

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

.227487.3

underscoring 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

.227487.3

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

.227487.3

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:

.227487.3

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

.227487.3

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

.227487.3

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~~]

.227487.3

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

.227487.3

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.

.227487.3

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:

.227487.3

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

.227487.3

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

.227487.3

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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