the state minimum wage is \$7.50, slightly above the federal minimum wage of \$7.25 per hour. Minimum wages in political subdivisions of the state include the following (listed for employees with benefits but no tips), from <https://www.nmrestaurants.org/minimum-wage-in-new-mexico/>:

Albuquerque \$7.95

Bernalillo County \$8.85

Las Cruces \$9.20

Santa Fe \$11.09

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As noted above, it is not clear whether HB 189 would invalidate those laws.

## **RELATIONSHIP**

Identical bills, HB 169 and Senate Bill 179, which would make it illegal to enforce a union contract (called a “right to work” bill).

## **TECHNICAL ISSUES**

As noted by DWS, “the bill lacks a definition for “leave” and “fringe benefits,” which additions might eliminate a vagueness challenge.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Cities and counties and other governmental subunits could continue to pass and enforce laws, regulations and resolutions regarding benefits of employees of private employers within their jurisdictions.

LAC/sb