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HOUSE BILL 695

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

Judy Vanderstar Russell

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; REQUIRING AS A  
CONDITION OF ELIGIBILITY THAT TEMPORARY EMPLOYEES CONTACT A  
TEMPORARY SERVICES EMPLOYER FOR A NEW ASSIGNMENT.

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

Section 1. Section 51-1-52.1 NMSA 1978 (being Laws 1987,  
Chapter 350, Section 1) is amended to read:

"51-1-52.1. LEASING EMPLOYER--TEMPORARY SERVICES  
EMPLOYER. --

A. As used in this section:

(1) "leasing employer" means an employing  
unit that contracts with clients or customers to supply  
workers to perform services for the client or customer and  
performs the following functions:

(a) retains the right to hire and

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1 terminate workers; and

2 (b) pays the worker from its own  
3 account; and

4 (2) "temporary services employer" means an  
5 employing unit that contracts with clients or customers to  
6 supply workers to perform services for the client or customer  
7 and performs all of the following functions:

8 (a) negotiates with clients or  
9 customers for such matters as time, place, type of work,  
10 working conditions, quality and price of the services;

11 (b) determines assignments of workers,  
12 even though workers retain the right to refuse specific  
13 assignments;

14 (c) retains the authority to reassign  
15 or refuse to reassign a worker to other clients or customers  
16 when a worker is determined unacceptable by a specific client  
17 or customer;

18 (d) assigns the worker to perform  
19 services for a client or customer;

20 (e) sets the rate of pay for the  
21 worker, whether or not through negotiation; and

22 (f) pays the worker directly.

23 B. Notwithstanding any other provision of the  
24 Unemployment Compensation Law, if an individual or entity  
25 contracts to supply an employee to perform services for a

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1 client or customer and is a leasing employer or a temporary  
2 services employer, the individual or entity is the employer of  
3 the employee who performs the services. If an individual or  
4 entity contracts to supply an employee to perform services for  
5 a client or customer and is not a leasing employer or  
6 temporary services employer, the client or customer is the  
7 employer of the employee who performs the services. An  
8 individual or entity that contracts to supply an employee to  
9 perform services for a customer or client and pays wages to  
10 the employee for the services, but is not a leasing employer  
11 or a temporary services employer, pays the wages as the agent  
12 of the employer.

13 C. Notwithstanding any other provision of the  
14 Unemployment Compensation Law, in circumstances which are in  
15 essence the loan of an employee from one employer to another  
16 employer wherein direction and control of the manner and means  
17 of performing the services transfers to the employer to whom  
18 the employee is loaned, the loaning employer shall continue to  
19 be the employer of the employee if the loaning employer  
20 continues to pay remuneration to the employee, whether or not  
21 reimbursed by the other employer. If the employer to whom the  
22 employee is loaned pays remuneration to the employee for the  
23 services performed, that employer shall be considered the  
24 employer for the purpose of any remuneration paid to the  
25 employee, regardless of whether the loaning employer also pays

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1 remuneration to the employee.

2 D. A temporary services employer shall provide an  
3 employee, at the time of hiring, with written notice that the  
4 employee is required to contact the temporary services  
5 employer for reassignment upon the completion of an assignment  
6 and that failure to do so may result in denial of unemployment  
7 benefits.

8 E. If an employee of a temporary services employer  
9 has received the written notice pursuant to Subsection D of  
10 this section and does not contact the temporary services  
11 employer upon completion of an assignment, the employee shall  
12 be deemed to have voluntarily left employment without good  
13 cause in connection with his employment for purposes of  
14 Section 51-1-7 NMSA 1978. "

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5  
6 March 11, 1999

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8 Mr. President:

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10 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
11 whom has been referred

12  
13 HOUSE BILL 695, as amended

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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

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19 Respectfully submitted,

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25 Roman M. Maes, Chairman

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1 Adopted \_\_\_\_\_ Not

2 Adopted \_\_\_\_\_

3 (Chief Clerk)

(Chief Clerk)

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7 Date \_\_\_\_\_

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10 The roll call vote was 6 For 0 Against

11 Yes: 6

12 No: 0

13 Excused: Aragon, McKibben, Rawson, Robinson

14 Absent: None

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