

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 5

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO WORKFORCE DEVELOPMENT; CREATING THE WORKFORCE
DEVELOPMENT AND APPRENTICESHIP TRUST FUND; MAKING ANNUAL
TRANSFERS FROM THE TRUST FUND TO THE PUBLIC WORKS APPRENTICE
AND TRAINING FUND AND ANNUAL APPROPRIATIONS TO THE WORKFORCE
SOLUTIONS DEPARTMENT FOR THE PURPOSES OF THE APPRENTICESHIP
ASSISTANCE ACT; CLARIFYING THAT THE WORKFORCE SOLUTIONS
DEPARTMENT ADMINISTERS THE PUBLIC WORKS APPRENTICE AND TRAINING
ACT AND THE APPRENTICESHIP ASSISTANCE ACT; MAKING
APPROPRIATIONS.

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

SECTION 1. [NEW MATERIAL] WORKFORCE DEVELOPMENT AND
APPRENTICESHIP TRUST FUND.--

A. The "workforce development and apprenticeship
trust fund" is created within the state treasury. The fund

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underscored material = new
[bracketed material] = delete

1 consists of distributions, appropriations, gifts, grants and
2 donations. Income from investment of the fund shall be
3 credited to the fund. Money in the fund shall be expended only
4 as provided in this section.

5 B. The state investment officer, subject to the
6 approval of the state investment council, shall invest money in
7 the workforce development and apprenticeship trust fund:

8 (1) in accordance with the prudent investor
9 rule set forth in the Uniform Prudent Investor Act; and

10 (2) in consultation with the state treasurer.

11 C. The state investment officer shall report
12 quarterly to the legislative finance committee and the state
13 investment council on the investments made pursuant to this
14 section. Annually, a report shall be submitted no later than
15 November 1 each year to the legislative finance committee, the
16 revenue stabilization and tax policy committee and any other
17 appropriate interim committees.

18 D. Subject to the availability of funds:

19 (1) on July 1, 2024 and July 1, 2025:

20 (a) two million five hundred thousand
21 dollars (\$2,500,000) shall be transferred to the public works
22 apprentice and training fund; and

23 (b) two million five hundred thousand
24 dollars (\$2,500,000) shall be appropriated to the workforce
25 solutions department to carry out the purposes of the

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1 Apprenticeship Assistance Act; and

2 (2) on July 1 of each year thereafter:

3 (a) one million five hundred thousand
4 dollars (\$1,500,000) shall be transferred to the public works
5 apprentice and training fund; and

6 (b) one million five hundred thousand
7 dollars (\$1,500,000) shall be appropriated to the workforce
8 solutions department to carry out the purposes of the
9 Apprenticeship Assistance Act.

10 E. In addition to the transfers and appropriations
11 pursuant to Subsection D of this section, money in the
12 workforce development and apprenticeship trust fund may be
13 expended in the event that general fund balances, including all
14 authorized revenues and transfers to the general fund and
15 balances in the general fund operating reserve, the
16 appropriation contingency fund, the tobacco settlement
17 permanent fund, the state-support reserve fund and the tax
18 stabilization reserve, will not meet the level of
19 appropriations authorized from the general fund for a fiscal
20 year. In that event, to avoid an unconstitutional deficit, the
21 legislature may appropriate from the workforce development and
22 apprenticeship trust fund to the general fund only in the
23 amount necessary to meet general fund appropriations for that
24 fiscal year and only if the legislature has authorized
25 transfers from the appropriation contingency fund, the general

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1 fund operating reserve, the tax stabilization reserve and the
2 tobacco settlement permanent fund that exhaust those fund
3 balances.

4 SECTION 2. Section 13-4D-3 NMSA 1978 (being Laws 1992,
5 Chapter 74, Section 3, as amended) is amended to read:

6 "13-4D-3. DEFINITIONS.--As used in the Public Works
7 Apprentice and Training Act:

8 A. "approved apprentice and training programs"
9 means building trades apprenticeship and training programs in
10 New Mexico that are recognized by the [~~bureau of apprenticeship
11 and training~~] office of apprenticeship of the employment and
12 training administration of the United States department of
13 labor or the New Mexico apprenticeship council;

14 B. "compliance statement" means a monthly record of
15 an employer's contributions paid into an approved apprentice
16 and training program in New Mexico or into the public works
17 apprentice and training fund; and

18 [~~C. "director" or "division" means the labor
19 relations division of the workforce solutions department; and~~

20 ~~D.~~] C. "employer" means a contractor, subcontractor
21 or any person acting as a contractor on a public works project,
22 as that term is defined in the provisions of the Construction
23 Industries Licensing Act."

24 SECTION 3. Section 13-4D-4 NMSA 1978 (being Laws 1992,
25 Chapter 74, Section 4) is amended to read:

1 "13-4D-4. ADMINISTRATION.--

2 A. The Public Works Apprentice and Training Act
3 shall be administered by the [~~public works bureau of the labor~~
4 ~~and industrial division of the labor~~] workforce solutions
5 department. The [~~bureau~~] department shall collect employers'
6 contributions in accordance with [~~this~~] that act, review
7 employers' compliance statements, review certified payroll
8 reports to verify training contributions, investigate
9 allegations of and impose penalties for employer noncompliance
10 and disburse funds as provided in Section [~~5 of the Public~~
11 ~~Works Apprentice and Training Act~~] 13-4D-5 NMSA 1978.

12 B. Public works construction projects, except for
13 street, highway, bridge, road, utility or maintenance contracts
14 with employers who elect not to participate in training, shall
15 not be constructed unless an employer agrees to make
16 contributions to approved apprentice and training programs in
17 New Mexico in which the employer is a participant or to the
18 public works apprentice and training fund administered by the
19 [~~public works bureau of the labor and industrial division of~~
20 ~~the labor~~] workforce solutions department. Contributions shall
21 be made in the same manner and in the same amount as apprentice
22 and training contributions required pursuant to wage rate
23 determinations made by the [~~director~~] department.

24 C. The [~~director~~] workforce solutions department
25 shall adopt rules and regulations necessary to implement the

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1 provisions of the Public Works Apprentice and Training Act."

2 SECTION 4. Section 13-4D-5 NMSA 1978 (being Laws 1992,
3 Chapter 74, Section 5, as amended) is amended to read:

4 "13-4D-5. FUND CREATED--DISBURSEMENT OF FUNDS.--There is
5 created the "public works apprentice and training fund" in the
6 [~~labor and industrial division of the labor~~] workforce
7 solutions department. [~~Contributions into the fund shall be as~~
8 ~~provided under the provisions of Section 13-4D-4 NMSA 1978.~~
9 ~~Funds contributed under the provisions of the Public Works~~
10 ~~Apprentice and Training Act~~] Money in the fund shall be
11 distributed in the following manner:

12 A. no more than fifteen percent of the funds may be
13 used by the [~~public works bureau of the labor and industrial~~
14 ~~division of the labor~~] workforce solutions department to hire
15 staff to administer the funds collected by the [~~division~~]
16 department; and

17 B. the remainder of the funds shall be used for
18 approved apprentice and training programs in New Mexico. The
19 [~~labor and industrial division of the labor~~] workforce
20 solutions department shall develop an annual budget and,
21 subject to appropriation by the legislature in the general
22 appropriation act, shall disburse funds to approved apprentice
23 and training programs in New Mexico, taking into account
24 participant contact hours of classroom instruction and on-the-
25 job training for the preceding year, to be not less than ninety

1 percent of one hundred forty-four contact hours of classroom
 2 instruction per participant per school year and not less than
 3 one thousand hours of on-the-job training per twelve-month
 4 period; provided that funds shall not be distributed to
 5 programs not in compliance with their approved standards.
 6 Notwithstanding any language in the general appropriation act
 7 that otherwise limits budget adjustments, if the fund balance
 8 available for disbursement to approved programs exceeds the
 9 amount appropriated, pursuant to Sections 6-3-23 through 6-3-25
 10 NMSA 1978, the [~~labor~~] workforce solutions department may
 11 request budget increases up to the excess fund balance for
 12 distribution to the programs."

13 SECTION 5. Section 13-4D-6 NMSA 1978 (being Laws 1992,
 14 Chapter 74, Section 6) is amended to read:

15 "13-4D-6. NOTICE TO EMPLOYERS--PUBLICATION OF PROGRAMS.--

16 A. An employer's contribution requirement under the
 17 provisions of the Public Works Apprentice and Training Act
 18 shall be included with all minimum wage determinations issued
 19 by the [~~labor and industrial division of the labor~~] workforce
 20 solutions department on all public works construction projects.
 21 The [~~director shall also~~] department shall provide the
 22 contribution rate for approved apprentice and training
 23 programs, and that information shall be part of the public
 24 works construction projects.

25 B. The [~~labor and industrial division of the labor~~]

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1 workforce solutions department shall publish a list of approved
2 apprentice and training programs in New Mexico."

3 SECTION 6. Section 21-19A-6 NMSA 1978 (being Laws 1992,
4 Chapter 93, Section 6) is amended to read:

5 "21-19A-6. RULES [~~AND REGULATIONS~~].--The [~~division~~]
6 department shall make such rules [~~and regulations~~] as are
7 necessary to carry out the provisions of the Apprenticeship
8 Assistance Act."

9 SECTION 7. Section 21-19A-7 NMSA 1978 (being Laws 1992,
10 Chapter 93, Section 7, as amended) is amended to read:

11 "21-19A-7. APPRENTICESHIP AND TRAINING ADVISORY
12 COMMITTEE.--

13 A. The [~~division~~] department shall appoint an
14 apprenticeship and training advisory committee composed of nine
15 voting members who shall be New Mexico residents. The members
16 shall be as follows:

17 (1) two persons representing employers of
18 members of apprenticeable trades;

19 (2) two persons representing organized labor
20 for members of apprenticeable trades;

21 (3) two persons employed as full-time training
22 directors or program administrators of apprenticeship
23 committees;

24 (4) two persons employed by New Mexico
25 educational entities who teach or immediately supervise

1 preparatory instruction, supplementary instruction or related
2 instruction courses; and

3 (5) the state apprenticeship director of the
4 department, who shall serve as chair.

5 B. Members of the advisory committee shall serve
6 terms of four years, except that the [~~division~~] department
7 shall designate one member from each of the groups referred to
8 in Paragraphs (1) through (4) of Subsection A of this section
9 to serve an initial term of two years. Thereafter, all members
10 shall serve four-year terms.

11 C. Vacancies shall be filled for the unexpired
12 portion of a term vacated.

13 D. Nonvoting members of the advisory committee
14 shall include the following:

15 (1) two persons designated by and representing
16 the New Mexico college and university system of vocational
17 education;

18 (2) one person designated by and representing
19 the office of apprenticeship; and

20 (3) one person representing the general public
21 who is familiar with the goals and needs of technical-
22 vocational education in New Mexico and who is not otherwise
23 eligible for service on the advisory committee.

24 E. The member of the advisory committee
25 representing the general public shall be appointed by the

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1 [division] department for a term of four years. All other
2 nonvoting members of the advisory committee shall serve at the
3 pleasure of the agency or institution each respective member
4 represents.

5 F. The advisory committee shall meet on an annual
6 basis or at the call of the chair.

7 G. The members of the advisory committee shall be
8 subject to such laws and practices as are applicable to the
9 service and compensation of employees of the state. Members of
10 the advisory committee not otherwise compensated by public
11 funds shall be reimbursed for their official duties in
12 accordance with the Per Diem and Mileage Act for attendance at
13 not in excess of twelve meetings per year."

14 SECTION 8. Section 21-19A-9 NMSA 1978 (being Laws 1992,
15 Chapter 93, Section 9) is amended to read:

16 "21-19A-9. NOTICE OF AVAILABLE FUNDS.--In order to ensure
17 that all citizens of New Mexico have an equal opportunity to
18 benefit from apprenticeship training programs, the [division]
19 department shall provide for statewide publication, in a manner
20 recommended by the advisory committee and intended to give
21 actual notice to all potential program sponsors, of the amount
22 of funds that will be available to support apprenticeship
23 training programs during the current and following fiscal
24 years, the qualifications required of program sponsors and
25 apprenticeship committees and the procedures to be followed in

1 applying for state funds. The notice may also include other
2 information recommended by the advisory committee and approved
3 by the [~~division~~] department; provided that the [~~division~~]
4 department shall publish any information concerning available
5 funds given to a particular program sponsor in a manner
6 recommended by the advisory committee and intended to give
7 actual notice to all potential program sponsors statewide."

8 SECTION 9. Section 21-19A-10 NMSA 1978 (being Laws 1992,
9 Chapter 93, Section 10) is amended to read:

10 "21-19A-10. DISTRIBUTION OF FUNDS.--

11 A. Upon recommendation of the advisory committee,
12 the [~~division~~] department shall adopt formulas and
13 administrative procedures to be used in requesting
14 appropriations of state funds as a budgetary line item for the
15 apprenticeship system of adult vocational education.

16 B. The advisory committee shall prepare an update
17 to the apprenticeship-related instruction cost study adopted by
18 the [~~division~~] department prior to each session of the
19 legislature.

20 C. Upon recommendation of the advisory committee,
21 the [~~division~~] department shall adopt forms, formulas and
22 administrative procedures for the distribution of available
23 funds to apprenticeship training programs. Distribution
24 formulas shall be uniform in application to all local program
25 sponsors.

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1 D. Upon recommendation of the advisory committee,
2 the ~~[division]~~ department shall reserve until March 1 of each
3 year a percentage of the funds appropriated under the line item
4 described in this section to be used solely for apprenticeship-
5 related instruction programs. This percentage shall be
6 established by the formulas required by this section. Reserved
7 funds that are not obligated on March 1 may be used for
8 preparatory and supplementary instruction programs as well as
9 related instruction programs.

10 E. No funds shall be distributed to an
11 apprenticeship committee until the apprenticeship committee has
12 filed all reports required by the Apprenticeship Assistance Act
13 and by the ~~[division]~~ department. Funds shall not be
14 distributed to programs not in compliance with their approved
15 standards. Programs determined to be in noncompliance with
16 their standards will be required to refund all funds to the
17 ~~[division]~~ department for the current fiscal year."

18 SECTION 10. Section 21-19A-11 NMSA 1978 (being Laws 1992,
19 Chapter 93, Section 11) is amended to read:

20 "21-19A-11. AUDIT PROCEDURES.--

21 A. All projects funded shall maintain a clear audit
22 trail of all money appropriated for the apprenticeship system
23 of adult vocational education. For each course that is funded,
24 the audit trail in the ~~[division]~~ department shall include the
25 following records:

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1 (1) the name of the sponsoring apprenticeship
2 committee;

3 (2) the name of the instructor;

4 (3) the number of students enrolled;

5 (4) the place and schedule of class meetings;

6 (5) fiscal accountability as per [~~division~~]
7 department requests; and

8 (6) certification by the apprenticeship
9 council or the [~~bureau~~] office of apprenticeship for
10 preparatory and related instruction courses that the students
11 enrolled are registered apprentices.

12 B. Funds appropriated for the apprenticeship system
13 of adult vocational education shall not be commingled with
14 funds appropriated for other purposes.

15 C. All records, receipts, working papers and other
16 components of the audit trail shall be public records."

17 SECTION 11. Section 21-19A-12 NMSA 1978 (being Laws 1992,
18 Chapter 93, Section 12, as amended) is amended to read:

19 "21-19A-12. BUDGET--DISBURSEMENT AND APPROPRIATION.--

20 A. For the first two years after the effective date
21 of the Apprenticeship Assistance Act, the [~~division~~] department
22 shall disburse funds for each apprenticeship committee, taking
23 into account the number of total monthly contact hours and
24 based on one dollar fifty cents (\$1.50) per participant contact
25 hour of related instruction, not to exceed two hundred twenty

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1 hours per participant per year. Thereafter, funds shall be
2 distributed in accordance with Section 21-19A-10 NMSA 1978.

3 B. The ~~[division]~~ department shall require from the
4 apprenticeship committees such reports as it deems necessary
5 for the purpose of determining the number of total monthly
6 contact hours.

7 C. Funds appropriated under the Apprenticeship
8 Assistance Act shall be disbursed by the ~~[division]~~ department,
9 and the ~~[division]~~ department shall have sole control over the
10 disbursement of those funds; provided, however, that the
11 ~~[division]~~ department shall not fund any apprenticeship
12 committee not certified by the state apprenticeship agency or
13 the office of apprenticeship."

14 SECTION 12. Section 21-19A-13 NMSA 1978 (being Laws 1992,
15 Chapter 93, Section 13, as amended) is amended to read:

16 "21-19A-13. STATUS OF RECOMMENDATIONS.--

17 A. Recommendations of the advisory committee
18 submitted to the ~~[division]~~ department shall be acted on and
19 either accepted or rejected.

20 B. A recommendation that is rejected shall be
21 returned immediately to the advisory committee accompanied by
22 written notice of the reasons for rejecting the recommendation.
23 Upon such notice, the ~~[division]~~ department and the advisory
24 committee shall meet within fifteen days to resolve the issue,
25 but if no resolution of the recommendation is made, then the

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1 secretary of workforce solutions shall decide the matter. The
2 secretary's decision shall be final."

3 SECTION 13. APPROPRIATION.--Fifty million dollars
4 (\$50,000,000) is appropriated from the general fund to the
5 workforce development and apprenticeship trust fund for
6 expenditure in fiscal year 2025 and subsequent fiscal years for
7 the purposes of the fund. Any unexpended or unencumbered
8 balance remaining at the end of a fiscal year shall not revert
9 to the general fund.

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underscoring material = new
~~[bracketed material]~~ = delete