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SENATE BILL 492

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

CISCO MCSORLEY

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; PROVIDING THAT CERTAIN
DEMONSTRATION SERVICES DO NOT QUALIFY AS EMPLOYMENT FOR THE
PURPOSES OF THE UNEMPLOYMENT COMPENSATION LAW; AMENDING A
SECTION OF THE UNEMPLOYMENT COMPENSATION LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 51-1-42 NMSA 1978 (being Laws 1936
(S.S.), Chapter 1, Section 19, as amended) is amended to read:

"51-1-42. DEFINITIONS. -- As used in the Unemployment
Compensation Law:

A. "base period" means the first four of the last
five completed calendar quarters immediately preceding the first
day of an individual's benefit year;

B. "benefits" means the cash unemployment
compensation payments payable to an eligible individual pursuant

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1 to Section 51-1-4 NMSA 1978 with respect to his weeks of
2 unemployment;

3 C. "contributions" means the money payments required
4 by Section 51-1-9 NMSA 1978 to be made into the [~~unemployment~~
5 ~~compensation~~] fund by an employer on account of having
6 individuals performing services for him;

7 D. "employing unit" means any individual or type of
8 organization, including any partnership, association,
9 cooperative, trust, estate, joint-stock company, agricultural
10 enterprise, insurance company or corporation, whether domestic
11 or foreign, or the receiver, trustee in bankruptcy, trustee or
12 successor thereof, household, fraternity or club, the legal
13 representative of a deceased person or any state or local
14 government entity to the extent required by law to be covered as
15 an employer, which has in its employ one or more individuals
16 performing services for it within this state. All individuals
17 performing services for any employing unit which maintains two
18 or more separate establishments within this state shall be
19 deemed to be employed by a single employing unit for all the
20 purposes of the Unemployment Compensation Law. Individuals
21 performing services for contractors, subcontractors or agents
22 which are performing work or services for an employing unit, as
23 described in this subsection, which is within the scope of the
24 employing unit's usual trade, occupation, profession or business
25 shall be deemed to be in the employ of the employing unit for

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1 all purposes of the Unemployment Compensation Law unless such
2 contractor, subcontractor or agent is itself an employer within
3 the provision of Subsection E of this section;

4 E. "employer" includes:

5 (1) any employing unit which:

6 (a) unless otherwise provided in this
7 section, paid for service in employment as defined in Subsection
8 F of this section wages of four hundred fifty dollars (\$450) or
9 more in any calendar quarter in either the current or preceding
10 calendar year or had in employment, as defined in Subsection F
11 of this section, for some portion of a day in each of twenty
12 different calendar weeks during either the current or the
13 preceding calendar year, and irrespective of whether the same
14 individual was in employment in each such day, at least one
15 individual;

16 (b) for the purposes of Subparagraph (a)
17 of this paragraph, if any week includes both December 31 and
18 January 1, the days of that week up to January 1 shall be deemed
19 one calendar week and the days beginning January 1, another such
20 week; and

21 (c) for purposes of defining an
22 "employer" under Subparagraph (a) of this paragraph, the wages
23 or remuneration paid to individuals performing services in
24 employment in agricultural labor or domestic services as
25 provided in Paragraphs (6) and (7) of Subsection F of this

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1 section shall not be taken into account; except that any
2 employing unit determined to be an employer of agricultural
3 labor under Paragraph (6) of Subsection F of this section shall
4 be an employer under Subparagraph (a) of this paragraph so long
5 as the employing unit is paying wages or remuneration for
6 services other than agricultural services;

7 (2) any individual or type of organization that
8 acquired the trade or business or substantially all of the
9 assets thereof, of an employing unit which at the time of such
10 acquisition was an employer subject to the Unemployment
11 Compensation Law; provided that where such an acquisition takes
12 place, the secretary may postpone activating the separate
13 account pursuant to Subsection A of Section 51-1-11 NMSA 1978
14 until such time as the successor employer has employment as
15 defined in Subsection F of this section;

16 (3) any employing unit which acquired all or
17 part of the organization, trade, business or assets of another
18 employing unit and which, if treated as a single unit with such
19 other employing unit or part thereof, would be an employer under
20 Paragraph (1) of this subsection;

21 (4) any employing unit not an employer by
22 reason of any other paragraph of this subsection,

23 (a) for which, within either the current
24 or preceding calendar year, service is or was performed with
25 respect to which such employing unit is liable for any federal

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1 tax against which credit may be taken for contributions required
2 to be paid into a state unemployment fund, or

3 (b) which, as a condition for approval of
4 the Unemployment Compensation Law for full tax credit against
5 the tax imposed by the Federal Unemployment Tax Act, is
6 required, pursuant to such act, to be an "employer" under the
7 Unemployment Compensation Law;

8 (5) any employing unit which, having become an
9 employer under Paragraph (1), (2), (3) or (4) of this
10 subsection, has not, under Section 51-1-18 NMSA 1978, ceased to
11 be an employer subject to the Unemployment Compensation Law;

12 (6) for the effective period of its election
13 pursuant to Section 51-1-18 NMSA 1978, any other employing unit
14 which has elected to become fully subject to the Unemployment
15 Compensation Law; and

16 (7) any employing unit for which any services
17 performed in its employ are deemed to be performed in this state
18 pursuant to an election under an arrangement entered into in
19 accordance with Subsection A of Section 51-1-50 NMSA 1978;

20 F. "employment" means:

21 (1) any service, including service in
22 interstate commerce, performed for wages or under any contract
23 of hire, written or oral, express or implied;

24 (2) and includes an individual's entire
25 service, performed within or both within and without this state

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1 if:

2 (a) the service is primarily localized in
3 this state with services performed outside the state being only
4 incidental thereto; or

5 (b) the service is not localized in any
6 state but some of the service is performed in this state and:
7 1) the base of operations or, if there is no base of operations,
8 [then] the place from which such service is directed or
9 controlled, is in this state; or 2) the base of operations or
10 place from which such service is directed or controlled is not
11 in any state in which some part of the service is performed but
12 the individual's residence is in this state;

13 (3) services performed within this state but
14 not covered under Paragraph (2) of this subsection if
15 contributions or payments in lieu of contributions are not
16 required and paid with respect to such services under an
17 unemployment compensation law of any other state, the federal
18 government or Canada;

19 (4) services covered by an election pursuant to
20 Section 51-1-18 NMSA 1978 and services covered by an election
21 duly approved by the secretary in accordance with an arrangement
22 pursuant to Paragraph (1) of Subsection A of Section 51-1-50
23 NMSA 1978 shall be deemed to be employment during the effective
24 period of such election;

25 (5) services performed by an individual for an

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1 employer for wages or other remuneration unless and until it is
2 established by a preponderance of evidence that:

3 (a) such individual has been and will
4 continue to be free from control or direction over the
5 performance of such services both under his contract of service
6 and in fact;

7 (b) such service is either outside the
8 usual course of business for which such service is performed or
9 that such service is performed outside of all the places of
10 business of the enterprise for which such service is performed;
11 and

12 (c) such individual is customarily
13 engaged in an independently established trade, occupation,
14 profession or business of the same nature as that involved in
15 the contract of service;

16 (6) service performed after December 31, 1977
17 by an individual in agricultural labor as defined in Subsection
18 Q of this section if:

19 (a) such service is performed for an
20 employing unit which: 1) paid remuneration in cash of twenty
21 thousand dollars (\$20,000) or more to individuals in such
22 employment during any calendar quarter in either the current or
23 the preceding calendar year; or 2) employed in agricultural
24 labor ten or more individuals for some portion of a day in each
25 of twenty different calendar weeks in either the current or

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1 preceding calendar year, whether or not such weeks were
2 consecutive, and regardless of whether such individuals were
3 employed at the same time;

4 (b) such service is not performed before
5 January 1, 1980 by an individual who is an alien admitted to the
6 United States to perform service in agricultural labor pursuant
7 to Sections 214(c) and 101(15)(H) of the Immigration and
8 Nationality Act; and

9 (c) for purposes of this paragraph, any
10 individual who is a member of a crew furnished by a crew leader
11 to perform service in agricultural labor for a farm operator or
12 other person shall be treated as an employee of such crew
13 leader: 1) if such crew leader meets the requirements of a crew
14 leader as defined in Subsection L of this section; or 2)
15 substantially all the members of such crew operate or maintain
16 mechanized agricultural equipment which is provided by the crew
17 leader; and 3) the individuals performing such services are not,
18 by written agreement or in fact, within the meaning of Paragraph
19 (5) of this subsection, performing services in employment for
20 the farm operator or other person;

21 (7) service performed after December 31, 1977
22 by an individual in domestic service in a private home, local
23 college club or local chapter of a college fraternity or
24 sorority for a person or organization that paid cash
25 remuneration of one thousand dollars (\$1,000) in any calendar

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1 quarter in the current or preceding calendar year to individuals
2 performing such services;

3 (8) service performed after December 31, 1971
4 by an individual in the employ of a religious, charitable,
5 educational or other organization but only if the following
6 conditions are met:

7 (a) the service is excluded from
8 "employment" as defined in the Federal Unemployment Tax Act
9 solely by reason of Section 3306(c)(8) of that act; and

10 (b) the organization meets the
11 requirements of "employer" as provided in Subparagraph (a) of
12 Paragraph (1) of Subsection E of this section;

13 (9) service of an individual who is a citizen
14 of the United States, performed outside the United States,
15 except in Canada, after December 31, 1971 in the employ of an
16 American employer (other than service which is deemed
17 "employment" under the provisions of Paragraph (2) of this
18 subsection or the parallel provisions of another state's law),
19 if:

20 (a) the employer's principal place of
21 business in the United States is located in this state;

22 (b) the employer has no place of business
23 in the United States, but: 1) the employer is an individual who
24 is a resident of this state; 2) the employer is a corporation
25 which is organized under the laws of this state; or 3) the

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1 employer is a partnership or a trust and the number of the
2 partners or trustees who are residents of this state is greater
3 than the number who are residents of any one other state; or

4 (c) none of the criteria of Subparagraphs
5 (a) and (b) of this paragraph are met, but the employer has
6 elected coverage in this state or, the employer having failed to
7 elect coverage in any state, the individual has filed a claim
8 for benefits, based on such service, under the law of this
9 state.

10 "American employer" for purposes of this paragraph [~~(9)~~ ~~of~~
11 ~~this subsection~~] means a person who is: 1) an individual who is
12 a resident of the United States; 2) a partnership if two-thirds
13 or more of the partners are residents of the United States; 3) a
14 trust if all of the trustees are residents of the United States;
15 or 4) a corporation organized under the laws of the United
16 States or of any state. For the purposes of this paragraph [~~(9)~~
17 ~~of this subsection~~], "United States" includes the United States,
18 the District of Columbia, the commonwealth of Puerto Rico and
19 the Virgin Islands;

20 (10) notwithstanding any other provisions of
21 this subsection, service with respect to which a tax is required
22 to be paid under any federal law imposing a tax against which
23 credit may be taken for contributions required to be paid into a
24 state unemployment fund or which as a condition for full tax
25 credit against the tax imposed by the Federal Unemployment Tax

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1 Act is required to be covered under the Unemployment
2 Compensation Law;

3 (11) "employment" shall not include:

4 (a) service performed in the employ of:

5 1) a church or convention or association of churches; or 2) an
6 organization which is operated primarily for religious purposes
7 and which is operated, supervised, controlled or principally
8 supported by a church or convention or association of churches;

9 (b) service performed by a duly ordained,
10 commissioned or licensed minister of a church in the exercise of
11 his ministry or by a member of a religious order in the exercise
12 of duties required by such order;

13 (c) service performed by an individual in
14 the employ of his son, daughter or spouse, and service performed
15 by a child under the age of majority in the employ of his father
16 or mother;

17 (d) service performed in the employ of
18 the United States government or an instrumentality of the United
19 States immune under the constitution of the United States from
20 the contributions imposed by the Unemployment Compensation Law
21 except that to the extent that the congress of the United States
22 shall permit states to require any instrumentalities of the
23 United States to make payments into an unemployment fund under a
24 state unemployment compensation act, all of the provisions of
25 the Unemployment Compensation Law shall be applicable to such

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1 instrumentalities, and to service performed for such
2 instrumentalities in the same manner, to the same extent and on
3 the same terms as to all other employers, employing units,
4 individuals and services; provided, that if this state shall not
5 be certified for any year by the secretary of labor of the
6 United States under Section 3304 of the federal Internal Revenue
7 Code (26 U.S.C. Section 3304), the payments required of such
8 instrumentalities with respect to such year shall be refunded by
9 the department from the fund in the same manner and within the
10 same period as is provided in Subsection D of Section 51-1-36
11 NMSA 1978 with respect to contributions erroneously collected;

12 (e) service performed in a facility
13 conducted for the purpose of carrying out a program of
14 rehabilitation for individuals whose earning capacity is
15 impaired by age or physical or mental deficiency or injury or
16 providing remunerative work for individuals who because of their
17 impaired physical or mental capacity cannot be readily absorbed
18 in the competitive labor market, by an individual receiving such
19 rehabilitation or remunerative work;

20 (f) service with respect to which
21 unemployment compensation is payable under an unemployment
22 compensation system established by an act of congress;

23 (g) service performed in the employ of a
24 foreign government, including service as a consular or other
25 officer or employee or a nondiplomatic representative;

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1 (h) service performed by an individual
2 for a person as an insurance agent or as an insurance solicitor,
3 if all such service performed by such individual for such person
4 is performed for remuneration solely by way of commission;

5 (i) service performed by an individual
6 under the age of eighteen in the delivery or distribution of
7 newspapers or shopping news, not including delivery or
8 distribution to any point for subsequent delivery or
9 distribution;

10 (j) service covered by an election duly
11 approved by the agency charged with the administration of any
12 other state or federal unemployment compensation law, in
13 accordance with an arrangement pursuant to Paragraph (1) of
14 Subsection A of Section 51-1-50 NMSA 1978 during the effective
15 period of such election;

16 (k) service performed, as part of an
17 unemployment work-relief or work-training program assisted or
18 financed in whole or part by any federal agency or an agency of
19 a state or political subdivision thereof, by an individual
20 receiving such work relief or work training;

21 (l) service performed by an individual
22 who is enrolled at a nonprofit or public educational institution
23 which normally maintains a regular faculty and curriculum and
24 normally has a regularly organized body of students in
25 attendance at the place where its educational activities are

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1 carried on as a student in a full-time program, taken for credit
2 at such institution, which combines academic instruction with
3 work experience, if the service is an integral part of such
4 program, and the institution has so certified to the employer,
5 except that this subparagraph shall not apply to service
6 performed in a program established for or on behalf of an
7 employer or group of employers;

8 (m) service performed in the employ of a
9 hospital, if the service is performed by a patient of the
10 hospital, or services performed by an inmate of a custodial or
11 penal institution for a governmental entity or nonprofit
12 organization;

13 (n) service performed by real estate
14 salesmen for others when the services are performed for
15 remuneration solely by way of commission;

16 (o) service performed in the employ of a
17 school, college or university if such service is performed by a
18 student who is enrolled and is regularly attending classes at
19 such school, college or university;

20 (p) service performed by an individual
21 for a fixed or contract fee officiating at a sporting event
22 which is conducted by or under the auspices of a nonprofit or
23 governmental entity if that person is not otherwise an employee
24 of the entity conducting the sporting event; ~~[or]~~

25 (q) service performed by an individual,

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1 on a temporary or part-time basis, involving product
2 demonstrations, coupon demonstrations, special event
3 demonstrations or merchandise demonstrations, when the service
4 is performed by the individual pursuant to a contract with
5 another person or company and the contract provides that the
6 individual is not an employee of the other person or company; or

7 [~~(q)~~] (r) service performed for a private
8 for-profit person or entity by an individual as a landman if
9 substantially all remuneration paid in cash or otherwise for the
10 performance of the services is directly related to the
11 completion by the individual of the specific tasks contracted
12 for rather than to the number of hours worked by the individual.
13 For the purposes of this subparagraph, "landman" means a land
14 professional who has been engaged primarily in: 1) negotiating
15 for the acquisition or divestiture of mineral rights; 2)
16 negotiating business agreements that provide for the exploration
17 for or development of minerals; 3) determining ownership of
18 minerals through the research of public and private records; and
19 4) reviewing the status of title, curing title defects and
20 otherwise reducing title risk associated with ownership of
21 minerals; managing rights or obligations derived from ownership
22 of interests and minerals; or utilizing or pooling of interest
23 in minerals; and

24 (12) for the purposes of this subsection, if
25 the services performed during one-half or more of any pay period

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1 by an individual for the person employing him constitute
2 employment, all the services of such individual for such period
3 shall be deemed to be employment but, if the services performed
4 during more than one-half of any such pay period by an
5 individual for the person employing him do not constitute
6 employment, then none of the services of such individual for
7 such period shall be deemed to be employment. As used in this
8 paragraph, the term "pay period" means a period, of not more
9 than thirty-one consecutive days, for which a payment of
10 remuneration is ordinarily made to the individual by the person
11 employing him. This paragraph shall not be applicable with
12 respect to services performed in a pay period by an individual
13 for the person employing him where any of such service is
14 excepted by Subparagraph (f) of Paragraph (11) of this
15 subsection;

16 G. "employment office" means a free public
17 employment office, or branch thereof, operated by this state or
18 maintained as a part of a state-controlled system of public
19 employment offices;

20 H. "fund" means the unemployment compensation fund
21 established by the Unemployment Compensation Law to which all
22 contributions and payments in lieu of contributions required
23 under the Unemployment Compensation Law and from which all
24 benefits provided under the Unemployment Compensation Law shall
25 be paid;

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1 I. "unemployment" means, with respect to an
2 individual, any week during which he performs no services and
3 with respect to which no wages are payable to him and during
4 which he is not engaged in self-employment or receives an award
5 of back pay for loss of employment. The secretary shall
6 prescribe by regulation what constitutes part-time and
7 intermittent employment, partial employment and the conditions
8 under which individuals engaged in such employment are eligible
9 for partial unemployment benefits;

10 J. "state", when used in reference to any state
11 other than New Mexico, includes, in addition to the states of
12 the United States, the District of Columbia, the commonwealth of
13 Puerto Rico and the Virgin Islands;

14 K. "unemployment compensation administration fund"
15 means the fund established by Subsection A of Section 51-1-34
16 NMSA 1978 from which administrative expenses under the
17 Unemployment Compensation Law shall be paid. "Employment
18 security department fund" means the fund established by
19 Subsection B of Section 51-1-34 NMSA 1978 from which certain
20 administrative expenses under the Unemployment Compensation Law
21 shall be paid;

22 L. "crew leader" means a person who:
23 (1) holds a valid certificate of registration
24 as a crew leader or farm labor contractor under the Migrant and
25 Seasonal Agricultural Worker Protection Act;

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1 (2) furnishes individuals to perform services
2 in agricultural labor for any other person;

3 (3) pays, either on his own behalf or on behalf
4 of such other person, the individuals so furnished by him for
5 service in agricultural labor; and

6 (4) has not entered into a written agreement
7 with the other person for whom he furnishes individuals in
8 agricultural labor that such individuals will be the employees
9 of the other person;

10 M "week" means such period of seven consecutive
11 days, as the secretary may by regulation prescribe. The
12 secretary may by regulation prescribe that a week shall be
13 deemed to be "in", "within" or "during" that benefit year which
14 includes the greater part of such week;

15 N. "calendar quarter" means the period of three
16 consecutive calendar months ending on March 31, June 30,
17 September 30 or December 31;

18 O. "insured work" means services performed for
19 employers who are covered under the Unemployment Compensation
20 Law;

21 P. "benefit year" with respect to any individual
22 means the one-year period beginning with the first day of the
23 first week of unemployment with respect to which the individual
24 first files a claim for benefits in accordance with Subsection A
25 of Section 51-1-8 NMSA 1978 and thereafter the one-year period

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1 beginning with the first day of the first week of unemployment
2 with respect to which the individual next files such a claim for
3 benefits after the termination of his last preceding benefit
4 year; provided that at the time of filing such a claim the
5 individual has been paid the wages for insured work required
6 under Paragraph (5) of Subsection A of Section 51-1-5 NMSA 1978;

7 Q. "agricultural labor" includes all services
8 performed:

9 (1) on a farm, in the employ of any person, in
10 connection with cultivating the soil or in connection with
11 raising or harvesting any agricultural or horticultural
12 commodity, including the raising, shearing, feeding, caring for,
13 training and management of livestock, bees, poultry and fur-
14 bearing animals and wildlife;

15 (2) in the employ of the owner or tenant or
16 other operator of a farm, in connection with the operation,
17 management, conservation or maintenance of such farm and its
18 tools and equipment, if the major part of such service is
19 performed on a farm;

20 (3) in connection with the operation or
21 maintenance of ditches, canals, reservoirs or waterways used
22 exclusively for supplying and storing water for farming purposes
23 when such ditches, canals, reservoirs or waterways are owned and
24 operated by the farmers using the water stored or carried
25 therein; and

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1 (4) in handling, planting, drying, packing,
2 packaging, processing, freezing, grading, storing or delivery to
3 storage or to market or to a carrier for transportation to
4 market any agricultural or horticultural commodity but only if
5 such service is performed as an incident to ordinary farming
6 operations. The provisions of this paragraph shall not be
7 deemed to be applicable with respect to service performed in
8 connection with commercial canning or commercial freezing or in
9 connection with any agricultural or horticultural commodity
10 after its delivery to a terminal market for distribution for
11 consumption.

12 As used in this subsection, the term "farm" includes stock,
13 dairy, poultry, fruit, fur-bearing animal and truck farms,
14 plantations, ranches, nurseries, greenhouses, ranges and
15 orchards;

16 R. "payments in lieu of contributions" means the
17 money payments made into the fund by an employer pursuant to the
18 provisions of Subsection A of Section 51-1-13 NMSA 1978;

19 S. "department" means the labor department; and

20 T. "wages" means all remuneration for services,
21 including commissions and bonuses and the cash value of all
22 remuneration in any medium other than cash. The reasonable cash
23 value of remuneration in any medium other than cash shall be
24 established and determined in accordance with regulations
25 prescribed by the secretary; provided that the term "wages"

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1 shall not include:

2 (1) subsequent to December 31, 1977, that part
3 of the remuneration in excess of the base wage as determined by
4 the secretary for each calendar year. The base wage upon which
5 contribution shall be paid during any calendar year shall be
6 sixty-five percent of the state's average annual earnings
7 computed by the department by dividing total wages reported to
8 the department by contributing employers for the second
9 preceding calendar year before the calendar year the computed
10 base wage becomes effective by the average annual employment
11 reported by contributing employers for the same period rounded
12 to the next higher multiple of one hundred dollars (\$100);
13 provided that the base wage so computed for any calendar year
14 shall not be less than seven thousand dollars (\$7,000). Wages
15 paid by an employer to an individual in his employ during any
16 calendar year in excess of the base wage in effect for that
17 calendar year shall be reported to the department but shall be
18 exempt from the payment of contributions unless such wages paid
19 in excess of the base wage become subject to tax under a federal
20 law imposing a tax against which credit may be taken for
21 contributions required to be paid into a state unemployment
22 fund;

23 (2) the amount of any payment with respect to
24 services performed after June 30, 1941 to or on behalf of an
25 individual in its employ under a plan or system established by

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1 an employing unit which makes provision for individuals in its
2 employ generally or for a class or classes of such individuals,
3 including any amount paid by an employing unit for insurance or
4 annuities, or into a fund, to provide for any such payment, on
5 account of:

6 (a) retirement if such payments are made
7 by an employer to or on behalf of any employee under a
8 simplified employee pension plan that provides for payments by
9 an employer in addition to the salary or other remuneration
10 normally payable to such employee or class of such employees and
11 does not include any payments which represent deferred
12 compensation or other reduction of an employee's normal taxable
13 wages or remuneration or any payments made to a third party on
14 behalf of an employee as part of an agreement of deferred
15 remuneration;

16 (b) sickness or accident disability if
17 such payments are received under a workers' compensation or
18 occupational disease disablement law;

19 (c) medical and hospitalization expenses
20 in connection with sickness or accident disability; or

21 (d) death;

22 provided the individual in its employ has not the option to
23 receive, instead of provision for such death benefit, any part
24 of such payment, or, if such death benefit is insured, any part
25 of the premiums or contributions to premiums paid by his

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1 employing unit and has not the right under the provisions of the
2 plan or system or policy of insurance providing for such death
3 benefit to assign such benefit, or to receive a cash
4 consideration in lieu of such benefit either upon his withdrawal
5 from the plan or system providing for such benefit or upon
6 termination of such plan or system or policy of insurance or of
7 his service with such employing unit;

8 (3) remuneration for agricultural labor paid in
9 any medium other than cash;

10 (4) any payment made to, or on behalf of, an
11 employee or an employee's beneficiary under a cafeteria plan
12 within the meaning of Section 125 of the federal Internal
13 Revenue Code of 1986;

14 (5) any payment made, or benefit furnished to
15 or for the benefit of an employee if at the time of such payment
16 or such furnishing it is reasonable to believe that the employee
17 will be able to exclude such payment or benefit from income
18 under Section 129 of the federal Internal Revenue Code of 1986;
19 or

20 (6) any payment made by an employer to a
21 survivor or the estate of a former employee after the calendar
22 year in which such employee died. [~~The provisions of this~~
23 ~~section shall become effective July 1, 1993.~~]"

24 Section 2. EFFECTIVE DATE. -- The effective date of the
25 provisions of this act is July 1, 1997.

. 115310. 1

1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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4
5
6 February 19, 1997

7
8 Mr. President:

9
10 Your WAYS AND MEANS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 492

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 CORPORATIONS & TRANSPORTATION COMMITTEE.
18

19
20 Respectfully submitted,

21
22
23
24 _____
25 Carlos R. Cisneros, Chairman

Underscored material = new
[bracketed material] = delete

Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Nava

Absent: None

S0492WMI

1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

SB 492/a

3
4 February 26, 1997

5
6 Mr. President:

7
8 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
9
10 whom has been referred

11
12 SENATE BILL 492

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17 1. On page 14, line 25, after "individual" insert "who is an
18 independent contractor".

19
20 2. On page 15, line 4, strike "individual" and insert in lieu
21 thereof "independent contractor".

22
23 3. On page 15, line 4, before "contract" insert "written".

24
25 4. On page 15, strike lines 5 and 6 in their entirety and
insert in lieu thereof "another person whose principal business is

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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obtaining the services of independent contractors to perform
demonstrations for third parties; or".

Respectfully submitted,

Roman M. Maes, III, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Fidel, McKibben, Robinson, Maes

Absent: None

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. 117714. 1

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FORTY- SECOND LEGI SLATURE
SECOND SESSI ON, 1996

Page 28

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