

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 5

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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

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

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

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

(2) in consultation with the state treasurer.

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

D. Subject to the availability of funds:

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

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

(b) two million five hundred thousand dollars (\$2,500,000) shall be appropriated to the workforce solutions department to carry out the purposes of the Apprenticeship Assistance Act; and

(2) on July 1 of each year thereafter:

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

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

E. In addition to the transfers and appropriations pursuant to Subsection D of this section, money in the workforce development and apprenticeship trust fund may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund, the tobacco settlement permanent fund, the state-support reserve fund and the tax

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stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, to avoid an unconstitutional deficit, the legislature may appropriate from the workforce development and apprenticeship trust fund to the general fund only in the amount necessary to meet general fund appropriations for that fiscal year and only if the legislature has authorized transfers from the appropriation contingency fund, the general fund operating reserve, the tax stabilization reserve and the tobacco settlement permanent fund that exhaust those fund balances.

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

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

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

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

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apprentice and training fund; and

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

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

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

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

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

B. Public works construction projects, except for street, highway, bridge, road, utility or maintenance contracts with employers who elect not to participate in training, shall not be constructed unless an employer agrees to make

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contributions to approved apprentice and training programs in New Mexico in which the employer is a participant or to the public works apprentice and training fund administered by the ~~[public works bureau of the labor and industrial division of the labor]~~ workforce solutions department. Contributions shall be made in the same manner and in the same amount as apprentice and training contributions required pursuant to wage rate determinations made by the ~~[director]~~ department.

C. The ~~[director]~~ workforce solutions department shall adopt rules and regulations necessary to implement the provisions of the Public Works Apprentice and Training Act."

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

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

A. no more than fifteen percent of the funds may be used by the ~~[public works bureau of the labor and industrial division of the labor]~~ workforce solutions department to hire

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staff to administer the funds collected by the [~~division~~]
department; and

B. the remainder of the funds shall be used for approved apprentice and training programs in New Mexico. The [~~labor and industrial division of the labor~~] workforce solutions department shall develop an annual budget and, subject to appropriation by the legislature in the general appropriation act, shall disburse funds to approved apprentice and training programs in New Mexico, taking into account participant contact hours of classroom instruction and on-the-job training for the preceding year, to be not less than ninety percent of one hundred forty-four contact hours of classroom instruction per participant per school year and not less than one thousand hours of on-the-job training per twelve-month period; provided that funds shall not be distributed to programs not in compliance with their approved standards.

Notwithstanding any language in the general appropriation act that otherwise limits budget adjustments, if the fund balance available for disbursement to approved programs exceeds the amount appropriated, pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, the [~~labor~~] workforce solutions department may request budget increases up to the excess fund balance for distribution to the programs."

SECTION 5. Section 13-4D-6 NMSA 1978 (being Laws 1992,

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Chapter 74, Section 6) is amended to read:

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

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

B. The [~~labor and industrial division of the labor~~] workforce solutions department shall publish a list of approved apprentice and training programs in New Mexico."

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

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

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

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

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

- (1) two persons representing employers of members of apprenticeable trades;
- (2) two persons representing organized labor for members of apprenticeable trades;
- (3) two persons employed as full-time training directors or program administrators of apprenticeship committees;
- (4) two persons employed by New Mexico educational entities who teach or immediately supervise preparatory instruction, supplementary instruction or related instruction courses; and
- (5) the state apprenticeship director of the department, who shall serve as chair.

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

C. Vacancies shall be filled for the unexpired

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portion of a term vacated.

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

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

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

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

E. The member of the advisory committee representing the general public shall be appointed by the ~~[division]~~ department for a term of four years. All other nonvoting members of the advisory committee shall serve at the pleasure of the agency or institution each respective member represents.

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

G. The members of the advisory committee shall be subject to such laws and practices as are applicable to the service and compensation of employees of the state. Members of the advisory committee not otherwise compensated by public

funds shall be reimbursed for their official duties in accordance with the Per Diem and Mileage Act for attendance at not in excess of twelve meetings per year."

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

"21-19A-9. NOTICE OF AVAILABLE FUNDS.--In order to ensure that all citizens of New Mexico have an equal opportunity to benefit from apprenticeship training programs, the ~~[division]~~ department shall provide for statewide publication, in a manner recommended by the advisory committee and intended to give actual notice to all potential program sponsors, of the amount of funds that will be available to support apprenticeship training programs during the current and following fiscal years, the qualifications required of program sponsors and apprenticeship committees and the procedures to be followed in applying for state funds. The notice may also include other information recommended by the advisory committee and approved by the ~~[division]~~ department; provided that the ~~[division]~~ department shall publish any information concerning available funds given to a particular program sponsor in a manner recommended by the advisory committee and intended to give actual notice to all potential program sponsors statewide."

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

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

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

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

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

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

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related instruction programs.

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

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

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

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

- (1) the name of the sponsoring apprenticeship committee;
- (2) the name of the instructor;
- (3) the number of students enrolled;
- (4) the place and schedule of class meetings;
- (5) fiscal accountability as per ~~[division]~~ department requests; and

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

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

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

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

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

A. For the first two years after the effective date of the Apprenticeship Assistance Act, the ~~[division]~~ department shall disburse funds for each apprenticeship committee, taking into account the number of total monthly contact hours and based on one dollar fifty cents (\$1.50) per participant contact hour of related instruction, not to exceed two hundred twenty hours per participant per year. Thereafter, funds shall be distributed in accordance with Section 21-19A-10 NMSA 1978.

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

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

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

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

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

B. A recommendation that is rejected shall be returned immediately to the advisory committee accompanied by written notice of the reasons for rejecting the recommendation. Upon such notice, the ~~[division]~~ department and the advisory committee shall meet within fifteen days to resolve the issue, but if no resolution of the recommendation is made, then the secretary of workforce solutions shall decide the matter. The secretary's decision shall be final."

HAFC → ~~SECTION 13. APPROPRIATION.--Fifty million dollars (\$50,000,000) is appropriated from the general fund to the workforce development and apprenticeship trust fund for~~

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~~expenditure in fiscal year 2025 and subsequent fiscal years for the purposes of the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.~~ ←HAFC

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