

HOUSE BILL NO. 564

INTRODUCED BY LINDEEN, BALLANTYNE, BECKER, BERGREN, BLACK, BRANAE, R. BROWN, BRUEGGEMAN, BUZZAS, CALLAHAN, COCCHIARELLA, COHENOUR, CYR, DEPRATU, DICKENSON, DOWELL, FACEY, FRANKLIN, GIBSON, GILLAN, GOLIE, JOHNSON, JUNEAU, KAUFMANN, KEANE, KEENAN, LASLOVICH, LASZLOFFY, MAHLUM, MANGAN, MATTHEWS, MCKENNEY, MOOD, MUSGROVE, NEWMAN, PATTISON, RASER, RIPLEY, SINRUD, STORY, TESTER, F. THOMAS, WANZENRIED, WEISS, WILSON

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE PRIMARY SECTOR BUSINESS WORKFORCE TRAINING ACT TO ASSIST COMMUNITY ECONOMIC DEVELOPMENT BY PROVIDING TRAINING FOR EXISTING WORKERS AND INCENTIVES FOR BUSINESSES TO LOCATE AND EXPAND WITHIN THE STATE THROUGH GOVERNMENT-ASSISTED NEW JOBS TRAINING; PROVIDING CRITERIA FOR GRANT ELIGIBILITY; PROVIDING TEMPORARY FUNDING FOR WORKFORCE TRAINING GRANTS THROUGH BOARD OF INVESTMENT LOANS, WHICH WILL BE REPAID THROUGH A NEW JOBS CREDIT THAT IS GENERATED FROM THE CREATION OF PERMANENT, FULL-TIME JOBS; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Primary Sector Business Workforce Training Act".

NEW SECTION. **Section 2. Purpose.** (1) The Primary Sector Business Workforce Training Act is created to meet the training needs of existing industries in the state and to provide incentives to businesses to locate and expand within the state through government-assisted new jobs training.

(2) It is the intent of the legislature to provide training funds for businesses to train and educate employees, which will result in the production of high-wage and high-skilled jobs that will increase the earning potential and employment opportunities for Montana employees and enhance the state's economy.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 7], the following definitions apply:

~~(1)~~ "Department" means the department of commerce provided for in ~~2-15-1801~~.

~~(2)~~(1) "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; or
- (d) an entity approved to provide workforce training that is included on the eligible training provider list.

~~(3)~~(2) "Eligible training provider list" means the list maintained by the department OF COMMERCE of those eligible training providers who may be used to provide workforce training under a grant authorized in [section 5].

~~(4)~~(3) "Employee" means the individual employed in a new job.

~~(5)~~(4) "Employer" means the individual, corporation, partnership, or association providing new jobs and entering into a grant contract.

~~(6)~~(5) "Full-time job" means a predominantly year-round position requiring an average of 35 hours of work each week.

~~(7)~~(6) "New job" means:

- (a) a newly created full-time job in an eligible business.
- (b) The term does not include jobs for recalled employees returning to positions held previously, for replacement employees, or for employees newly hired as a result of a labor dispute, part-time or seasonal jobs, or other jobs that previously existed within the employment of the employer in the state.

~~(8)~~(7) "New jobs credit" means the credit provided in [section 6].

(8) "OFFICE OF ECONOMIC DEVELOPMENT" MEANS THE OFFICE OF ECONOMIC DEVELOPMENT ESTABLISHED IN 2-15-218.

(9) "Primary sector business" means an employer engaged:

- (a) in locating in Montana who previously had no presence in the state;
- (b) in expanding operations within Montana, which through the employment of knowledge or labor, adds value to a product, process, or export service that results in the creation of new wealth, AND FOR WHICH AT LEAST 50% OF THE SALES OF THE EMPLOYER OCCUR OUTSIDE OF MONTANA OR THE EMPLOYER IS A MANUFACTURING COMPANY WITH AT LEAST 50% OF ITS SALES TO OTHER MONTANA COMPANIES THAT HAVE 50% OF THEIR SALES OCCURRING OUTSIDE OF MONTANA.

(10) "Primary sector business training program" or "program" means the grant provided to employers for the purpose of working with eligible training providers to provide employees with education and training required for jobs in new or expanding primary sector businesses in the state.

(11) "Program costs" means:

(a) all necessary and incidental costs of providing program services.

(b) The term does not include the cost of purchase of equipment to be owned or utilized by the eligible training provider.

(12) "Program services" means training and education specifically directed to the new jobs, including:

(a) all direct training costs, such as:

(i) program promotion;

(ii) instructor wages, per diem, and travel;

(iii) curriculum development and training materials;

(iv) lease of training equipment and training space;

(v) miscellaneous direct training costs;

(vi) administrative costs; and

(vii) assessment and testing;

(b) in-house or on-the-job training; and

(c) subcontracted services with eligible training providers.

NEW SECTION. Section 4. Grant review committee -- appointment -- powers and duties -- rulemaking authority. (1) There is a ~~five-member~~ SEVEN-MEMBER loan review committee ~~appointed by the governor,~~ as follows:

(a) ~~one representative from the department~~ TWO REPRESENTATIVES FROM THE PRIVATE SECTOR REPRESENTING ECONOMIC DEVELOPMENT, ONE OF WHOM SERVES ON THE STATE WORKFORCE INVESTMENT BOARD, APPOINTED BY THE GOVERNOR;

(b) ~~one representative from the department of labor and industry~~ TWO REPRESENTATIVES FROM THE BUSINESS COMMUNITY, ONE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE, ONE OF WHOM SERVES ON THE STATE WORKFORCE INVESTMENT BOARD;

(c) ~~one representative from the governor's office,~~ APPOINTED BY THE GOVERNOR;

(d) ~~one representative from the department of revenue,~~ APPOINTED BY THE GOVERNOR; and

(e) ~~one representative from the Montana university system~~ DEPARTMENT OF LABOR AND INDUSTRY, APPOINTED BY THE GOVERNOR.

(2) The committee shall award training grants to a primary sector business qualified under [section 5] after a determination that the primary sector business:

- (a) has prospects for achieving commercial success and for creating new jobs in the state;
 - (b) has prospects for collaboration between the public and private sectors of the state's economy;
 - (c) has potential for commercial success related to the specific product, process, or business development methodology proposed;
 - (d) can provide matching funds; and
 - (e) can be reasonably expected to provide an economic return within a reasonable period of time.
- (3) A committee member may not personally apply for or receive a primary sector business workforce training grant. If an organization with which a member is affiliated applies for a grant, the member shall disclose the nature of the affiliation and, if the committee member is a board member or officer of the organization, may not participate in the decision of the committee regarding the grant application.
- (4) The committee shall adopt rules to:
- (a) provide for grant application procedures;
 - (b) develop procedures for awarding grants pursuant to the criteria provided in [section 5]; and
 - (c) develop independent review and audit procedures to ensure that grants made are used for the purposes identified in the grant contracts.
- (5) All decisions of the committee are final and are not subject to the contested case provisions of Title 2, chapter 4.
- (6) The committee is allocated to the ~~department~~ OFFICE OF ECONOMIC DEVELOPMENT for administrative purposes only as provided in 2-15-121.

NEW SECTION. Section 5. Primary sector business workforce training grants -- eligibility. (1) The grant review committee provided for in [section 4] may award workforce training grants to employers that provide education or skills-based training, through eligible training providers from the eligible training provider list, for employees in new jobs.

- (2) To be eligible for a grant, an applicant shall DEMONSTRATE THAT AT LEAST 50% OF THE APPLICANT'S SALES WILL BE FROM OUTSIDE OF MONTANA OR THAT THE APPLICANT IS A MANUFACTURING COMPANY WITH 50% OF ITS SALES FROM COMPANIES THAT HAVE 50% OF THEIR SALES OUTSIDE OF MONTANA AND MUST meet at least one of the following criteria:
- (a) be a value-adding business as defined by the Montana board of investments;
 - (b) demonstrate a significant positive economic impact to the region and state beyond the job creation involved;

(c) provide a service or function that is essential to the locality or the state; or

(d) be a for-profit or a nonprofit hospital or medical center providing a variety of medical services for the community or region.

(3) An applicant shall also provide a match of at least \$1 for every \$3 requested. The match:

(a) must be from new, unexpended funds available at the time of application;

(b) may include new loans and investments and expenditures for direct project-related costs such as new equipment and buildings. The committee may consider recent purchases of fixed assets directly related to the proposal on a case-by-case basis. A purchase of fixed assets directly related to the proposed training activities that have been made within 90 days after submission of the application may be considered eligible by the department.

(4) (a) Except as provided in subsection (4)(c), a grant provided under this section may not exceed \$5,000 for each full-time position for which an employee is being trained and for which the salary will be an amount that represents THE LESSER OF at least 110% of Montana's current median income level, which is posted annually by the Montana board of investments as a threshold for its programs, THE CURRENT MEDIAN INCOME LEVEL OF THE COUNTY IN WHICH THE EMPLOYEES ARE TO BE PRINCIPALLY EMPLOYED, OR FOR JOBS THAT WILL BE PRINCIPALLY LOCATED ON A RESERVATION, THE CURRENT MEDIAN INCOME LEVEL OF THE RESERVATION.

~~(b) A full-time job paying less than the required 110% of Montana's current median income level is ineligible under this section unless the application provides information that conclusively demonstrates that a lower wage is appropriate based on the local economy and local pay scale.~~

(B) THE OFFICE OF ECONOMIC DEVELOPMENT MAY CONSIDER THE VALUE OF EMPLOYEE BENEFITS IN CALCULATING THE EXPECTED ANNUAL WAGE.

(c) The committee may, in exceptional circumstances, consider a higher grant ceiling for jobs that will pay significantly higher wages and benefits if the need for higher training costs is documented in the application.

(d) A grant provided under this section may not exceed an amount greater than the present value of expected incremental tax receipts, as described in [section 6], that are expected over the 10-year period immediately following the grant award. The committee shall consider the loan rate established by the board of investments pursuant to the Municipal Finance Consolidation Act of 1983 that is in effect at the time of the grant and the state personal income tax rates in effect or those rates scheduled to take effect in calculating the maximum grant amount.

(5) A primary sector business workforce training program must involve at least 10 new jobs unless unique circumstances are documented that indicate a significant, positive, secondary impact to the local

economy. Funding ceilings will be determined by the availability of funding, the cost for each job, and the quality of the primary sector business proposal.

(6) The grant application, at a minimum, must contain:

(a) a business plan containing information that is sufficient for the committee to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed venture. In lieu of a business plan, the committee may consider a copy of the current loan application to entities such as the Montana board of investments, the federal business and industry guarantee program, or the small business administration.

(b) financial statements and projections for the 2 most recent years of operation and projections for each of the 2 years following the grant, including but not limited to balance sheets, profit and loss statements, and cash flow statements. A business operating for less than 2 years shall provide all available financial statements.

(c) a hiring and training plan, which must include:

(i) a breakdown of the jobs to be created or retained, including the number and type of jobs that are full-time, part-time, skilled, semiskilled, or unskilled positions;

(ii) a timetable for creating the positions and the total number of employees to be hired;

(iii) an assurance that the business will comply with the equal opportunity and nondiscrimination laws;

(iv) procedures for outreach, recruitment, screening, training, and placement of employees;

(v) a description of the training curriculum and resources;

(vi) written commitments from any agency or organization participating in the implementation of the hiring plan; and

(vii) a description of the type and method of training to be provided to employees, the starting wage and wage to be paid after training for each position, the job benefits to be paid or provided, and any payment to eligible training providers.

(7) If the committee determines that an applicant meets the criteria established in this section and has complied with the applicable procedures and review processes established by the committee, the committee may award a primary sector business workforce development grant to the employer and authorize the disbursement of funds to the primary sector business.

(8) (a) A contract with a grant recipient must contain provisions:

(i) certifying that the full amount of the grant will be reimbursed in the event that the primary sector business ceases operation within ~~the 12-month grant contract period~~ 12 MONTHS FROM THE TIME THAT THE GRANT

IS AWARDED;

(ii) requiring the employer receiving the grant to repay any shortfall in the personal income tax revenues to the state, as calculated in [section 6], that are the result of the company failing to meet the number of jobs or pay level of those jobs described in the final grant application. A shortfall in any fiscal year must be accessed against and paid by the company in the next fiscal year.

(iii) providing the department with annual reports and a final closeout report that documents the higher wages paid to an employee upon completion of the training.

(b) The contract must be signed by the person in the primary sector business who is assigned the duties and responsibilities for training and the overall success of the program and by the primary sector business's chief executive.

NEW SECTION. Section 6. New jobs credit -- loan repayment. A grant made under [section 5] for program costs must be repaid by a new jobs credit, which must be calculated and paid as follows:

(1) New jobs credit must be based on the gross wages paid for new jobs created.

(2) Each employer receiving a grant under the program shall report ~~annually~~ the gross wages paid for each new job for which training grants under the program were received. GROSS WAGES MUST BE REPORTED FOR THE 12-MONTH PERIOD FOLLOWING A GRANT AWARD AND FOR EACH SUBSEQUENT 12-MONTH PERIOD UNTIL THE PRINCIPAL ON THE LOAN, ISSUED UNDER [SECTION 7] AND USED TO FUND THE GRANT AWARD, IS REPAYED.

(3) The employer shall provide any additional information required by the department of revenue to calculate the new jobs credit.

(4) The department of revenue shall calculate the income tax receipts to the state based on the gross wages paid by the employer. The department of revenue may use a state average effective income tax rate, by income bracket, to calculate income tax receipts to the state from the program.

(5) The department of revenue shall transfer the equivalent payment amount of the income tax receipts ~~to a special fund~~ FROM THE GENERAL FUND TO A SPECIAL FUND ESTABLISHED IN THE OFFICE OF ECONOMIC DEVELOPMENT, to be used by the department for repayment of principal, interest, and administrative costs on loans issued under ~~[section 5]~~ [SECTION 7]. THE OFFICE OF ECONOMIC DEVELOPMENT SHALL ESTABLISH A SEPARATE SPECIAL FUND FOR EACH GRANT AWARD, WHICH THE OFFICE OF ECONOMIC DEVELOPMENT SHALL USE FOR REPAYMENT OF PRINCIPAL, INTEREST, AND ADMINISTRATIVE COSTS ASSOCIATED WITH THAT GRANT AND THE LOAN UNDER [SECTION 7] USED TO FUND THE GRANT AND FOR THE LABOR SUPPLY STUDIES AUTHORIZED IN SUBSECTION (6). All funds transferred

to the department must be used to repay loan principal, interest, and administrative expenses of the primary sector business workforce training program. Transfers for a particular ~~loan~~ GRANT must cease once the principal on ~~that~~ THE loan ISSUED UNDER [SECTION 7] USED TO FUND THAT GRANT has been repaid.

(6) THE OFFICE OF ECONOMIC DEVELOPMENT SHALL, IN EACH FISCAL YEAR, RETAIN 5% OF THE TOTAL OF ALL TRANSFER PAYMENTS FROM THE DEPARTMENT OF REVENUE TO THE SPECIAL ACCOUNTS IN THE OFFICE OF ECONOMIC DEVELOPMENT, AS PROVIDED FOR IN SUBSECTION (5), THAT OCCUR IN THAT FISCAL YEAR. THESE FUNDS MUST BE USED TO ASSIST THE DEPARTMENT OF LABOR AND INDUSTRY IN ANALYZING DATA AND REPORTING ON THE AVAILABLE LABOR SUPPLY IN MONTANA'S RURAL, RESERVATION, AND URBAN LABOR MARKETS.

~~(6)(7)~~ The department of revenue may adopt rules necessary to implement this section, including but not limited to:

- (a) the development of application procedures and forms; and
- (b) requirements for submission of information necessary to process the tax credit.

NEW SECTION. Section 7. Board of investment loans. The ~~department~~ OFFICE OF ECONOMIC DEVELOPMENT may obtain a maximum of \$10 million in outstanding loans from the board of investments issued pursuant to the Municipal Finance Consolidation Act of 1983 authorized in Title 17, chapter 5, part 16, to provide financial assistance for primary sector business workforce training grants authorized by the loan committee pursuant to criteria outlined in [section 5].

NEW SECTION. Section 8. Codification instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 1 through 7].

NEW SECTION. Section 9. Applicability. [This act] applies to grants issued on or after October 1, 2003.

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