

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

SB19-196 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, **add** 24-92-115 as
4 follows:

5 **24-92-115. Apprenticeship utilization requirements -**
6 **mechanical, electrical, and plumbing contracts - public projects -**
7 **definition.** (1) (a) UNLESS PROHIBITED BY APPLICABLE FEDERAL LAW,
8 AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(b) OF THIS
9 SECTION, THE CONTRACT FOR ANY PUBLIC WORKS PROJECT THAT DOES NOT
10 RECEIVE FEDERAL MONEY, INCLUDING A PUBLIC PROJECT THAT WILL HAVE
11 AN INTEGRATED PROJECT DELIVERY CONTRACT PURSUANT TO ARTICLE 93
12 OF THIS TITLE 24, IN THE AMOUNT OF ONE MILLION DOLLARS OR MORE
13 SHALL REQUIRE THE GENERAL CONTRACTOR OR OTHER FIRM TO WHICH THE
14 CONTRACT IS AWARDED TO SUBMIT, AT THE TIME THE MECHANICAL,
15 ELECTRICAL, OR PLUMBING SUBCONTRACTOR IS PUT UNDER CONTRACT,
16 DOCUMENTATION TO THE AGENCY OF GOVERNMENT THAT:

17 (I) IDENTIFIES THE CONTRACTORS OR SUBCONTRACTORS THAT
18 WILL BE USED FOR ALL MECHANICAL, SHEET METAL, FIRE SUPPRESSION,
19 SPRINKLER FITTING, ELECTRICAL, AND PLUMBING WORK REQUIRED ON THE
20 PROJECT;

21 (II) CERTIFIES THAT ALL FIRMS IDENTIFIED PARTICIPATE IN
22 APPRENTICESHIP PROGRAMS REGISTERED WITH THE UNITED STATES
23 DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION
24 OR STATE APPRENTICESHIP COUNCILS RECOGNIZED BY THE UNITED STATES
25 DEPARTMENT OF LABOR AND HAVE A PROVEN RECORD OF GRADUATING
26 APPRENTICES AS FOLLOWS:

27 (A) BEGINNING JULY 1, 2021, THROUGH JUNE 30, 2026, A
28 MINIMUM OF FIFTEEN PERCENT OF ITS APPRENTICES FOR AT LEAST THREE
29 OF THE PAST FIVE YEARS;

30 (B) BEGINNING JULY 1, 2026, THROUGH JUNE 30, 2031, A
31 MINIMUM OF TWENTY PERCENT OF APPRENTICES FOR AT LEAST THREE OF
32 THE PAST FIVE YEARS; AND

33 (C) BEGINNING JULY 1, 2031, AND EACH YEAR THEREAFTER, A
34 MINIMUM OF THIRTY PERCENT OF APPRENTICES FOR AT LEAST THREE OF
35 THE PAST FIVE YEARS; AND

36 (III) SUPPLIES SUPPORTING DOCUMENTATION FROM THE UNITED
37 STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP VERIFYING
38 THE INFORMATION PROVIDED IN THE CERTIFICATION SPECIFIED IN
39 SUBSECTION (1)(a)(II) OF THIS SECTION.

40 (b) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO THE
41 DEPARTMENT OF TRANSPORTATION, REGARDLESS OF THE AMOUNT OR

1 FUNDING SOURCE OF THE PUBLIC PROJECT. THE PROVISIONS OF THIS
2 SECTION ALSO DOES NOT APPLY TO ANY COUNTY, CITY AND COUNTY, CITY,
3 MUNICIPALITY, TOWN, SCHOOL DISTRICT, SPECIAL DISTRICT, OR ANY
4 OTHER POLITICAL SUBDIVISION OF THE STATE.

5 (c) FOR THE PURPOSES OF SUBSECTION (1)(a)(II) OF THIS SECTION,
6 "GRADUATING" MEANS THE COMPLETION OF A MULTI-YEAR PROGRAM,
7 INCLUDING THE REQUISITE CLASSROOM COURSE WORK AND ON-THE-JOB
8 TRAINING REQUIREMENTS AND A CERTIFICATE OF COMPLETION ISSUED BY
9 THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP.

10 (2) THE DOCUMENTATION REQUIRED PURSUANT TO SUBSECTION (1)
11 OF THIS SECTION SHALL BE MADE PUBLICLY AVAILABLE BY THE
12 CONTRACTING AGENCY OF GOVERNMENT THROUGH ITS WEBSITE WITHIN
13 THIRTY DAYS FROM WHEN IT IS SUBMITTED.

14 (3) TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF
15 SUBSECTION (1) OF THIS SECTION, THE GENERAL CONTRACTOR OR OTHER
16 FIRM TO WHICH THE CONTRACT IS AWARDED SHALL AGREE TO PROVIDE
17 ADDITIONAL DOCUMENTATION TO THE CONTRACTING AGENCY REGARDING
18 AFFECTED APPRENTICESHIP TRAINING PROGRAMS RELATING TO THE
19 REQUIREMENTS OF THIS SECTION.

20 (4) A CONTRACTOR THAT PLANS TO SUBMIT A BID FOR A PUBLIC
21 WORKS PROJECT MAY REQUEST A WAIVER OF THE REQUIREMENTS OF THIS
22 SECTION PRIOR TO SUBMITTING A BID. A CONTRACTOR THAT REQUESTS A
23 WAIVER MUST PROVIDE SUBSTANTIAL EVIDENCE TO THE AGENCY OF
24 GOVERNMENT SOLICITING THE CONTRACT THAT THERE ARE NO AVAILABLE,
25 ELIGIBLE SUBCONTRACTORS TO FULFILL THE MECHANICAL, ELECTRICAL,
26 OR PLUMBING PORTIONS OF THE CONTRACT. EACH AGENCY OF
27 GOVERNMENT THAT HAS CONTRACTS FOR PUBLIC PROJECTS SUBJECT TO
28 THE REQUIREMENTS OF THIS SECTION SHALL MAKE PUBLIC ALL WAIVERS
29 AND THE SPECIFIC RATIONALE FOR GRANTING THE WAIVER.

30 (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE
31 THE REQUIREMENTS FOR LICENSED PLUMBERS, LICENSED ELECTRICIANS,
32 OR APPRENTICES REGISTERED WITH THE STATE PURSUANT TO TITLE 12,
33 INCLUDING SECTIONS 12-23-105, 12-23-110.5, 12-58-105, AND 12-58-117.

34 (6) (a) TO PROMOTE AND FACILITATE THE DEVELOPMENT OF NEW
35 APPRENTICESHIP PROGRAMS, AN APPRENTICESHIP PROGRAM THAT DOES
36 NOT SATISFY THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION
37 MAY PETITION THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR
38 CONDITIONAL APPROVAL FOR PURPOSES OF THIS SECTION. TO BE ALLOWED
39 CONDITIONAL APPROVAL, AN APPRENTICESHIP PROGRAM MUST
40 DEMONSTRATE THE FOLLOWING:

41 (I) THE PROGRAM HAS BEEN REGISTERED WITH THE UNITED
42 STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING
43 ADMINISTRATION OR A STATE APPRENTICESHIP COUNCIL AND HAS BEEN

1 PROVIDING TRAINING FOR AT LEAST SIX MONTHS; AND
2 (II) THE PROGRAM IS PERFORMING BONA FIDE APPRENTICESHIP
3 TRAINING AS EVIDENCED BY INFORMATION SHOWING THAT IT HAS THE
4 REQUITE FACILITIES, PERSONNEL, AND OTHER RESOURCES NEEDED TO
5 PROVIDE SUCH TRAINING; AND

6 (b)(I) IF CONDITIONAL APPROVAL IS GRANTED, THE PROGRAM WILL
7 REMAIN ELIGIBLE FOR FUTURE COVERED PROJECTS, SUBJECT TO ANNUAL
8 REVIEWS BY THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR FIVE
9 YEARS AFTER CONDITIONAL APPROVAL IS GRANTED OR UNTIL IT CAN
10 SATISFY THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION AND
11 CAN SHOW A THREE-YEAR GRADUATION TRACK RECORD.

12 (II) TO MAINTAIN CONDITIONAL APPROVAL PURSUANT TO THIS
13 SUBSECTION (6), THE APPRENTICESHIP PROGRAM MUST DEMONSTRATE TO
14 THE DEPARTMENT OF LABOR AND EMPLOYMENT THAT IT HAS REGISTERED
15 NEW APPRENTICES INTO ITS PROGRAM FOR EVERY YEAR IT HAS BEEN IN
16 OPERATION AND THAT IT HAS ADVANCED, AT A MINIMUM, TEN PERCENT OF
17 ITS APPRENTICES IN EACH YEAR OF OPERATION. THE DEPARTMENT SHALL
18 RESCIND A CONDITIONAL APPROVAL FOR ANY PROGRAM THAT FAILS TO
19 MAINTAIN THESE STANDARDS.

20 **SECTION 2.** In Colorado Revised Statutes, **add** part 2 to article
21 92 of title 24 as follows:

PART 2

PREVAILING WAGE FOR PUBLIC PROJECTS

24-92-201. **Definitions.** AS USED IN THIS PART 2, UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "AGENCY OF GOVERNMENT" MEANS ANY AGENCY,
27 DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION, INSTITUTION, OR
28 SECTION OF THE STATE WHICH IS A BUDGETARY UNIT EXERCISING
29 CONSTRUCTION CONTRACTING AUTHORITY OR DISCRETION. "AGENCY OF
30 GOVERNMENT" DOES NOT INCLUDE ANY COUNTY, CITY AND COUNTY, CITY,
31 MUNICIPALITY, TOWN, SCHOOL DISTRICT, SPECIAL DISTRICT, OR ANY
32 OTHER POLITICAL SUBDIVISION OF THE STATE.

33 (2) "CONTRACTOR" MEANS ANY PERSON HAVING A CONTRACT FOR
34 A PUBLIC PROJECT WITH AN AGENCY OF GOVERNMENT.

35 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
36 PERSONNEL.

37 (4) "EMPLOYEES" MEANS EMPLOYEES OF CONTRACTORS OR
38 SUBCONTRACTORS PERFORMING JOBS ON VARIOUS TYPES OF PUBLIC
39 PROJECTS INCLUDING MECHANICS, LABORERS, AND OTHER CONSTRUCTION
40 EMPLOYEES.

41 (5) "PUBLIC PROJECT" MEANS ANY CONSTRUCTION, ALTERATION,
42 REPAIR, DEMOLITION, OR IMPROVEMENT OF ANY LAND, BUILDING,
43 STRUCTURE, FACILITY, ROAD, HIGHWAY, BRIDGE, OR OTHER PUBLIC

1 IMPROVEMENT SUITABLE FOR AND INTENDED FOR USE IN THE PROMOTION
2 OF PUBLIC HEALTH, WELFARE, OR SAFETY AND ANY OPERATION OR
3 MAINTENANCE PROGRAMS FOR THE OPERATION AND UPKEEP OF SUCH
4 PROJECTS. "PUBLIC PROJECT" INCLUDES ANY WORK, CONSTRUCTION, OR
5 REPAIR PERFORMED BY A PRIVATE PARTY THROUGH A CONTRACT TO RENT,
6 LEASE, OR PURCHASE AT LEAST FIFTY PERCENT OF THE PROJECT BY ONE OR
7 MORE AGENCIES OF GOVERNMENT.

8 (6) "WAGES", "SCALE OF WAGES", "WAGE RATES", "MINIMUM
9 WAGES", AND "PREVAILING WAGES" MEANS:

10 (a) THE BASIC HOURLY RATE OF PAY; AND
11 (b) FOR MEDICAL OR HOSPITAL CARE, PENSIONS ON RETIREMENT
12 OR DEATH, COMPENSATION FOR INJURIES OR ILLNESS RESULTING FROM
13 OCCUPATIONAL ACTIVITY, OR INSURANCE TO PROVIDE ANY OF THE
14 FORGOING, FOR UNEMPLOYMENT BENEFITS, LIFE INSURANCE, DISABILITY
15 AND SICKNESS INSURANCE, OR ACCIDENT INSURANCE, FOR VACATION AND
16 HOLIDAY PAY, FOR DEFRAYING THE COSTS OF APPRENTICESHIP OR OTHER
17 SIMILAR PROGRAMS, OR FOR OTHER BONA FIDE FRINGE BENEFITS, BUT
18 ONLY WHERE THE CONTRACTOR OR SUBCONTRACTOR IS NOT REQUIRED BY
19 OTHER FEDERAL, STATE, OR LOCAL LAW TO PROVIDE ANY OF THOSE
20 BENEFITS, THE AMOUNT OF:

21 (I) THE RATE OF CONTRIBUTION IRREVOCABLY MADE BY A
22 CONTRACTOR OR SUBCONTRACTOR TO A TRUSTEE OR TO A THIRD PERSON
23 UNDER A FUND, PLAN, OR PROGRAM; AND

24 (II) THE RATE OF COSTS TO THE CONTRACTOR OR SUBCONTRACTOR
25 THAT MAY BE REASONABLY ANTICIPATED IN PROVIDING BENEFITS TO
26 EMPLOYEES PURSUANT TO AN ENFORCEABLE COMMITMENT TO CARRY OUT
27 A FINANCIALLY RESPONSIBLE PLAN OR PROGRAM WHICH WAS
28 COMMUNICATED IN WRITING TO THE EMPLOYEES AFFECTED.

29 **24-92-202. Contractors subject to provisions - weekly payment
30 of employees - rules.** (1) EXCEPT AS OTHERWISE PROVIDED IN
31 SUBSECTION (2) OF THIS SECTION, ANY CONTRACTOR WHO IS AWARDED A
32 CONTRACT FOR A PUBLIC PROJECT BY AN AGENCY OF GOVERNMENT IN THE
33 AMOUNT OF FIFTY THOUSAND DOLLARS OR MORE, AND ANY
34 SUBCONTRACTORS WORKING ON THE PUBLIC PROJECT, SHALL PAY THEIR
35 EMPLOYEES AT WEEKLY INTERVALS AND SHALL COMPLY WITH THE
36 ENFORCEMENT PROVISIONS ESTABLISHED IN SECTION 24-92-209. THIS
37 PART 2 APPLIES TO A CONTRACT FOR A PUBLIC PROJECT AWARDED
38 PURSUANT TO PART 1 OF THIS ARTICLE 92 AND TO AN INTEGRATED PROJECT
39 DELIVERY CONTRACT FOR A PUBLIC PROJECT AWARDED PURSUANT TO
40 ARTICLE 93 OF THIS TITLE 24. THIS PART 2 DOES NOT APPLY TO CONTRACTS
41 FOR PUBLIC PROJECTS THAT RECEIVE FEDERAL FUNDING.

42 (2) THIS PART 2 DOES NOT APPLY TO THE DEPARTMENT OF
43 TRANSPORTATION, REGARDLESS OF THE AMOUNT OR FUNDING SOURCE OF

1 THE PUBLIC PROJECT; EXCEPT THAT THE DEPARTMENT OF
2 TRANSPORTATION IS REQUIRED TO PAY EMPLOYEES PERFORMING WORK ON
3 ANY PUBLIC PROJECT, REGARDLESS OF THE AMOUNT OR FUNDING SOURCE
4 OF THE PUBLIC PROJECT, IN ACCORDANCE WITH THE REQUIREMENTS OF THE
5 FEDERAL "DAVIS-BACON ACT", 40 U.S.C. SEC 3141, ET SEQ.

6 (3) THE DIRECTOR MAY PROMULGATE RULES IN ACCORDANCE WITH
7 ARTICLE 4 OF THIS TITLE 24 AS MAY BE NECESSARY TO ADMINISTER AND
8 ENFORCE ANY REQUIREMENT OF THIS PART 2.

9 **24-92-203. Prevailing rate of wages and other payments -**
10 **specifications in solicitations and contract.** (1) BEFORE AWARDING ANY
11 CONTRACT FOR A PUBLIC PROJECT IN THE AMOUNT OF FIFTY THOUSAND
12 DOLLARS OR MORE, AN AGENCY OF GOVERNMENT SHALL OBTAIN FROM THE
13 DIRECTOR THE GENERAL PREVAILING RATE, AS DETERMINED BY THE
14 DIRECTOR PURSUANT TO SECTION 24-92-205, OF THE REGULAR, HOLIDAY,
15 AND OVERTIME WAGES PAID AND THE GENERAL PREVAILING PAYMENTS ON
16 BEHALF OF EMPLOYEES TO LAWFUL WELFARE, PENSION, VACATION,
17 APPRENTICE TRAINING, AND EDUCATIONAL FUNDS IN THE STATE, FOR EACH
18 EMPLOYEE NEEDED TO EXECUTE THE CONTRACT FOR THE PUBLIC PROJECT.
19 PAYMENTS TO THE FUNDS MUST CONSTITUTE AN ORDINARY BUSINESS
20 EXPENSE DEDUCTION FOR FEDERAL INCOME TAX PURPOSES BY
21 CONTRACTORS AND SUBCONTRACTORS.

22 (2) AN AGENCY OF GOVERNMENT SHALL SPECIFY IN THE
23 COMPETITIVE SOLICITATION FOR A PUBLIC PROJECT IN THE AMOUNT OF
24 FIFTY THOUSAND DOLLARS OR MORE AND IN THE CONTRACT FOR SUCH
25 PUBLIC PROJECT, THE GENERAL PREVAILING RATE OF THE REGULAR,
26 HOLIDAY, AND OVERTIME WAGES PAID AND THE PAYMENTS ON BEHALF OF
27 EMPLOYEES TO THE WELFARE, PENSION, VACATION, APPRENTICE TRAINING,
28 AND EDUCATION FUNDS EXISTING IN THE GEOGRAPHIC LOCALITY FOR EACH
29 EMPLOYEE NEEDED TO EXECUTE THE CONTRACT OR WORK.

30 (3) THE GENERAL PREVAILING RATE OF THE REGULAR, HOLIDAY,
31 AND OVERTIME WAGES PAID AND THE PAYMENTS ON BEHALF OF
32 EMPLOYEES TO THE WELFARE, PENSION, VACATION, APPRENTICE TRAINING,
33 AND EDUCATION FUNDS SPECIFIED IN THE COMPETITIVE SOLICITATION AND
34 IN THE CONTRACT FOR A PUBLIC PROJECT PURSUANT TO SUBSECTION (2) OF
35 THIS SECTION SHALL REMAIN THE SAME FOR THE DURATION OF THE WORK
36 ON THE PUBLIC PROJECT.

37 **24-92-204. Specification in contract - payment of wages -**
38 **amount and frequency - unclaimed prevailing wages special trust**
39 **fund - creation.** (1) EVERY CONTRACT FOR A PUBLIC PROJECT SUBJECT
40 TO THE PROVISIONS OF THIS PART 2 SHALL CONTAIN A STIPULATION THAT:
41 (a) THE CONTRACTOR AND ANY SUBCONTRACTORS SHALL PAY ALL
42 THE EMPLOYEES EMPLOYED DIRECTLY ON THE SITE OF THE WORK,
43 UNCONDITIONALLY AND NOT LESS OFTEN THAN ONCE A WEEK, AND

1 WITHOUT SUBSEQUENT DEDUCTION OR REBATE ON ANY ACCOUNT, THE
2 FULL AMOUNTS ACCRUED AT TIME OF PAYMENT COMPUTED AT WAGE
3 RATES NOT LESS THAN THOSE STATED IN THE COMPETITIVE SOLICITATION,
4 REGARDLESS OF ANY CONTRACTUAL RELATIONSHIPS THAT MAY BE
5 ALLEGED TO EXIST BETWEEN THE CONTRACTOR OR SUBCONTRACTOR AND
6 THE EMPLOYEES;

7 (b) THE SCALE OF WAGES TO BE PAID SHALL BE POSTED BY THE
8 CONTRACTOR IN A PROMINENT AND EASILY ACCESSIBLE PLACE AT THE SITE
9 OF THE WORK;

10 (c) THE CONTRACTOR AND ANY SUBCONTRACTORS SHALL PREPARE
11 AND SUBMIT PAYROLL REPORTS TO THE CONTRACTING AGENCY OF
12 GOVERNMENT ON A MONTHLY BASIS THAT DISCLOSE ALL RELEVANT
13 PAYROLL INFORMATION, INCLUDING THE NAME AND ADDRESS OF ANY
14 ENTITIES TO WHICH FRINGE BENEFITS ARE PAID, AND THAT THE
15 CONTRACTING AGENCY OF GOVERNMENT IS REQUIRED TO REVIEW THE
16 CERTIFIED PAYROLL REPORTS IN A TIMELY MANNER;

17 (d) THE CONTRACTOR AND ANY SUBCONTRACTORS SHALL
18 MAINTAIN ON THE SITE WHERE PUBLIC PROJECTS ARE BEING CONSTRUCTED
19 A DAILY LOG OF EMPLOYEES EMPLOYED EACH DAY ON THE PUBLIC
20 PROJECT. THE LOG SHALL INCLUDE, AT A MINIMUM, FOR EACH EMPLOYEE
21 HIS OR HER NAME, PRIMARY JOB TITLE, AND EMPLOYER, AND SHALL BE
22 KEPT ON A FORM PRESCRIBED BY THE DIRECTOR. THE LOG SHALL BE
23 AVAILABLE FOR INSPECTION ON THE SITE AT ALL TIMES BY THE
24 CONTRACTING AGENCY OF GOVERNMENT AND THE DIRECTOR.

25 (e) IF THE CONTRACTOR OR ANY SUBCONTRACTORS FAIL TO PAY
26 THE WAGES AS REQUIRED BY THE CONTRACT, THE STATE CONTROLLER
27 SHALL NOT APPROVE A WARRANT OR DEMAND FOR PAYMENT TO THE
28 CONTRACTOR UNTIL THE CONTRACTOR PROVIDES THE DIRECTOR WITH
29 EVIDENCE, SATISFACTORY TO THE DIRECTOR, THAT THE WAGES REQUIRED
30 BY THE CONTRACT HAVE BEEN PAID. IF THE CONTRACTOR OR ANY
31 SUBCONTRACTOR FAILS TO PAY WAGES AS ARE REQUIRED BY THE
32 CONTRACT, THE CONTRACTING AGENCY OF GOVERNMENT SHALL NOT
33 APPROVE A WARRANT OR DEMAND FOR PAYMENT TO THE CONTRACTOR
34 UNTIL THE CONTRACTOR FURNISHES THE CONTRACTING AGENCY OF
35 GOVERNMENT EVIDENCE SATISFACTORY TO SUCH AGENCY OF
36 GOVERNMENT THAT SUCH WAGES SO REQUIRED BY THE CONTRACT HAVE
37 BEEN PAID; EXCEPT THAT THE CONTRACTING AGENCY OF GOVERNMENT
38 SHALL APPROVE AND PAY ANY PORTION OF A WARRANT OR DEMAND FOR
39 PAYMENT TO THE CONTRACTOR TO THE EXTENT THE AGENCY OF
40 GOVERNMENT HAS BEEN FURNISHED EVIDENCE SATISFACTORY TO THE
41 AGENCY OF GOVERNMENT THAT THE CONTRACTOR OR ONE OR MORE
42 SUBCONTRACTORS HAS PAID SUCH WAGES REQUIRED BY THE CONTRACT,
43 EVEN IF THE CONTRACTOR HAS NOT FURNISHED EVIDENCE THAT ALL OF

1 THE SUBCONTRACTORS HAVE PAID WAGES AS REQUIRED BY THE
2 CONTRACT. ANY CONTRACTOR OR SUBCONTRACTOR MAY USE THE
3 FOLLOWING PROCEDURE IN ORDER TO SATISFY THE REQUIREMENTS OF THIS
4 SECTION:

5 (I) THE CONTRACTOR OR SUBCONTRACTOR MAY SUBMIT TO THE
6 DIRECTOR, FOR EACH EMPLOYEE TO WHOM SUCH WAGES ARE DUE, A
7 CHECK AS REQUIRED BY THE DIRECTOR. SUCH CHECK SHALL BE PAYABLE
8 TO THAT EMPLOYEE OR TO THE STATE SO IT IS NEGOTIABLE BY EITHER OF
9 THOSE PARTIES. EACH SUCH CHECK SHALL BE IN AN AMOUNT
10 REPRESENTING THE DIFFERENCE BETWEEN THE ACCRUED WAGES REQUIRED
11 TO BE PAID TO THAT EMPLOYEE BY THE CONTRACT AND THE WAGES
12 ACTUALLY PAID BY THE CONTRACTOR OR SUBCONTRACTOR.

13 (II) IF ANY CHECK SUBMITTED PURSUANT THIS SUBSECTION (1)(e)
14 CANNOT BE DELIVERED TO THE EMPLOYEE WITHIN A REASONABLE PERIOD
15 AS DETERMINED BY THE DIRECTOR, THEN IT SHALL BE NEGOTIATED BY THE
16 STATE AND THE PROCEEDS DEPOSITED IN THE DIRECTOR'S UNCLAIMED
17 PREVAILING WAGES SPECIAL TRUST FUND, WHICH IS HEREBY CREATED IN
18 THE STATE TREASURY. NOTHING IN THIS SUBSECTION (1) SHALL BE
19 CONSTRUED TO LESSEN THE RESPONSIBILITY OF THE CONTRACTOR OR
20 SUBCONTRACTOR TO ATTEMPT TO LOCATE AND PAY ANY EMPLOYEE TO
21 WHOM WAGES ARE DUE.

22 (III) ANY VALID, VERIFIED CLAIM FOR PREVAILING WAGES THAT IS
23 ACTUALLY RECEIVED BY THE STATE THROUGH NEGOTIATION OF ANY
24 CHECK SUBMITTED PURSUANT TO THIS SUBSECTION (1)(e) MUST BE MADE
25 PRIOR TO TWO YEARS AFTER THE DATE OF THE LAST UNDERPAYMENT BY
26 THE CONTRACTOR OR ANY SUBCONTRACTOR TO THE EMPLOYEE TO WHOM
27 SUCH WAGES WERE DUE. AFTER SUCH DATE, THE STATE SHALL NO LONGER
28 BE LIABLE FOR PAYMENT. THE STATE, AS TRUSTEE, SHALL PAY SUCH
29 CLAIMANT ONLY THE AMOUNT OF THE CHECK THAT IS ACTUALLY
30 NEGOTIATED, REGARDLESS OF ANY DISPUTE AS TO ANY ADDITIONAL
31 AMOUNT OF WAGES OWED TO THE EMPLOYEE. NO INTEREST SHALL BE PAID
32 BY THE STATE ON ANY FUNDS RECEIVED OR DISBURSED PURSUANT TO THIS
33 SUBSECTION (1)(e)(III).

34 (IV) ON THE LAST WORKING DAY OF EACH MONTH, THE AMOUNT
35 OF ANY CLAIM FOR WHICH THE STATE IS NO LONGER LIABLE SHALL BE
36 CREDITED TO THE GENERAL FUND, EXCEPT AS OTHERWISE REQUIRED BY
37 LAW.

38 (V) THE DIRECTOR SHALL MAINTAIN A LIST OF ALL UNCLAIMED,
39 STATE-NEGOTIATED PREVAILING WAGE CHECKS FOR WHICH THE STATE IS
40 LIABLE. SUCH LIST SHALL BE UPDATED MONTHLY AND SHALL BE
41 AVAILABLE FOR INSPECTION AT THE OFFICE OF THE DIRECTOR.

42 **24-92-205. Investigation and determination of prevailing**
43 **wages - filing of schedule.** (1) IN DETERMINING THE APPLICABLE

1 PREVAILING WAGE FOR PUBLIC PROJECTS PURSUANT TO SECTION
2 24-92-204, THE DIRECTOR SHALL USE APPROPRIATE WAGE
3 DETERMINATIONS ISSUED BY THE UNITED STATES DEPARTMENT OF LABOR
4 IN ACCORDANCE WITH THE "DAVIS-BACON ACT", 40 U.S.C. SEC. 3141, ET
5 SEQ., TO ESTABLISH THE PREVAILING WAGE RATES FOR THE APPLICABLE
6 TRADES OR OCCUPATION FOR THE GEOGRAPHIC LOCALITY OF THE PUBLIC
7 PROJECT. THE DIRECTOR SHALL KEEP A SCHEDULE ON FILE IN HIS OR HER
8 OFFICE OF THE CUSTOMARY PREVAILING RATE OF WAGES AND PAYMENTS
9 MADE TO OR ON BEHALF OF THE EMPLOYEES, WHICH SHALL BE OPEN TO
10 PUBLIC INSPECTION.

11 (2) THE DIRECTOR SHALL UPDATE THE APPLICABLE PREVAILING
12 WAGE FOR PUBLIC PROJECTS AS DETERMINED PURSUANT TO SUBSECTION
13 (1) OF THIS SECTION ON OR BEFORE JULY 1, 2022, AND ON OR BEFORE JULY
14 1 EACH YEAR THEREAFTER.

15 **24-92-206. Statutory provisions included in contracts.** A COPY
16 OF SECTIONS 24-92-203 AND 24-92-204 SHALL BE INSERTED IN ALL
17 CONTRACTS FOR PUBLIC PROJECTS AWARDED BY AN AGENCY OF
18 GOVERNMENT IF THE CONTRACT PRICE IS FIFTY THOUSAND DOLLARS OR
19 MORE.

20 **24-92-207. Prevailing wage rates - posting.** (1) EACH
21 CONTRACTOR AWARDED A CONTRACT FOR PUBLIC PROJECT WITH A
22 CONTRACT PRICE OF FIFTY THOUSAND DOLLARS OR MORE AND EACH
23 SUBCONTRACTOR WHO PERFORMS WORK ON THE PUBLIC PROJECT SHALL
24 POST IN CONSPICUOUS PLACES ON THE PROJECT, WHERE EMPLOYEES ARE
25 EMPLOYED, POSTERS THAT CONTAIN THE CURRENT PREVAILING RATE OF
26 WAGES AND THE CURRENT PREVAILING RATE OF PAYMENTS TO THE FUNDS
27 REQUIRED TO BE PAID FOR EACH EMPLOYEE EMPLOYED TO EXECUTE THE
28 CONTRACT AS ESTABLISHED IN SECTIONS 24-92-203 AND 24-92-204, AND
29 THE RIGHTS AND REMEDIES OF ANY EMPLOYEE DESCRIBED IN SECTION
30 24-92-210 FOR NONPAYMENT OF ANY WAGES EARNED PURSUANT TO THIS
31 SECTION. THE POSTERS SHALL BE FURNISHED TO CONTRACTORS AND
32 SUBCONTRACTORS BY THE DIRECTOR IN A FORM AND MANNER TO BE
33 DETERMINED BY THE DIRECTOR.

34 (2) A CONTRACTOR OR SUBCONTRACTOR WHO FAILS TO COMPLY
35 WITH THIS SECTION SHALL BE DEEMED GUILTY OF A MISDEMEANOR AND
36 SHALL PAY TO THE DIRECTOR ONE HUNDRED DOLLARS FOR EACH
37 CALENDAR DAY OF NONCOMPLIANCE AS DETERMINED BY THE DIRECTOR.

38 (3) CONTRACTS SET FORTH IN THIS SECTION SHALL NOT BE
39 AWARDED BY AN AGENCY OF GOVERNMENT UNTIL THE DIRECTOR HAS
40 PREPARED AND DELIVERED THE POSTERS TO THE CONTRACTOR TO WHOM
41 THE CONTRACT IS TO BE AWARDED.

42 **24-92-208. Apprenticeship contribution rate.** (1) (a) THE
43 DIRECTOR SHALL ESTABLISH A SEPARATE APPRENTICESHIP CONTRIBUTION

1 RATE UNDER THE PREVAILING WAGE AND FRINGE BENEFIT REQUIREMENTS
2 OF THIS PART 2.

3 (b) THE CONTRACTING AGENCY OF GOVERNMENT SHALL SPECIFY
4 IN THE COMPETITIVE SOLICITATION FOR A PUBLIC PROJECT IN THE AMOUNT
5 OF FIFTY THOUSAND DOLLARS OR MORE AND IN THE CONTRACT FOR SUCH
6 PUBLIC PROJECT THE APPRENTICESHIP CONTRIBUTION RATE AND FRINGE
7 BENEFIT REQUIREMENTS OF THIS PART 2.

8 (c) THE DIRECTOR SHALL UPDATE THE APPLICABLE
9 APPRENTICESHIP CONTRIBUTION RATE AS DETERMINED PURSUANT TO
10 SUBSECTION (1)(a) OF THE SECTION ON OR BEFORE JULY 1, 2022, AND ON
11 OR BEFORE JULY 1 EACH YEAR THEREAFTER.

12 (d) THE APPLICABLE APPRENTICESHIP CONTRIBUTION RATE
13 SPECIFIED IN THE COMPETITIVE SOLICITATION AND IN THE CONTRACT FOR
14 A PUBLIC PROJECT PURSUANT TO THIS SUBSECTION (1) SHALL REMAIN THE
15 SAME FOR THE DURATION OF THE WORK ON THE PUBLIC PROJECT.

16 (2) THE AMOUNT OF THE APPRENTICESHIP CONTRIBUTION WILL BE
17 SET IN ACCORDANCE WITH THE APPRENTICESHIP CONTRIBUTION OF THE
18 COLLECTIVE BARGAINING AGREEMENT OF THE APPLICABLE TRADE IN THE
19 GEOGRAPHIC LOCALITY OF THE PUBLIC PROJECT. CONTRACTORS SHALL
20 ACHIEVE COMPLIANCE WITH THIS REQUIREMENT BY ONE OF THE
21 FOLLOWING OPTIONS:

22 (a) CONTRACTORS SIGNATORY TO THE APPLICABLE COLLECTIVE
23 BARGAINING AGREEMENT SHALL BE REQUIRED TO PAY NO MORE THAN THE
24 APPRENTICESHIP CONTRIBUTION RATE OF THE AGREEMENT;

25 (b) CONTRACTORS THAT ARE NOT SIGNATORY TO THE APPLICABLE
26 COLLECTIVE BARGAINING AGREEMENT BUT THAT PARTICIPATE IN AN
27 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
28 DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION
29 OR A STATE APPRENTICESHIP COUNCIL REGISTERED WITH THE UNITED
30 STATES DEPARTMENT OF LABOR SHALL PAY THE DETERMINED
31 APPRENTICESHIP CONTRIBUTION TO THAT PROGRAM; OR

32 (c) CONTRACTORS THAT DO NOT QUALIFY FOR EITHER OPTION
33 SPECIFIED IN SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION SHALL BE
34 REQUIRED TO PAY THE AMOUNT OF THE APPRENTICESHIP CONTRIBUTION
35 TO AFFECTED WORKERS IN CASH PAYMENTS IN ADDITION TO THE OTHER
36 COMPONENTS OF THE PREVAILING WAGE AND FRINGE BENEFIT PACKAGE
37 REQUIRED PURSUANT TO THIS PART 2.

38 (3) THE APPRENTICESHIP CONTRIBUTION RATE SHALL BE
39 DEDUCTED FROM THE PREVAILING WAGE RATE PACKAGE TO AVOID
40 DOUBLE PAYMENT BY THE CONTRACTOR OR SUBCONTRACTOR.

41 **24-92-209. Enforcement - rules.** (1) UPON RECEIPT OF A
42 COMPLAINT OR UPON ANALYSIS OF CERTIFIED PAYROLL RECORDS, A
43 CONTRACTING AGENCY OF GOVERNMENT SHALL REPORT ANY PERCEIVED

1 VIOLATION OF THIS PART 2 TO THE CONTRACTOR WITHIN FORTY-EIGHT
2 HOURS OF BEING MADE AWARE OF THE PERCEIVED VIOLATION. IN
3 CONNECTION WITH THE PERCEIVED VIOLATION:

4 (a) THE CONTRACTING AGENCY OF GOVERNMENT SHALL ALLOW
5 THE CONTRACTOR TO CURE THE PERCEIVED VIOLATION WITHIN FIFTEEN
6 CALENDAR DAYS IF THE CONTRACTOR CAN DEMONSTRATE THE INSTANCE
7 IN QUESTION WAS THE RESULT OF LEGITIMATE ADMINISTRATIVE ERROR.

8 (b) IF THE CONTRACTOR DOES NOT REMEDY THE PERCEIVED
9 VIOLATION WITHIN FIFTEEN CALENDAR DAYS OR IF THE CONTRACTING
10 AGENCY DETERMINES THAT THE PERCEIVED VIOLATION WAS WILLFUL, THE
11 CONTRACTING AGENCY SHALL REPORT THE PERCEIVED VIOLATION TO THE
12 DEPARTMENT OF LABOR AND EMPLOYMENT FOR INVESTIGATION.

13 (2) (a) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL
14 INVESTIGATE ALL COMPLAINTS REFERRED TO THE DEPARTMENT BY THE
15 CONTRACTING AGENCY OF GOVERNMENT TO DETERMINE IF THE PERCEIVED
16 VIOLATION WAS CONDUCTED IN A WILLFUL MANNER.

17 (b) FOR THE PURPOSES OF THIS SECTION, "WILLFUL VIOLATION"
18 INCLUDES INTENTIONAL VIOLATIONS AND THOSE VIOLATIONS MADE WITH
19 RECKLESS DISREGARD OR DELIBERATE IGNORANCE OF THE LAW.

20 (3) IF THE DEPARTMENT OF LABOR AND EMPLOYMENT DETERMINES
21 THAT A WILLFUL VIOLATION OCCURRED, IT SHALL REQUIRE RESTITUTION
22 OF APPLICABLE BACK PAY FOR THE IMPACTED EMPLOYEES AND SHALL
23 SUBJECT THE CONTRACTOR TO THE FOLLOWING FINES:

24 (a) FIVE THOUSAND DOLLARS FOR THE FIRST VIOLATION IN
25 ADDITION TO WAGE RESTITUTION TO THE IMPACTED EMPLOYEES;

26 (b) TEN THOUSAND DOLLARS FOR THE SECOND VIOLATION IN
27 ADDITION TO WAGE RESTITUTION TO THE IMPACTED EMPLOYEES; AND

28 (c) TWENTY-FIVE THOUSAND DOLLARS FOR THE THIRD AND ALL
29 SUBSEQUENT VIOLATIONS IN ADDITION TO WAGE RESTITUTION TO THE
30 IMPACTED EMPLOYEES.

31 (4) AT THE DISCRETION OF THE DIRECTOR, THE CONTRACTOR MAY
32 BE DEBARRED IF THEY HAVE BEEN FOUND TO HAVE THREE OR MORE
33 WILLFUL VIOLATIONS IN ANY FIVE YEAR PERIOD. THE TERM OF DEBARMENT
34 WILL BE THREE YEARS.

35 (5) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL
36 MAINTAIN A LIST OF CONTRACTORS WHO HAVE BEEN FOUND TO HAVE
37 WILLFULLY VIOLATED THIS ACT, INCLUDING DETAILS OF THE VIOLATION,
38 ON A PUBLICLY AVAILABLE WEBSITE.

39 (6) IF A CONTRACTING AGENCY OF GOVERNMENT OR THE
40 DEPARTMENT OF LABOR AND EMPLOYMENT FAILS TO RESOLVE AN
41 ACTIONABLE WAGE CLAIM WITHIN ONE HUNDRED TWENTY DAYS, THE
42 EMPLOYEE SHALL HAVE THE RIGHT TO FILE A PRIVATE LAWSUIT PURSUANT
43 TO SECTION 24-92-210.

(7) THE DEPARTMENT OF LABOR AND EMPLOYMENT MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24 AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE ANY REQUIREMENT OF THIS PART 2. SUCH RULES MAY INCLUDE A REASONABLE ADMINISTRATIVE APPEAL PROCESS FOR DETERMINATIONS MADE PURSUANT TO THIS SECTION.

24-92-210. Private right of action to collect wages or benefits

7 **- definition.** (1) AN EMPLOYEE OR FORMER EMPLOYEE OF A CONTRACTOR
8 OR SUBCONTRACTOR MAY BRING A CIVIL ACTION FOR A VIOLATION OF
9 SECTION 24-92-204 FOR APPROPRIATE INJUNCTIVE RELIEF, ACTUAL
10 DAMAGES, OR BOTH WITHIN THREE YEARS AFTER THE OCCURRENCE OF THE
11 ALLEGED VIOLATION. AN ACTION COMMENCED PURSUANT TO THIS
12 SECTION MAY BE BROUGHT IN THE DISTRICT COURT FOR THE COUNTY
13 WHERE THE ALLEGED VIOLATION OCCURRED, THE COUNTY WHERE THE
14 COMPLAINANT RESIDES, OR THE COUNTY WHERE THE PERSON AGAINST
15 WHOM IN THE CIVIL COMPLAINT IS FILED RESIDES OR HAS THEIR PRINCIPAL
16 PLACE OF BUSINESS. ANY CONTRACTOR OR SUBCONTRACTOR WHO
17 VIOLATES SECTION 24-92-204 SHALL BE LIABLE TO THE AFFECTED
18 EMPLOYEE OR EMPLOYEES IN THE AMOUNT OF UNPAID WAGES OR BENEFITS
19 PLUS INTEREST.

20 (2) A CONTRACTOR OR SUBCONTRACTOR'S RESPONSIBILITY AND
21 LIABILITY IS SOLELY FOR ITS OWN EMPLOYEES.

40 (6) THE FILING OF A CIVIL ACTION UNDER THIS SECTION SHALL NOT
41 PRECLUDE THE DIRECTOR FROM PROHIBITING A CONTRACTOR OR
42 SUBCONTRACTOR FROM BIDDING ON OR OTHERWISE PARTICIPATING IN
43 STATE CONTRACTS OR FROM PROHIBITING TERMINATION OF WORK ON

1 FAILURE TO PAY AGREED WAGES.

2 (7) (a) ANY PERSON, FIRM, OR CORPORATION FOUND TO HAVE
3 WILLFULLY MADE A FALSE OR FRAUDULENT REPRESENTATION IN
4 CONNECTION WITH WAGE OBLIGATIONS OWED ON A CONTRACT SHALL BE
5 REQUIRED TO PAY A CIVIL PENALTY IN AN AMOUNT OF NO LESS THAN ONE
6 THOUSAND DOLLARS AND NOT GREATER THAN THREE THOUSAND DOLLARS
7 PER REPRESENTATION. SUCH PENALTIES SHALL BE RECOVERABLE IN CIVIL
8 ACTIONS FILED PURSUANT TO THIS SECTION.

9 (b) FOR PURPOSES OF THIS SUBSECTION (7) "WILLFULLY" MEANS
10 REPRESENTATIONS THAT ARE KNOWN TO BE FALSE OR REPRESENTATIONS
11 MADE WITH DELIBERATE IGNORANCE OR RECKLESS DISREGARD FOR THEIR
12 TRUTH OR FALSITY.

13 (8) AN EMPLOYER SHALL NOT DISCHARGE, THREATEN, OR
14 OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE, OR FORMER EMPLOYEE,
15 REGARDING COMPENSATION TERMS, CONDITIONS, LOCATIONS OR
16 PRIVILEGES OF EMPLOYMENT BECAUSE THE EMPLOYEE OR FORMER
17 EMPLOYEE, OR A PERSON OR ORGANIZATION ACTING ON HIS OR HER
18 BEHALF REPORTS OR MAKES A COMPLAINT UNDER THIS SECTION OR
19 OTHERWISE ASSERTS HIS OR HER RIGHTS UNDER THIS SECTION.

20 **SECTION 3. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 2, 2019, if adjournment sine die is on May 3,
24 2019); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election
28 to be held in November 2020 and, in such case, will take effect on the
29 date of the official declaration of the vote thereon by the governor.

30 (2) This act applies to solicitations issued on or after July 1,
31 2021.".

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