



AN ACT CREATING AN INCUMBENT WORKER TRAINING PROGRAM; PROVIDING CRITERIA FOR PARTICIPATION AND FOR AWARDS; AND PROVIDING RULEMAKING AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Incumbent worker training program -- purpose.** There is an incumbent worker training program, administered by the department, the purpose of which is to:

- (1) meet the training needs of incumbent workers in businesses employing 20 or fewer workers in this state at any one location but not more than 50 workers statewide; and
- (2) assist local businesses in preserving existing jobs for Montana residents.

**Section 2. Definitions.** As used in [sections 1 through 6], the following definitions apply:

- (1) "BEAR program" means a business expansion and retention program implemented by local communities that uses assessments, interviews, and surveys to assist employers and that has been recognized as a BEAR program for the purposes of [sections 1 through 6] by the governor's office of economic development, the department of commerce, and the department.
- (2) "Department" means the department of labor and industry provided for in 2-15-1701.
- (3) "Eligible training provider" means:
  - (a) a unit of the university system, as defined in 20-25-201;
  - (b) a community college district, as defined in 20-15-101;
  - (c) an accredited, tribally controlled community college located in the state of Montana;
  - (d) an apprenticeship program that is in compliance with Title 39, chapter 6; or
  - (e) an entity approved to provide workforce training that is approved by representatives of the BEAR program, the small business development centers, or the Montana manufacturing extension center at Montana state university-Bozeman.
- (4) "Employee" or "worker" means an individual currently employed in a full-time job or a permanent

part-time job.

(5) "Employer" means a business entity that employs 20 or fewer employees in this state in one location but not more than 50 employees statewide and that is registered with the secretary of state to conduct business as a sole proprietor, if required, or as a corporation, a partnership, a limited liability company, or an association.

(6) "Full-time job" means a predominantly year-round position requiring an average of 35 hours or more of work each week.

(7) "Incumbent worker" means an employee who has completed a probationary period as defined by the employer's policy or as described in 39-2-904, whichever period is shorter.

(8) "Incumbent worker training program grant" or "grant" means the grant awarded to employers to hire eligible training providers to provide incumbent workers with education and training required to improve productivity, efficiency, or wages in existing jobs.

(9) "Permanent part-time job" means a predominantly year-round position requiring an average of 20 to 34 hours of work each week.

**Section 3. Incumbent worker training program criteria for applicants.** (1) An employer applying for an incumbent worker training program grant must:

- (a) have been in business in this state for a minimum of 1 year;
- (b) have a need for training incumbent workers; and
- (c) be an existing client of a BEAR program recognized by the department, of a small business development center, or of the Montana manufacturing extension center at Montana state university-Bozeman.

(2) An applicant for an incumbent worker training program grant shall agree to:

(a) provide certified education or skills-based training for incumbent workers in existing full-time jobs and permanent part-time jobs through an eligible training provider;

(b) match every \$4 requested with at least \$1 of employer funds. The same match applies for in-state training and for out-of-state training. Matching funds may include wages and benefits paid for the day that the actual training takes place and for appropriate travel and lodging charges associated with the approved training. For out-of-state training the employer is responsible for at least 50% of the actual costs of appropriate travel and lodging.

(c) provide evidence to the department that training was completed.

- (3) An incumbent worker training program grant application must contain at a minimum:
- (a) a cover letter describing the goals of the training for the incumbent workers, the anticipated economic benefits from the training, and the amount of funding requested;
  - (b) information that provides an adequate understanding of the applicant's business and the training objective;
  - (c) a description of the eligible training provider's proposed curriculum, resources, methods, and duration of training;
  - (d) a list of incumbent workers to be trained and their current job descriptions and base wage rates plus the expected wage rates after training;
  - (e) the total number of the employer's employees at the location of the proposed training and within the state;
  - (f) the sources of matching funds to be provided; and
  - (g) any other information required by rule by the department that is similar to information required for other employment-related grants.

**Section 4. Incumbent worker training program grant award criteria.** (1) Subject to appropriation by the legislature, the department shall award grants based on recommendations from BEAR programs, small business development centers, or the Montana manufacturing extension center at Montana state university-Bozeman as provided in subsection (2). The distribution of funding must be reviewed annually by the department, and funds that are not being used or for which there are no qualified applications, as determined by the department, may be transferred to other programs as provided in 17-7-138 and 17-7-139.

(2) A BEAR program, a small business development center, or the Montana manufacturing extension center at Montana state university-Bozeman participating in the incumbent worker training program shall review applications and make recommendations for awards to the department regarding qualified applicants based on the criteria in subsection (3).

(3) The following criteria must be used in determining whether to award an incumbent worker training program grant:

- (a) prospects for enhancing the incumbent worker's productivity, efficiency, or wages;
- (b) prospects for reducing incumbent worker turnover;

- (c) ability to provide matching funds;
  - (d) a demonstrated need by the employer for upgrading skills of incumbent workers through training as a way to improve the employer's ability to remain competitive in the industry or in the economy;
  - (e) a direct relationship between the training and an added benefit to the incumbent worker's occupation or craft; and
  - (f) a demonstration that the training is not normally provided or required by the employer and, as far as may be determined, by the employer's competitors.
- (4) An incumbent worker training program grant award is limited to:
- (a) \$2,000 or less annually for each full-time job for which an incumbent worker is being trained; or
  - (b) \$1,000 or less for each permanent part-time job for which an incumbent worker is being trained.
- (5) Subject to funding, the department may:
- (a) limit the number of applicants that receive grant awards;
  - (b) award less than the amount provided in subsection (4); or
  - (c) award a higher amount than that provided in subsection (4) if a full-time job for which an incumbent worker is being trained under an incumbent worker training program grant award pays significantly higher wages and benefits than the incumbent worker's current job. Before making an award for a higher amount as provided in this subsection (5)(c), the department must receive a recommendation for the higher amount from a BEAR program, a small business development center, or the Montana manufacturing extension center at Montana state university-Bozeman working with the employer and documentation from the employer regarding the need for the higher amount.
- (6) The recipient of a grant shall provide the department with:
- (a) a properly executed agreement, signed by the employer's authorized representative, that outlines terms of the grant;
  - (b) documentation upon completion of training that the training was provided and to whom the training was provided, including copies of certificates or statements of completion; and
  - (c) all receipts or copies of receipts associated with the training and the application.

**Section 5. Special revenue account.** There is a federal special revenue account to the credit of the department for use in the incumbent worker training program that may be spent subject to appropriation by the

legislature. Money must be deposited in the account from federal funds that are available for incumbent worker training.

**Section 6. Rulemaking.** The department may adopt rules to further define information for applications, distribution of grants, and the use of the special revenue account provided for in [section 5].

**Section 7. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 53, chapter 2, and the provisions of Title 53, chapter 2, apply to [sections 1 through 6].

**Section 8. Contingent voidness.** If House Bill No. 2 or [LC 2314] is passed and approved but does not contain funding for an incumbent worker training program, then [this act] is void.

- END -

I hereby certify that the within bill,  
SB 0388, originated in the Senate.

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Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

SENATE BILL NO. 388

INTRODUCED BY GILLAN, ARNTZEN, P. BECK, BECKER, BRANAE, ERICKSON, FLEMING, FRENCH,  
FUREY, GETZ, GRINDE, HAMLETT, HANSEN, MACDONALD, MCCHESENEY, POMNICHOWSKI,  
SCHMIDT, STEENSON, STEWART-PEREGOY, M. TROPILA, VAN DYK, WANZENRIED

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