

HOUSE BILL NO. 655
INTRODUCED BY G. BRANAE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN INCUMBENT WORKER TRAINING ACT FOR MONTANA WORKERS; CREATING A POLICY AND APPEALS COMMITTEE; ESTABLISHING DUTIES FOR THE COMMITTEE AND FOR THE DEPARTMENT OF LABOR AND INDUSTRY; PROVIDING CRITERIA FOR GRANT ELIGIBILITY, APPLICATION PROCEDURES, CONTRACTS, AND ELIGIBLE TRAINING PROVIDERS; AUTHORIZING REVIEW PROCEDURES AND RULEMAKING; NAMING ONE-STOP CENTERS TO OVERSEE GRANT IMPLEMENTATION; CREATING A STATE SPECIAL REVENUE ACCOUNT; MAKING INCUMBENT WORKER TRAINING ELIGIBLE FOR ADULT EDUCATION FUNDING; AMENDING SECTION 20-7-704, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 10] may be cited as the "Incumbent Worker Training Act".

NEW SECTION. **Section 2. Purpose.** (1) The intent of the incumbent worker training act is to:

(a) meet the training needs of existing workers in businesses employing 20 or fewer workers in this state at any one location but not more than 50 workers statewide;

(b) provide training for Montana residents for jobs that might otherwise go unfilled or be filled by out-of-state residents;

(c) assist local businesses in preserving existing jobs for Montana residents or in otherwise contributing to the long-term strength of the Montana economy, including raising the per capita income of Montana jobholders.

(2) The legislature finds that providing funds to train and educate incumbent workers has the following potential benefits:

(a) enhanced worker skills and productivity;

(b) increased earning potential and employment opportunities for workers; and

(c) strengthened, more competitive Montana businesses that help provide a more vital economy in this state.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 10], the following definitions apply:

- (1) "Department" means the department of labor and industry provided for in 2-15-1701.
- (2) "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) "Eligible training provider list" means the list maintained by the department of those eligible training providers who may be used to provide workforce training under a grant.
- (4) "Employee" or "worker" means an employed individual.
- (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 in this state as a sole proprietor, corporation, partnership, limited liability company, or association.
- (6) (a) "Employer program services" means training and education specifically directed to existing jobs, including the costs of:
 - (i) all direct training, including but not limited to:
 - (A) program promotion, including flyers and letters of invitation;
 - (B) instructor wages, per diem, and travel;
 - (C) curriculum development and training materials;
 - (D) lease of training equipment and training space;
 - (E) training administration;
 - (F) assessment and testing;
 - (ii) in-house or on-the-job training; and
 - (iii) subcontracted services with eligible training providers.
- (b) The term does not include the costs of:
 - (i) trainee wages and fringe benefits;
 - (ii) administration unrelated to the training;
 - (iii) equipment;
 - (iv) instructor fees and travel expenses when the instructor is an employee of the business;
 - (v) assessment, testing, and certification exams that are not included in the training;

(vi) capital construction; or

(vii) preparing a grant application.

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

(8) "Incumbent worker training program grant" or "grant" means the grant awarded to employers to hire eligible training providers to provide employees with education and training required for jobs.

(9) "One-stop center" has the meaning provided in 53-2-1202.

(10) "State's average weekly wage" has the meaning provided in 39-71-116.

NEW SECTION. Section 4. Policy and appeals committee -- appointment -- duties. (1) There is a policy and appeals committee to be appointed by the governor from among the members of the state workforce investment board established in 53-2-1203. The policy and appeals committee members must be the same as those named to the state workforce investment board's economic development committee or its equivalent. The department shall provide administrative assistance to the policy and appeals committee.

(2) A committee member may not personally apply for or receive an incumbent worker training program grant on behalf of the committee member's employer.

(3) The department shall consult with the policy and appeals committee to develop rules providing procedures for grant applications and awards and regarding review and audit procedures to ensure that grants are used for the purposes identified in the grant contracts.

NEW SECTION. Section 5. Grant eligibility -- application procedures. (1) Employers applying for an incumbent worker training program grant must meet at least two of the following criteria:

(a) have been in business in this state for a minimum of 3 years;

(b) be a client of a business expansion and retention program recognized by the governor's office of economic development, established in 2-15-218; or

(c) not be applying for a primary sector business workforce training grant under Title 39, chapter 11, part 2.

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

(a) provide education or skills-based training that meets the criteria in [section 7] through eligible training providers for employees in existing full-time jobs;

(b) match every \$4 requested with at least \$1 from new, unexpended training funds not previously used

as matching funds for any other grant;

(c) provide training only to an employee in a full-time job for which the average weekly wage meets or exceeds the lesser of the state's average weekly wage or the average weekly wage of the county in which the employee is principally employed.

(3) At a minimum, a grant application must contain:

(a) information that is sufficient for the policy and appeals committee to obtain an adequate understanding of the applicant's business;

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

(i) an assurance that the applicant will comply with the equal opportunity and nondiscrimination laws;

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

(iii) a description of the type and method of training to be provided to employees, the starting wage and the wage to be paid after training for each position, the full-time job benefits paid or provided before training and intended to be provided after training, the number of employees to be trained, the source of matching funds to be provided, the amount of funding requested, the total number of full-time employees in the state, and any payment to eligible training providers.

(4) The information in the application must be sufficient for the department to determine compliance with the criteria provided in [section 6].

(5) Application for a grant must be made to and processed by a one-stop center, which shall forward the completed applications to the department for review.

NEW SECTION. Section 6. Grant awards -- contracts. (1) Subject to appropriation by the legislature or adequate funds in the state special revenue account established in [section 10] and a review of the criteria in subsection (2), the department may award incumbent worker training program grants to applicants recommended by one-stop centers. The department may not award grants to applicants that were not recommended by a one-stop center. Subject to funding, the department may limit the number of applicants that receive grant awards or the amount of the award to an applicant.

(2) The department shall consider the following criteria in determining whether to award an incumbent worker training program grant:

(a) prospects for achieving commercial success;

(b) prospects for collaboration between the public sector and the private sectors of the state's economy;

(c) ability to provide matching funds;

(d) a reasonable expectation of providing an economic return within a reasonable period of time.

(3) (a) Except as provided in subsection (3)(b), an incumbent worker training program grant award is limited to \$2,000 or less for each full-time job for which an employee is being trained. The average weekly wage for the full-time job must meet or exceed the lesser of the state's average weekly wage or the average weekly wage of the county in which the employee is principally employed. The department may consider the value of employee benefits in calculating the average weekly wage.

(b) Subject to the availability of funds, the department may consider a higher limitation on grant amounts for full-time jobs that will pay significantly higher wages and benefits if the need for higher training costs is documented in the application.

(4) In awarding an incumbent worker training program grant to an applicant, the department shall require a contract that contains the following:

(a) a certification that the full amount of the grant will be reimbursed in the event that the employer ceases operation within 12 months from the time that the grant is awarded;

(b) an agreement to repay all training money for each employee that leaves the employer within 90 days of completing the training; and

(c) the signatures of:

(i) an individual to whom the employer has assigned the duties and responsibilities for training and who is responsible for the overall success of the program; and

(ii) the employer's chief executive officer.

NEW SECTION. Section 7. Eligible training. The following types of training are eligible for incumbent worker training program grants:

(1) training that has a direct relationship to the employee's occupation or craft;

(2) training needed to upgrade a skill intended to allow the employer to remain competitive in its industry or in the economy;

(3) training to upgrade skills intended to:

(a) enhance the employer's productivity, efficiency, or profitability;

(b) reduce employee turnover; or

(c) enhance employee wages.

NEW SECTION. Section 8. Review procedure. (1) If an applicant disagrees with the amount provided

by the department in a grant award or does not receive a grant award, the applicant may appeal the decision by sending a letter to the policy and appeals committee requesting a one-time review.

(2) The policy and appeals committee shall meet with the applicant and the department to review the application or award, review criteria used in awarding grants, and provide additional assistance for the applicant as described in rule. The policy and appeals committee may then resubmit the application to the department for reconsideration.

NEW SECTION. Section 9. Implementation and audit -- rulemaking. (1) (a) The one-stop center that serves the vicinity in which an employer operates or provides training is responsible for making recommendations to the department on whether to fund a grant application and the proposed amount of the grant and working with the grant applicant.

(b) The one-stop center shall provide oversight to any grant recipient from the area for which the one-stop center is responsible and shall coordinate with the department on implementation and information services provided to the employer.

(2) The department shall audit compliance with the terms of the grant.

(3) The department shall consult with the policy and review committee and adopt rules in compliance with Title 2, chapter 4, that address:

(a) grant application procedures;

(b) the procedures for awarding grants and determining grant amounts;

(c) the review criteria to be considered by the policy and review committee;

(d) audit procedures to ensure that a grant is being implemented as provided in the terms of the grant.

NEW SECTION. Section 10. Incumbent worker training program -- state special revenue account.

There is a state special revenue account to be used for the incumbent worker training program and for the department's administrative expenses associated with the program. Interest accrued on the account must be deposited in the state special revenue account for use by the incumbent worker training program. Any gift, donation, grant, legacy, or bequest made to the state special revenue account may be used for the purposes of the incumbent worker training program.

Section 11. Section 20-7-704, MCA, is amended to read:

"20-7-704. Adult education tuition and fees. (1) The trustees of a district or a community college

district ~~shall~~ have the authority to charge tuition for instruction and to charge fees for the use of equipment and materials. The amount of ~~such~~ tuition and fees ~~shall~~ for adult education must be determined on a per-course basis or on the basis of the cost of the entire adult education program. All proceeds from tuition and fees ~~shall~~ must be deposited in the adult education fund.

(2) The incumbent worker training program established in [sections 1 through 10] is considered to be adult education for the purposes of this part and is eligible for funding as provided in 20-7-705 and this section."

NEW SECTION. Section 12. Codification instruction. [Sections 1 through 10] are intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 1 through 10].

NEW SECTION. Section 13. Effective date. [This act] is effective July 1, 2007.

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