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HOUSE MEMORIAL 108

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

Bealquin Bill Gomez

A MEMORIAL

REQUESTING THE WORKERS' COMPENSATION ADMINISTRATION TO CLARIFY THAT INDEPENDENT CONTRACTORS AND INDEPENDENT CONTRACT LABORERS ARE NOT DEEMED EMPLOYEES OF FARMS AND RANCHES REQUIRING WORKERS' COMPENSATION COVERAGE PURSUANT TO THE WORKERS' COMPENSATION ACT, BUT FALL UNDER THE EXEMPTIONS FOR FARM AND RANCH WORKERS OUTLINED IN THE WORKERS' COMPENSATION ACT.

WHEREAS, workers' compensation insurance coverage became the law in New Mexico in 1929; and

WHEREAS, farm and ranch workers are not mentioned in that law; and

WHEREAS, farm and ranch workers were specifically exempted in the 1939 amendment to the Workers' Compensation Act; and

WHEREAS, the New Mexico legislature has retained that exemption in every amendment to workers' compensation statutes

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1 since 1939; and

2 WHEREAS, farm and ranch work is seasonal, with many farm  
3 and ranch laborers working temporarily, sometimes for as little  
4 as a day, at a farm or ranch; and

5 WHEREAS, farm and ranch workers migrate from farm to farm  
6 and ranch to ranch with a high rate of turnover, making it  
7 difficult to track workers and substantiate the source and  
8 cause of an illness or injury or even to treat injuries; and

9 WHEREAS, food products are subject to the vagaries of  
10 weather and to the limitations of federal commodities pricing,  
11 making it difficult or impossible for employers to reasonably  
12 assess on a seasonal basis their farm and ranch costs, income,  
13 labor needs and insurance needs; and

14 WHEREAS, farm and ranch workers are often family members  
15 or neighbors who trade labor with no payroll incurred, yet the  
16 workers' compensation administration is requiring insurance  
17 coverage on these individuals; and

18 WHEREAS, the federal Patient Protection and Affordable  
19 Care Act mandates that everyone in the United States be covered  
20 by health insurance; and

21 WHEREAS, farm and ranch lending institutions require their  
22 borrowers to maintain liability insurance to cover work  
23 injuries; and

24 WHEREAS, New Mexico statutes are filled with exemptions  
25 for a wide variety of groups, including veterans, seniors,

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1       acequias, domestic workers and many others;

2               NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF  
3 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the workers'  
4 compensation administration be requested to clarify that family  
5 members, unpaid neighbors, independent contractors and  
6 independent contract laborers are not deemed employees of farms  
7 and ranches, thus requiring workers' compensation coverage  
8 pursuant to the Workers' Compensation Act, but fall under the  
9 exemptions for farm and ranch workers outlined in the Workers'  
10 Compensation Act; and

11               BE IT FURTHER RESOLVED that the workers' compensation  
12 administration report to the appropriate interim committee of  
13 the legislature by December 1, 2016; and

14               BE IT FURTHER RESOLVED that a copy of this memorial be  
15 transmitted to the workers' compensation administration.