

SB196 L.002

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:

22 PART 2

23 PREVAILING WAGE FOR PUBLIC PROJECTS

24 **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.

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

6 **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.

22 (3) AN ACTION INITIATED PURSUANT TO THIS SECTION MAY BE  
23 BROUGHT BY ONE OR MORE EMPLOYEES OR FORMER EMPLOYEES ON  
24 BEHALF OF HIM OR HERSELF OR THEMSELVES AND OTHER EMPLOYEES  
25 SIMILARLY SITUATED; EXCEPT THAT NO EMPLOYEE SHALL BE A PARTY  
26 PLAINTIFF TO ANY SUCH ACTION UNLESS HE OR SHE CONSENTS IN WRITING  
27 TO BECOME SUCH A PARTY AND SUCH CONSENT IS FILED IN THE COURT IN  
28 WHICH SUCH ACTION IS BROUGHT.

29 (4) IF THE COURT FINDS THAT AN ACTION BROUGHT PURSUANT TO  
30 THIS SECTION WAS FRIVOLOUS, THE COURT SHALL AWARD COSTS AND  
31 ATTORNEY FEES TO THE DEFENDANT IN THE ACTION.

32 (5) THE COURT IN AN ACTION FILED UNDER THIS SECTION SHALL  
33 AWARD AFFECTED EMPLOYEES OR FORMER EMPLOYEES LIQUIDATED  
34 DAMAGES IN AN AMOUNT EQUAL TO TWO TIMES THE AMOUNT OF UNPAID  
35 WAGES OR BENEFITS OWED. UNPAID FRINGE BENEFIT CONTRIBUTIONS  
36 OWED PURSUANT TO THIS SECTION IN ANY FORM SHALL BE PAID TO THE  
37 APPROPRIATE BENEFIT FUND; EXCEPT THAT IN THE ABSENCE OF AN  
38 APPROPRIATE FUND THE BENEFIT SHALL BE PAID DIRECTLY TO THE  
39 INDIVIDUAL.

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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