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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. 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

1 (2) in consultation with the state
2 treasurer.

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

10 D. Subject to the availability of funds:

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

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

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

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

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

23 (b) one million five hundred thousand
24 dollars (\$1,500,000) shall be appropriated to the workforce
25 solutions department to carry out the purposes of the

1 Apprenticeship Assistance Act.

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

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

23 "13-4D-3. DEFINITIONS.--As used in the Public Works
24 Apprentice and Training Act:

25 A. "approved apprentice and training programs"

1 means building trades apprenticeship and training programs in
2 New Mexico that are recognized by the office of
3 apprenticeship of the employment and training administration
4 of the United States department of labor or the New Mexico
5 apprenticeship council;

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

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

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

16 "13-4D-4. ADMINISTRATION.--

17 A. The Public Works Apprentice and Training Act
18 shall be administered by the workforce solutions department.
19 The department shall collect employers' contributions in
20 accordance with that act, review employers' compliance
21 statements, review certified payroll reports to verify
22 training contributions, investigate allegations of and impose
23 penalties for employer noncompliance and disburse funds as
24 provided in Section 13-4D-5 NMSA 1978.

25 B. Public works construction projects, except for

1 street, highway, bridge, road, utility or maintenance
2 contracts with employers who elect not to participate in
3 training, shall not be constructed unless an employer agrees
4 to make contributions to approved apprentice and training
5 programs in New Mexico in which the employer is a participant
6 or to the public works apprentice and training fund
7 administered by the workforce solutions department.

8 Contributions shall be made in the same manner and in the
9 same amount as apprentice and training contributions required
10 pursuant to wage rate determinations made by the department.

11 C. The workforce solutions department shall adopt
12 rules and regulations necessary to implement the provisions
13 of the Public Works Apprentice and Training Act."

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

16 "13-4D-5. FUND CREATED--DISBURSEMENT OF FUNDS.--There
17 is created the "public works apprentice and training fund" in
18 the workforce solutions department. Money in the fund shall
19 be distributed in the following manner:

20 A. no more than fifteen percent of the funds may
21 be used by the workforce solutions department to hire staff
22 to administer the funds collected by the department; and

23 B. the remainder of the funds shall be used for
24 approved apprentice and training programs in New Mexico. The
25 workforce solutions department shall develop an annual budget

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

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

21 "13-4D-6. NOTICE TO EMPLOYERS--PUBLICATION OF
22 PROGRAMS.--

23 A. An employer's contribution requirement under
24 the provisions of the Public Works Apprentice and Training
25 Act shall be included with all minimum wage determinations

1 issued by the workforce solutions department on all public
2 works construction projects. The department shall provide
3 the contribution rate for approved apprentice and training
4 programs, and that information shall be part of the public
5 works construction projects.

6 B. The workforce solutions department shall
7 publish a list of approved apprentice and training programs
8 in New Mexico."

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

11 "21-19A-6. RULES.--The department shall make such rules
12 as are necessary to carry out the provisions of the
13 Apprenticeship Assistance Act."

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

16 "21-19A-7. APPRENTICESHIP AND TRAINING ADVISORY
17 COMMITTEE.--

18 A. The department shall appoint an apprenticeship
19 and training advisory committee composed of nine voting
20 members who shall be New Mexico residents. The members shall
21 be as follows:

22 (1) two persons representing employers of
23 members of apprenticeable trades;

24 (2) two persons representing organized labor
25 for members of apprenticeable trades;

1 (3) two persons employed as full-time
2 training directors or program administrators of
3 apprenticeship committees;

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

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

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

16 C. Vacancies shall be filled for the unexpired
17 portion of a term vacated.

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

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

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

25 (3) one person representing the general

1 public who is familiar with the goals and needs of technical-
2 vocational education in New Mexico and who is not otherwise
3 eligible for service on the advisory committee.

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

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

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

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

21 "21-19A-9. NOTICE OF AVAILABLE FUNDS.--In order to
22 ensure that all citizens of New Mexico have an equal
23 opportunity to benefit from apprenticeship training programs,
24 the department shall provide for statewide publication, in a
25 manner recommended by the advisory committee and intended to

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

14 **SECTION 9.** Section 21-19A-10 NMSA 1978 (being Laws
15 1992, Chapter 93, Section 10) is amended to read:

16 "21-19A-10. DISTRIBUTION OF FUNDS.--

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

22 B. The advisory committee shall prepare an update
23 to the apprenticeship-related instruction cost study adopted
24 by the department prior to each session of the legislature.

25 C. Upon recommendation of the advisory committee,

1 the department shall adopt forms, formulas and administrative
2 procedures for the distribution of available funds to
3 apprenticeship training programs. Distribution formulas
4 shall be uniform in application to all local program
5 sponsors.

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

15 E. No funds shall be distributed to an
16 apprenticeship committee until the apprenticeship committee
17 has filed all reports required by the Apprenticeship
18 Assistance Act and by the department. Funds shall not be
19 distributed to programs not in compliance with their approved
20 standards. Programs determined to be in noncompliance with
21 their standards will be required to refund all funds to the
22 department for the current fiscal year."

23 SECTION 10. Section 21-19A-11 NMSA 1978 (being Laws
24 1992, Chapter 93, Section 11) is amended to read:

25 "21-19A-11. AUDIT PROCEDURES.--

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

6 (1) the name of the sponsoring
7 apprenticeship committee;

8 (2) the name of the instructor;

9 (3) the number of students enrolled;

10 (4) the place and schedule of class
11 meetings;

12 (5) fiscal accountability as per department
13 requests; and

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

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

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

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

25 "21-19A-12. BUDGET--DISBURSEMENT AND APPROPRIATION.--

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

10 B. The 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 department, and the
16 department shall have sole control over the disbursement of
17 those funds; provided, however, that the department shall not
18 fund any apprenticeship committee not certified by the state
19 apprenticeship agency or the office of apprenticeship."

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

22 "21-19A-13. STATUS OF RECOMMENDATIONS.--

23 A. Recommendations of the advisory committee
24 submitted to the department shall be acted on and either
25 accepted or rejected.

