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HOUSE BILL 5

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

INTRODUCED BY

Joy Garratt and Siah Correa Hemphill and Michael Padilla and
Christine Chandler and Kathleen Cates

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; REQUIRING THAT APPRENTICESHIP PROGRAMS HAVE NO
UNRESOLVED COMPLAINTS OR VIOLATIONS OF THE PUBLIC WORKS MINIMUM
WAGE ACT OR THE CONSTRUCTION INDUSTRIES LICENSING ACT BEFORE
RECEIVING FUNDS PURSUANT TO THE APPRENTICESHIP ASSISTANCE ACT
AND THE PUBLIC WORKS APPRENTICE AND TRAINING 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:

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

3 A. The "workforce development and apprenticeship
4 trust fund" is created within the state treasury. The fund
5 consists of distributions, appropriations, gifts, grants and
6 donations. Income from investment of the fund shall be
7 credited to the fund. Money in the fund shall be expended only
8 as provided in this section.

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

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

14 (2) in consultation with the state treasurer.

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

22 D. Subject to the availability of funds:

23 (1) on July 1, 2024 and July 1, 2025, two
24 million five hundred thousand dollars (\$2,500,000) shall be:

25 (a) transferred to the public works

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1 apprentice and training fund; and

2 (b) appropriated to the workforce
3 solutions department to carry out the purposes of the
4 Apprenticeship Assistance Act; and

5 (2) on July 1 of each year thereafter, one
6 million five hundred thousand dollars (\$1,500,000) shall be:

7 (a) transferred to the public works
8 apprentice and training fund; and

9 (b) appropriated to the workforce
10 solutions department to carry out the purposes of the
11 Apprenticeship Assistance Act.

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

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1 fiscal year and only if the legislature has authorized
2 transfers from the appropriation contingency fund, the general
3 fund operating reserve, the tax stabilization reserve and the
4 tobacco settlement permanent fund that exhaust those fund
5 balances.

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

8 "13-4D-3. DEFINITIONS.--As used in the Public Works
9 Apprenticeship and Training Act:

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

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

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

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

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

3 "13-4D-4. ADMINISTRATION.--

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

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

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

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

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

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

19 B. the remainder of the funds shall be used for
20 approved apprentice and training programs in New Mexico. The
21 ~~[labor and industrial division of the labor]~~ workforce
22 solutions department shall develop an annual budget and,
23 subject to appropriation by the legislature in the general
24 appropriation act, shall disburse funds to approved apprentice
25 and training programs in New Mexico, taking into account

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1 participant contact hours of classroom instruction and on-the-
2 job training for the preceding year, to be not less than ninety
3 percent of one hundred forty-four contact hours of classroom
4 instruction per participant per school year and not less than
5 one thousand hours of on-the-job training per twelve-month
6 period; provided that funds shall not be distributed to
7 programs not in compliance with their approved standards, the
8 Public Works Minimum Wage Act or the Construction Industries
9 Licensing Act. Notwithstanding any language in the general
10 appropriation act that otherwise limits budget adjustments, if
11 the fund balance available for disbursement to approved
12 programs exceeds the amount appropriated, pursuant to Sections
13 6-3-23 through 6-3-25 NMSA 1978, the [~~labor~~] workforce
14 solutions department may request budget increases up to the
15 excess fund balance for distribution to the programs."

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

18 "13-4D-6. NOTICE TO EMPLOYERS--PUBLICATION OF PROGRAMS.--

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

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1 programs, and that information shall be part of the public
2 works construction projects.

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

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

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

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

14 "21-19A-7. APPRENTICESHIP AND TRAINING ADVISORY
15 COMMITTEE.--

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

20 (1) two persons representing employers of
21 members of apprenticeable trades;

22 (2) two persons representing organized labor
23 for members of apprenticeable trades;

24 (3) two persons employed as full-time training
25 directors or program administrators of apprenticeship

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1 committees;

2 (4) two persons employed by New Mexico
3 educational entities who teach or immediately supervise
4 preparatory instruction, supplementary instruction or related
5 instruction courses; and

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

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

14 C. Vacancies shall be filled for the unexpired
15 portion of a term vacated.

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

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

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

23 (3) one person representing the general public
24 who is familiar with the goals and needs of technical-
25 vocational education in New Mexico and who is not otherwise

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1 eligible for service on the advisory committee.

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

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

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

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

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

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1 training programs during the current and following fiscal
2 years, the qualifications required of program sponsors and
3 apprenticeship committees and the procedures to be followed in
4 applying for state funds. The notice may also include other
5 information recommended by the advisory committee and approved
6 by the [~~division~~] department; provided that the [~~division~~]
7 department shall publish any information concerning available
8 funds given to a particular program sponsor in a manner
9 recommended by the advisory committee and intended to give
10 actual notice to all potential program sponsors statewide."

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

13 "21-19A-10. DISTRIBUTION OF FUNDS.--

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

19 ~~B. The advisory committee shall prepare an update~~
20 ~~to the apprenticeship related instruction cost study adopted by~~
21 ~~the division prior to each session of the legislature.~~

22 G.] A. Upon recommendation of the advisory
23 committee, the [~~division~~] department shall adopt forms,
24 formulas and administrative procedures for the distribution of
25 available funds to apprenticeship training programs.

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1 Distribution formulas shall be uniform in application to all
2 local program sponsors.

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

14 ~~[E.]~~ C. No funds shall be distributed to an
15 apprenticeship committee until the apprenticeship committee has
16 filed all reports required by the Apprenticeship Assistance Act
17 and by the ~~[division]~~ department. Funds shall not be
18 distributed to programs not in compliance with their approved
19 standards, the Public Works Minimum Wage Act or the
20 Construction Industries Licensing Act. Programs determined to
21 be in noncompliance with their standards, the Public Works
22 Minimum Wage Act or the Construction Industries Licensing Act
23 will be required to refund all funds to the ~~[division]~~
24 department for the current fiscal year."

25 SECTION 10. Section 21-19A-11 NMSA 1978 (being Laws 1992,

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1 Chapter 93, Section 11) is amended to read:

2 "21-19A-11. AUDIT PROCEDURES.--

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

8 (1) the name of the sponsoring apprenticeship
9 committee;

10 (2) the name of the instructor;

11 (3) the number of students enrolled;

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

13 (5) fiscal accountability as per ~~[division]~~
14 department requests; and

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

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

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

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

.226519.2

1 "21-19A-12. BUDGET--DISBURSEMENT AND APPROPRIATION.--

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

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

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

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

23 "21-19A-13. STATUS OF RECOMMENDATIONS.--

24 A. Recommendations of the advisory committee
25 submitted to the [~~division~~] department shall be acted on and

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1 either accepted or rejected.

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

10 SECTION 13. APPROPRIATION.--Fifty million dollars
11 (\$50,000,000) is appropriated from the general fund to the
12 workforce development and apprenticeship trust fund for
13 expenditure in fiscal year 2025 and subsequent fiscal years for
14 the purposes of the fund. Any unexpended or unencumbered
15 balance remaining at the end of a fiscal year shall not revert
16 to the general fund.