



**A Decade of Bold Actions
and Extraordinary Results**



HB 85 Union Security Agreement Comments

Mr. Chair, Members: I'm Carla Sonntag, President of the NMBC, a statewide, nonpartisan association for pro-business policy and we oppose this bill.

I am not opposed to unions. My husband belonged to two unions while serving for the Albuquerque Police Department. We are longtime supporters of Right to Work (RTW), simply because it allows choice over union membership.

RTW is not a union busting measure. In fact, from 2017 to 2018, unions lost 137,000 members in non RTW states, but membership grew in RTW states.

Since this committee is charged with considering legislation based on whether or not it is legal, adheres to our state constitution and is good policy for the state, I would like you to consider five points:

1. NM Counties' have a right to pass RTW ordinances pursuant to the counties' police powers to promote the economic prosperity of the counties' inhabitants. The legislature has expressly conferred upon counties the power to promote the prosperity of their inhabitants NMSA 1978, § 4-37-1. **Accordingly, the counties are entitled to enact local ordinances to promote the prosperity of their inhabitants.**

2. Selective Preemption: Under the New Mexico Constitution, **Article 4, Section 24**, "the legislature shall not pass local or special laws in any of the following cases: regulating county, precinct or district affairs[.]" As discussed above, promoting the prosperity of a county's inhabitants rests soundly within the province of "county affairs." A "special law" is one that affects only a certain class of persons or things. If the legislature were to preempt local RTW ordinances, such preemption would constitute a "special law" to the extent that it would affect only certain provisions and employees in the context of private collective bargaining. **This is not good policy or precedent for our state.**

3. Forced Union Membership: HB 85, Section 1B, states, "An employer or labor organization anywhere in the state may execute and apply an agreement **REQUIRING** membership in a labor organization as a condition of employment to the full extent allowed by federal law". **Regardless of what anyone thinks about RTW, requiring someone to join a union as a condition of employment is just wrong.**

4. To make this measure retroactive is just wrong and may violate the state constitution, Article 2, Section 19: “No ex post facto law, bill of attainder nor law impairing the obligation of contracts shall be enacted by the legislature.” We have 10 counties and the Village of Ruidoso that have passed a RTW ordinance in a bipartisan manner for over 650,000 New Mexicans.

5. HB 85 may be unconstitutional under the NM Constitution: There is pending litigation regarding the Sandoval County RTW ordinance. Under the NM Constitution, **Article 4, Section 24**, “no act of the legislature shall affect the right or remedy of either party, or change the rules of evidence or procedure, in any pending case.” If the legislature were to enact legislation retroactively preempting local right to work ordinances, such legislation would affect the rights and remedies of the parties to the Sandoval County litigation, thus rendering any retroactive preemption unconstitutional.

Mr. Chair, Members, All of you took an oath to uphold the State Constitution. Not when it’s convenient or easy, but to uphold the Constitution always. I respectfully request that you do that now and vote ‘NO’ on HB 85.