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1 IN THE HOUSE

BY ELLIS, BOYER, M.DAVIS,  
BROWN, COLLINS, SPOHNHOLZ,  
GOLL, ULMER, MENARD, KOPONEN  
AND NAVARRE

2

HOUSE BILL NO. 169

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act establishing the business incentive training  
7 program."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 44.47 is amended by adding new sections to read:

10 ARTICLE 12A. BUSINESS INCENTIVE TRAINING PROGRAM.

11 Sec. 44.47.750. BUSINESS INCENTIVE TRAINING PROGRAM ESTABLISHED.

12 (a) There is established in the department the business incentive  
13 training program. The incentive program shall be administered as a  
14 supplement to the Job Training Partnership Act (P. L. No. 97-300).

15 (b) The purpose of the incentive program is to encourage private  
16 industry to provide new job opportunities by offering assistance in  
17 training the new workforce and in retraining existing employees to  
18 qualify for promotions to positions requiring improved skills and  
19 offering better compensation.

20 Sec. 44.47.752. ADMINISTRATION. (a) The state Job Training  
21 Coordinating Council established under 29 U.S.C 1532 shall oversee the  
22 incentive program. The service delivery areas established under 29  
23 U.S.C. 1511 and subject to redesignation under 29 U.S.C. 1515 shall be  
24 used in the administration of the incentive program. The private  
25 industry councils appointed under 29 U.S.C. 1512 and subject to recon-  
26 stitution under 29 U.S.C. 1515 shall serve as the private industry  
27 councils for the incentive program.

28 (b) The coordinating council shall divide appropriations for the  
29 incentive program equally among the private industry councils. If a

1 private industry council lacks sufficient money to fund a proposal,  
2 the private industry council may apply to the coordinating council for  
3 additional funding. The coordinating council may approve reallocation  
4 of money from one service delivery area to another to fund a parti-  
5 cular proposal if it finds that the reallocation will best serve the  
6 purposes of the program.

7 (c) The coordinating council shall adopt regulations under the  
8 Administrative Procedure Act (AS 44.62) to implement AS 44.47.750 -  
9 44.47.772.

10 Sec. 44.47.754. BUSINESS INCENTIVE TRAINING PLAN. (a) A pri-  
11 vate industry council shall adopt a business incentive training plan  
12 for the service delivery area. The plan must extend for two years to  
13 coincide with the term for the Job Training Partnership Act (P.L.  
14 97-300) and must contain

15 (1) identification of the entity or entities that will  
16 administer the incentive program and be the grant recipient for grants  
17 from the state;

18 (2) a description of the services to be provided, including  
19 the estimated duration of service and the estimated training cost per  
20 participant;

21 (3) procedures for identifying and selecting participants;

22 (4) performance goals established in accordance with stan-  
23 dards under AS 44.47.766;

24 (5) procedures for awarding grants to businesses; and

25 (6) the budget for two program years and any proposed  
26 expenditures for the succeeding two program years, in as much detail  
27 as required by the grant administrator designated under AS 44.47.758.

28 (b) If changes in labor market conditions, funding, or other  
29 factors require substantial deviation from an approved business

1 incentive training plan, the private industry council and the appro-  
2 priate elected municipal official or officials shall submit a modi-  
3 fication of the plan and the budget for review under AS 44.47.756.

4 Sec. 44.47.756. REVIEW AND APPROVAL OF BUSINESS INCENTIVE TRAIN-  
5 ING PLAN. The business incentive training plan shall be published and  
6 made available for review and comment as an attachment to the job  
7 training plan as set out in 29 U.S.C. 1515. The business incentive  
8 training plan is subject to review and approval by the governor.

9 Sec. 44.47.758. BUSINESS INCENTIVE TRAINING GRANTS. (a) Each  
10 private industry council shall designate an administrative entity to  
11 be the grant recipient and administrator for the region. An employer  
12 may apply to the grant administrator for a business incentive grant if  
13 the employer is a private for-profit or nonprofit corporation, part-  
14 nership or sole proprietor business. The grant administrator shall  
15 review applications and award grants.

16 (b) Each grant administrator is responsible for the allocation  
17 of funds and the eligibility of those enrolled in its programs. The  
18 grant administrator is responsible for taking action against its  
19 subcontractors, subgrantees, and other recipients to eliminate abuses  
20 in the programs they are carrying out, and to prevent misuse of funds.  
21 If the arrangement is included in an approved job training plan, a  
22 grant administrator may delegate the responsibility for determining  
23 eligibility under reasonable safeguards, including provisions for  
24 reimbursement of costs incurred because of erroneous determinations  
25 made with insufficient care.

26 (c) A business incentive training grant shall be used to recruit  
27 and train eligible employees for newly created permanent or permanent  
28 seasonal positions or to enable existing employees to acquire the  
29 skills necessary to qualify the employee for a promotion. A business

1 incentive training grant may be used for occupations for which there  
2 is a demand in the area served or in another area to which the partic-  
3 ipant is willing to relocate and for emerging technologies in the  
4 state. In selecting recruiting and training programs, the private  
5 industry councils and the grant administrators may consider whether  
6 the occupation in which recruiting or training is sought is in a  
7 sector of the economy that has a high potential for sustained demand  
8 or growth.

9 (d) Only individuals eligible under the business incentive  
10 training plan and residing in the service delivery area may be partic-  
11 ipants in employment and training activities funded under the business  
12 incentive training program.

13 (e) Payments to employers for on-the-job training of partici-  
14 pants who experience multiple barriers to employment or are eligible  
15 under the Job Training Partnership Act (P.L. 97-300) may not average  
16 more than 80 percent of the wages paid by the employer to the partici-  
17 pant. Payments to employers for on-the-job training of other partici-  
18 pants may not average more than 50 percent of the wages paid by the  
19 employer to participants. The payments shall be considered to be in  
20 compensation for the extraordinary costs associated with training  
21 employees for new positions and the lower productivity of the partici-  
22 pants.

23 (f) A grant made under the business incentive training program  
24 may not be used to duplicate facilities or services available in the  
25 area from federal, state, or local sources unless the business incen-  
26 tive training plan establishes that services or facilities under the  
27 program would be more effective or more likely to achieve performance  
28 goals.

29 (g) A fee may not be charged for placing an individual in or

1 referring an individual to a training program under AS 44.47.750 -  
2 44.47.772.

3 (h) A business incentive training grant may not be awarded to a  
4 program that involves political activities.

5 (i) An employer at whose request a participant is offered train-  
6 ing shall fulfill the obligation to offer a successful participant in  
7 the business incentive training program a position or promotion, as  
8 applicable. A participant is considered successful if the participant  
9 satisfactorily completes the training program in which the participant  
10 was enrolled.

11 Sec. 44.47.760. COMPENSATION FOR PARTICIPANTS. (a) A trainee  
12 may not receive a payment for training activities in which the trainee  
13 fails to participate.

14 (b) An individual in on-the-job training shall be compensated by  
15 the employer at the same rates, including periodic increases, as  
16 similarly situated employees or trainees and in accordance with appli-  
17 cable law. However, an individual may not be paid less than the state  
18 minimum wage under AS 23.10.065 whether or not the individual is  
19 exempt under AS 23.10.055 or 23.10.070.

20 (c) An individual employed in activities authorized under the  
21 business incentive training program other than on-the-job training  
22 shall be paid wages that are not less than the highest of

23 (1) the state minimum wage under AS 23.10.065;

24 (2) the prevailing rate of pay for individuals employed in  
25 similar occupations by the same employer; or

26 (3) the prevailing rate of wages under AS 36.05 or 40  
27 U.S.C. 276a - 276a-5, if applicable.

28 (d) Allowances, earnings, and payments to individuals partic-  
29 ipating in programs under the business incentive training program may

1 not be considered as income in determining eligibility for and the  
2 amount of income transfer and in-kind aid furnished under a state  
3 program based on need, other than programs under the Social Security  
4 Act.

5 (e) Conditions of employment and training shall be appropriate  
6 and reasonable in light of factors including the type of work, geo-  
7 graphical region, and proficiency of the participant.

8 (f) An individual employed in a subsidized job under the busi-  
9 ness incentive training program shall be provided benefits and working  
10 conditions at the same level and to the same extent as other employees  
11 working a similar length of time and doing the same type of work.

12 (g) Money from a grant under the business incentive training  
13 program may not be used for contributions on behalf of a participant  
14 to retirement systems or plans.

15 Sec. 44.47.762. REPORTING AND RECORDKEEPING. (a) A grant  
16 administrator shall maintain records of each participant's enrollment  
17 in a business incentive training program in sufficient detail to  
18 demonstrate compliance with AS 44.47.750 - 44.47.772.

19 (b) The coordinating council shall adopt regulations concerning  
20 retention of records.

21 (c) The coordinating council shall report annually to the legis-  
22 lature concerning the incentive program no later than February 1.

23 Sec. 44.47.764. ALLOWABLE COSTS. (a) To be allowable, a cost  
24 must be necessary and reasonable for proper and efficient adminis-  
25 tration of the program. The following costs are not allowable:

26 (1) costs resulting from violations of or failure to comply  
27 with federal, state, or local laws and regulations;

28 (2) entertainment costs; and

29 (3) insurance policies offering protection against debts

1 established by the federal government.

2 (b) Personal liability insurance for members of the private  
3 industry council is an allowable cost.

4 Sec. 44.47.766. PERFORMANCE STANDARDS. (a) The basic measure  
5 of performance for training programs under AS 44.47.750 - 44.47.772 is  
6 the increase in jobs in the area and in employment and earnings for  
7 participants resulting from participation in the program. In order to  
8 determine whether these standards are achieved, the governor shall  
9 adopt standards based on appropriate factors.

10 (b) The governor shall provide technical assistance to programs  
11 that do not meet performance criteria. If a program fails to meet  
12 performance standards for two consecutive years, the governor shall  
13 withdraw unencumbered funds from the program.

14 (c) An interested party who is harmed by a change made under  
15 this section is entitled to a hearing under the Administrative Proce-  
16 dure Act (AS 44.62).

17 Sec. 44.47.768. LIMITATION ON CERTAIN COSTS. No more than 15  
18 percent of the money available to a service delivery area for a fiscal  
19 year may be expended for the cost of administration. For purposes of  
20 this section, costs of program support, including counseling, that are  
21 directly related to the provision of education or training to partici-  
22 pants may not be counted as part of the cost of administration.

23 Sec. 44.47.770. SELECTION OF SERVICE PROVIDERS. (a) The pri-  
24 mary consideration in selecting agencies or organizations to deliver  
25 services within a service delivery area is the effectiveness of the  
26 agency or organization in delivering comparable or related services  
27 based on demonstrated performance, in terms of the likelihood of  
28 meeting performance goals, cost, quality of training, and characteris-  
29 tics of participants. In complying with this subsection, proper

1 consideration shall be given to community-based organizations as  
2 service providers.

3 (b) Appropriate education agencies in the service delivery area  
4 shall be given the opportunity to provide educational services, unless  
5 the grant administrator determines that alternative agencies or orga-  
6 nizations would be more effective or would have greater potential to  
7 enhance the participants' continued occupational and career growth.

8 (c) The grant administrator may not fund an occupational skills  
9 training program unless the level of skills provided in the program is  
10 in accordance with guidelines established by the private industry  
11 council.

12 Sec. 44.47.772. DEFINITIONS. In AS 44.47.750 - 44.47.772

13 (1) "coordinating council" means the state Job Training  
14 Coordinating Council established under 29 U.S.C. 1532;

15 (2) "incentive program" means the business incentive train-  
16 ing program established under AS 44.47.750;

17 (3) "participant" means an individual receiving education  
18 or training, including on-the-job training, under an incentive program  
19 grant.