



# Montana

## Department of Labor and Industry

### Commissioner's Office

BRIAN SCHWEITZER, GOVERNOR  
KEITH KELLY, COMMISSIONER

September 14, 2009

Gay Gilbert, Administrator  
Office of Workforce Security  
200 Constitution Avenue NW Room S-4231  
Washington, DC 20210

RE: Application for Distribution of ARRA Incentive Payment


Dear Ms. Gilbert:

Enclosed please find Montana's application for the remaining two-thirds ARRA incentive payment of \$13,017,176.00 based on recent state law provisions that provide unemployment compensation for part-time workers and additional benefits for claimants who participate in an approved training program. These provisions were passed in House Bill 645, "Implement and Receipt of and Appropriate Federal Stimulus and Recovery Funds", passed by the 2009 Montana Legislature and signed by Governor Brian Schweitzer. House Bill 645 can be viewed at <http://data.opi.mt.gov/bills/2009/billpdf/HB0645GovLineVeto.pdf>. I have also included a copy of this legislation. In addition, I am enclosing a copy of our directives to staff on part-time and additional training.

With this letter and application I am certifying that the application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which the application is based.

Montana is requesting that the two-thirds ARRA incentive payment of \$13,017,176.00 be deposited in our Trust Fund by October 15, 2009. MCA 39-51-1217 specifies that employer rates for the following calendar year are "assigned based upon the ratio of the trust fund balance as of October 31 prior to the rate year to total wages in covered employment for the 12-month period ending June 30 prior to the computation date." With this additional money in the Trust Fund by October 15<sup>th</sup>, we are hoping to limit the increase in employer rate schedules. We estimate that employer rates will increase one additional schedule if the additional funds are not in the Trust Fund by October 31st.

Please feel free to contact me if you have any questions or need additional information.


Sincerely,  
  
Keith Kelly, Commissioner  
MT Department of Labor and Industry

- c. Joe Juarez, Department of Labor, Dallas Regional Office  
Roy Mulvaney, Administrator, MT Unemployment Insurance Division

Modernization Incentive Payment Application  
Part-Time Benefits and Worker Training Provisions

1. State of Montana
2. Provision of state law supporting the provision:  
**NEW SECTION. Section 9. Part-time work search – eligibility for benefits.** (1) Except as provided in subsection (2), an individual may not be denied regular unemployment compensation benefits solely because the individual is seeking only part-time work, as that term is defined in rules adopted by the department.  
(2) In order to be qualified for benefits under subsection (1), the majority of the individual's workweeks in the base period must have been part-time.  
**NEW SECTION. Section 10. Participation in worker training program – eligibility for training benefits.** (1) Subject to the requirements of this section, training benefits are available to an individual who has exhausted all rights to regular unemployment compensation benefits and who is in an approved worker training program.  
(2) An unemployed individual who is participating and making satisfactory progress in a state-approved training program or a job training program authorized by the Workforce Investment Act of 1998 that is necessary for the individual's reemployment is eligible to receive training benefits if, as determined by the department:  
(a) the individual was:  
(i) separated from a declining occupation; or  
(ii) involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment;  
(b) the training enhances the individual's marketable skills and earning power; and  
(c) the training is targeted to those industries or skills that are in demand within the labor market.  
(3) Benefits must be paid under this section at the individual's average weekly benefit amount during the applicable benefit year and under the same terms and conditions as regular benefits.  
(4) Benefits are payable under this section only for weeks during which the individual is attending an approved training program.  
(5) An employer's account may not be charged for payment of benefits to an individual under this section.
3. Montana hereby certifies that the above provision of state law was signed by the governor on May 14, 2009, and will become effective for claims filed on or after May 17, 2009.
4. Montana hereby certifies that the provision is permanent and is not subject to discontinuation under any circumstances other than repeal by the state legislature.
5. Montana intends to use the incentive payment to bolster the UI Trust Fund to pay for claims for law changes passed by the 2009 Montana Legislature for eligibility requirement for part-time work search and participation in worker training programs. These funds will also be used to hire three positions approved by the 2009 Montana Legislature to process claims related to these provisions.
6. House Bill 645, passed by the Montana legislature, is attached in its entirety, and can also be electronically viewed at <http://data.opi.mt.gov/bills/2009/billpdf/HB0645GovLineVeto.pdf>.

Montana hereby certifies that the application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which the application is based.

  
\_\_\_\_\_  
Keith Kelly, Commissioner  
Montana Department of Labor and Industry

  
\_\_\_\_\_  
Date

**State of Montana**  
Department of Labor & Industry  
Brian Schweitzer, Governor

UNEMPLOYMENT INSURANCE DIVISION  
Roy Mulvaney, Division Administrator



DATE: August 14, 2009

TO: All Staff

FROM: Roy Mulvaney, Administrator

A handwritten signature in blue ink that reads "Roy Mulvaney".

SUBJECT: Eligibility of individuals seeking part-time work.

We are in the process of drafting and implementing our UI administrative rules for individuals seeking part-time employment. Until our administrative rules are adopted, the following procedure(s) are effective immediately. (See attached document.)

If you have any questions, please contact your supervisor.

## PART-TIME WORK (Procedure)

### DEFINITION

Part-time work is anything from 10 hours through 39 hours per week.

### LAWS:

- **HB 645 ARRA**

(1) Except as provided in subsection (2), an individual may not be denied regular unemployment compensation benefits solely because the individual is seeking only part-time work, as that term is defined in rules adopted by the department.

(2) In order to be qualified for benefits under subsection (1), the majority of the individual's workweeks in the base period must have been part-time.

- **Section 39-51-2104, MCA, General Benefit Eligibility Conditions**

(1) An unemployed individual is eligible to receive benefits for any week of total unemployment within the individual's benefit year only if the department finds that the individual:

(b) is able to work, is available for work, and is seeking work. A claimant is not considered ineligible in any week of unemployment for failure to comply with the provisions of this subsection if the failure is because of:

(i) an illness or disability that occurs after the claimant has filed or reopened a claim for unemployment insurance benefits

(ii) enrollment as a student as provided in 39-51-2307.

### PROCEDURE

- 1) Effective 05/17/2009, if a claimant worked 51% of the weeks of work of the base period weeks in part-time work, they could be eligible for benefits and continue to seek part-time work. The claimant will be required to seek, at a minimum, hours comparable to their part-time work in their base period.
- 2) Claimants must be able to work the same number of hours they worked in part-time work during the majority of the weeks worked in the base period of their claim *unless* they are limited to part-time work due to a physical or mental disability and they cannot work the same number of hours they worked during their base period.
- 3) Claimants determined eligible to seek part-time work will not be disqualified for refusing to accept an offer of full-time work or refusing a referral to full-time work.

### **CLAIMANT SAYS THEY AREN'T WILLING OR ABLE TO WORK AT LEAST 10 HOURS PER WEEK.**

- 1) If the claimant worked full-time for the majority of the weeks in the base period, they will need to work full-time during their claim in order to be eligible for benefits – *unless there is a medical condition – see 4 below.*
  - a) The CSR will give the claimant an opportunity to remove the barrier, document the information.
    - i) If the claimant is willing to remove the barrier and work full-time, there is no issue. Z00/00.

- ii) If the claimant is not willing to work full-time, the claimant is restricting his/her hours. Adjudicator will process accordingly.
- 2) If the claimant worked less than 40 hours during the majority of the weeks in the base period they can be eligible for benefits if they are willing to work the same number of hours during their claim.
  - a) The CSR will send the pthreq2 letter to each of the claimant's base period employers.
  - b) We would average the part-time hours worked in the base period to figure the claimant's hours he/she would need to search for.
- 3) If the claimant says they are job-attached and normally worked between 30 and 39 hours during the majority of the weeks in the base period.
  - a) Treat the issue the same as a non-job attached claimant.
- 4) If the claimant is limited to part-time work due to a physical or mental disability and they cannot work the same number of hours they worked during the base period, they must be willing/able to work at least 50% of the hours they worked in their last insured employment.
  - a) Documentation is needed to show they meet the MT Human Rights law definition of physically or mentally disabled. This can be a medical statement, SSDI letter or other documentation they might have regarding their disability.
  - b) The CSR will verify with their last insured employer how many hours they were working.

**CLAIMANT IS SELF-EMPLOYED AND BECAUSE OF BEING SELF-EMPLOYED, ONLY WORKING PART-TIME DURING THE MAJORITY OF THE HOURS IN THE BASE PERIOD.**

- 1) Self-employed claimants will only be required to work the same number of hours they worked in their base period. (There will be a change to the self-employment rule.) Fact Finding must be done as above in section 3.

**TEMPLATES**

**41PTA - Resolution Code** -available part-time work

**1) Decision Codes**

- a) **PTWSA** - If the claimant should be eligible beginning 05/17/09 on a prior ineligibility, end that ineligibility 05/16/09 and create a new issue and allow
- b) **PTWSD** - If the majority of the weeks were not in part-time work – deny benefits
- c) **Z00** – Allowed – Not Counted
- d) **Z01** – Allowed – Counted
- e) **Z01r** – Allowed/revised – Counted
- f) **Z50** – Ineligible – Not Counted
- g) **Z51** – Ineligible – Not Counted
- h) **Z51r** – Ineligible/ineligible – Not Counted

History: Changes to the Hours required to be eligible for UI - result of HB 645 ARRA.

**State of Montana**  
Department of Labor & Industry  
Brian Schweitzer, Governor

UNEMPLOYMENT INSURANCE DIVISION  
Roy Mulvaney, Division Administrator



August 14, 2009

To: All Staff

From: Roy Mulvaney, Administrator

A handwritten signature in blue ink that reads "Roy Mulvaney".

Subject: Additional benefits for training (HB 645)

Until our rules on this subject are adopted, the procedures listed below should be followed.

Additional Training Benefits:

1. Training benefits will be provided to individuals attending training and making satisfactory progress in approved training – Administrative Rule 24.11.475. The individual must have exhausted his/her regular benefits before additional training benefits can be paid.
2. Individuals must be enrolled in an approved training program prior to the end of the benefit year established on the regular claim in order to receive additional training benefits.
3. The maximum training benefits payable can not exceed 26 times the individual's weekly benefit amount for the benefit year established with respect to the qualifying separation.
4. Benefits will only be paid for weeks in which the individual is attending training. Partial weeks of training, i.e., less than 5 training days in a week, will be considered as a "week" for purposes of payment or when computing the length of the training course. A claimant will be considered "in training" once the claimant's training application is approved, even though training may not have started. Training under HB 645 can be approved 30 days prior to the commencement of the training which will make it the same as WIA approved training. If the approved training, includes a within terms break or a between terms break, the claimant will be considered "in training" during either break.
5. Training benefits terminate when the individual completes the training course; exhausts the maximum training benefits payable; does not make satisfactory progress; or becomes eligible to file a new regular claim.

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"Quality Service by Caring, Dedicated People"

Helena, MT 59604-8020



AN ACT IMPLEMENTING THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009; PROVIDING APPROPRIATIONS OF FEDERAL FUNDS AND OTHER FUNDS AVAILABLE BECAUSE OF THE RECEIPT OF FEDERAL FUNDS; REVISING STATUTES TO IMPLEMENT THE RECEIPT AND EXPENDITURE OF THE FEDERAL FUNDS AND THE FUNDS AVAILABLE BECAUSE OF THE RECEIPT OF THE FEDERAL FUNDS; AUTHORIZING THE ADOPTION OF RETROACTIVE ADMINISTRATIVE RULES; REVISING THE ALLOCATION OF THE HOSPITAL BED TAX; REVISING INDIRECT COST RECOVERY LAWS; REVISING THE DEFINITIONS OF BASE BUDGET AND PRESENT LAW BASE FOR THE NEXT STATE BUDGET CYCLE; CLARIFYING THE PAYMENT OF SCHOOL DISTRICT EMPLOYEE RETIREMENT COSTS FOR THE ENSUING BIENNIUM; REVISING THE BASE PERIOD FOR UNEMPLOYMENT BENEFITS; PROVIDING FOR A PART-TIME WORK SEARCH AND PARTICIPATION IN WORKER TRAINING FOR UNEMPLOYMENT PURPOSES; REVISING THE USE OF THE HEALTH AND MEDICAID INITIATIVES ACCOUNT; INCREASING THE ELIGIBILITY FOR CASH ASSISTANCE BENEFITS FROM THE TANF BLOCK GRANT; CLARIFYING WATER POLLUTION LAWS AND THE USE OF FEDERAL FUNDS FOR WATER PROJECTS; REVISING THE ALTERNATIVE ENERGY LOAN PROGRAM; ESTABLISHING THE DISTRESSED WOOD PRODUCTS INDUSTRY RECOVERY PROGRAM; PROVIDING FOR A QUICK START ENERGY PROGRAM WITHIN THE DEPARTMENT OF COMMERCE FOR QUICK START ENERGY EFFICIENCY IMPROVEMENTS FOR SCHOOL FACILITIES; REVISING THE PRIORITIES FOR FUNDING UNDER THE BIG SKY ECONOMIC DEVELOPMENT PROGRAM; PROVIDING FOR THE ALLOCATION AND AUTHORIZATION OF THE TYPES OF BONDS MADE AVAILABLE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009; AUTHORIZING THE MONTANA FACILITY FINANCE AUTHORITY TO FINANCE CERTAIN PROJECTS FOR FOR-PROFIT OR NONPROFIT CORPORATIONS AND ORGANIZATIONS; PROVIDING FOR TAXATION OF THOSE PROJECTS; PROVIDING FOR THE DISTRIBUTION OF FUNDS FOR IMPROVEMENTS FOR SCHOOL FACILITIES; AUTHORIZING A PERMISSIVE SCHOOL LEVY FOR THE BASE BUDGET; AUTHORIZING A SCHOOL DISTRICT LEVY FOR THE OVER-BASE BUDGET; ESTABLISHING THE ENERGY DEVELOPMENT AND DEMONSTRATION GRANT PROGRAM; PROVIDING A FUND TRANSFER FROM THE STATE GENERAL FUND TO THE SENIOR CITIZEN AND PERSONS WITH DISABILITIES TRANSPORTATION SERVICES ACCOUNT; EXTENDING THE HOSPITAL BED TAX; AMENDING SECTIONS 2-4-306, 7-7-2255, 7-7-2501, 7-7-4255, 7-7-4421, 7-7-4501, 7-12-2171, 7-15-4290, 7-15-4301, 7-15-4302, 15-66-102, 17-1-106, 17-2-124, 17-5-504, 17-5-803, 17-5-922, 17-5-1506, 17-7-102, 17-7-402, 17-7-502, 20-9-403, 20-9-433, 20-9-501, 20-25-402, 20-25-427, 39-51-201, 52-3-115, 53-4-212, 53-6-149, 53-6-1201, 75-5-1102, 75-5-1107, 75-6-202, 75-6-226, 75-25-101, 75-25-102, 90-1-204, 90-5-101, 90-5-103, 90-7-102, AND 90-7-104, MCA, SECTION 20, CHAPTER 390, LAWS OF 2003, SECTIONS 4 AND 7, CHAPTER 606, LAWS OF 2005, SECTIONS 4, 5, 6, AND 8, CHAPTER 517, LAWS OF 2007, AND SECTION 9-B, CHAPTER 5, SPECIAL LAWS OF MAY

2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE.

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

**Section 1.** Section 2-4-306, MCA, is amended to read:

**"2-4-306. Filing, format, and adoption and effective dates – dissemination of emergency rules.** (1) Each agency shall file with the secretary of state a copy of each rule adopted by it or a reference to the rule as contained in the proposal notice. A rule is adopted on the date that the adoption notice is filed with the secretary of state and is effective on the date referred to in subsection (4), except that if the secretary of state requests corrections to the adoption notice, the rule is adopted on the date that the revised notice is filed with the secretary of state.

(2) Pursuant to 2-15-401, the secretary of state may prescribe rules to effectively administer this chapter, including rules regarding the format, style, and arrangement for notices and rules that are filed pursuant to this chapter, and may refuse to accept the filing of any notice or rule that is not in compliance with this chapter. The secretary of state shall keep and maintain a permanent register of all notices and rules filed, including superseded and repealed rules, that must be open to public inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided by statute, the secretary of state may require the payment of the cost of providing copies.

(3) If the appropriate administrative rule review committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll must be published with the rule if the rule is adopted by the agency.

(4) Each Subject to subsection (6), each rule is effective after publication in the register, as provided in 2-4-312, except that:

(a) if a later date is required by statute or specified in the rule, the later date is the effective date;

(b) subject to applicable constitutional or statutory provisions:

(i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated date following publication in the register; and

(ii) an emergency rule is effective at a stated date following publication in the register or immediately upon filing with the secretary of state if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of reasons for the finding must be filed with the rule. The agency shall, in addition to the required publication in the register, take appropriate and extraordinary measures to make emergency rules known to each person who may be affected by them.

(c) if, following written administrative rule review committee notification to an agency under 2-4-305(9), the committee meets and under 2-4-406(1) objects to all or some portion of a proposed rule before the proposed rule is adopted, the proposed rule or portion of the proposed rule objected to is not effective until the day after final adjournment of the regular session of the legislature that begins after the notice proposing the rule was published by the secretary of state, unless, following the committee's objection under 2-4-406(1):

(i) the committee withdraws its objection under 2-4-406 before the proposed rule is adopted; or



any reimbursement for indirect costs associated with a grant to or contract with the Montana university system or any of its units is allocated to the designated subfund of the current fund, as provided in 17-2-102, for distribution to the unit receiving the grant or under the contract."

**Section 28.** Section 39-51-201, MCA, is amended to read:

**"39-51-201. General definitions.** As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) "Annual payroll" means the total amount of wages paid by an employer, regardless of the time of payment, for employment during a calendar year.

(2) "Base period" means:

(a) the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual's benefit year;

(b) if the individual does not have sufficient wages to qualify for benefits under subsection (2)(a), the 4 most recently completed calendar quarters immediately preceding the first day of the individual's benefit year;

(c) However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, ~~the base period is~~ the period applicable under the unemployment law of the paying state; or

(d) For an individual who fails to meet the qualifications of 39-51-2105 or a similar statute of another state because of a temporary total disability, as defined in 39-71-116, or a similar statute of another state or the United States, ~~the base period means~~ the first 4 quarters of the last 5 completed calendar quarters preceding the disability if a claim for unemployment benefits is filed within 24 months of the date on which the individual's disability was incurred.

(3) "Benefit year", with respect to any individual, means the 52-consecutive-week period beginning with the first day of the calendar week in which the individual files a valid claim for benefits, except that the benefit year is 53 weeks if filing a new valid claim would result in overlapping any quarter of the base year of a previously filed new claim. A subsequent benefit year may not be established until the expiration of the current benefit year. However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the base period is the period applicable under the unemployment law of the paying state.

(4) "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to the individual's unemployment.

(5) "Board" means the board of labor appeals provided for in Title 2, chapter 15, part 17.

(6) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(7) "Contributions" means the money payments to the state unemployment insurance fund required by this chapter but does not include assessments under 39-51-404.

(8) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(9) (a) "Domestic or household service" means employment of persons other than members of the household for the purpose of tending to the aid and comfort of the employer or

members of the employer's family, including but not limited to housecleaning and yard work.

(b) The term does not include employment beyond the scope of normal household or domestic duties, such as home health care or domiciliary care.

(10) "Employing unit" means any individual or organization, including the state government and any of its political subdivisions or instrumentalities or an Indian tribe or tribal unit, partnership, association, trust, estate, joint-stock company, insurance company, limited liability company or limited liability partnership that has filed with the secretary of state, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or the trustee's successor, or legal representative of a deceased person in whose employ one or more individuals perform or performed services within this state, except as provided under 39-51-204(1)(a) and (1)(q). All individuals performing services within this state for any employing unit that maintains two or more separate establishments within this state are considered to be employed by a single employing unit for all the purposes of this chapter. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit is considered to be employed by the employing unit for the purposes of this chapter, whether the individual was hired or paid directly by the employing unit or by the agent or employee, provided that the employing unit has actual or constructive knowledge of the work.

(11) "Employment office" means a free public employment office or branch of an office operated by this state or maintained as a part of a state-controlled system of public employment offices or other free public employment offices operated and maintained by the United States government or its instrumentalities as the department may approve.

(12) "Fund" means the unemployment insurance fund established by this chapter to which all contributions and payments in lieu of contributions must be paid and from which all benefits provided under this chapter must be paid.

(13) "Gross misconduct" means a criminal act, other than a violation of a motor vehicle traffic law, for which an individual has been convicted in a criminal court or has admitted or conduct that demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of a fellow employee or the employer.

(14) "Hospital" means an institution that has been licensed, certified, or approved by the state as a hospital.

(15) "Independent contractor" means an individual working under an independent contractor exemption certificate provided for in 39-71-417.

(16) "Indian tribe" means an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450b(e).

(17) (a) "Institution of higher education", for the purposes of this part, means an educational institution that:

(i) admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of a certificate;

(ii) is legally authorized in this state to provide a program of education beyond high school;

(iii) provides an educational program for which the institution awards a bachelor's or higher degree or provides a program that is acceptable for full credit toward a bachelor's or higher degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(iv) is a public or other nonprofit institution.

(b) All universities in this state are institutions of higher education for purposes of this part.

(18) "Licensed and practicing health care provider" means a health care provider who is primarily responsible for the treatment of a person seeking unemployment insurance benefits and who is:

(a) licensed to practice in this state as:

(i) a physician under Title 37, chapter 3;

(ii) a dentist under Title 37, chapter 4;

(iii) an advanced practice registered nurse under Title 37, chapter 8, and recognized as a nurse practitioner or certified nurse specialist by the board of nursing, established in 2-15-1734;

(iv) a physical therapist under Title 37, chapter 11;

(v) a chiropractor under Title 37, chapter 12;

(vi) a clinical psychologist under Title 37, chapter 17; or

(vii) a physician assistant under Title 37, chapter 20; or

(b) with respect to a person seeking unemployment insurance benefits who resides outside of this state, a health care provider licensed or certified as a member of one of the professions listed in subsection (18)(a) in the jurisdiction where the person seeking the benefit lives.

(19) "No-additional-cost service" has the meaning provided in section 132 of the Internal Revenue Code, 26 U.S.C. 132.

(20) "State" includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and Canada.

(21) "Taxes" means contributions and assessments required under this chapter but does not include penalties or interest for past-due or unpaid contributions or assessments.

(22) "Tribal unit" means an Indian tribe and any tribal subdivision or subsidiary or any business enterprise that is wholly owned by that tribe.

(23) "Unemployment insurance administration fund" means the unemployment insurance administration fund established by this chapter from which administrative expenses under this chapter must be paid.

(24) (a) "Wages", unless specifically exempted under subsection (24)(b), means all remuneration payable for personal services, including the cash value of all remuneration paid in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash must be estimated and determined pursuant to rules prescribed by the department. The term includes but is not limited to:

(i) commissions, bonuses, and remuneration paid for overtime work, holidays, vacations, and sickness periods;

(ii) severance or continuation pay, backpay, and any similar pay made for or in regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan; and

(iii) tips or other gratuities received by the employee, to the extent that the tips or gratuities are documented by the employee to the employer for tax purposes.

(b) The term does not include:

(i) the amount of any payment made by the employer for employees, if the payment was made for:

(A) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(B) sickness or accident disability under a workers' compensation policy;

(C) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family; or

(D) death, including life insurance for the employee or the employee's immediate family;

(ii) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, or other expenses, as set forth in department rules;

(iii) a no-additional-cost service; or

(iv) wage subsidies received pursuant to the alternative trade adjustment assistance for older workers program, 19 U.S.C. 2318.

(25) "Week" means a period of 7 consecutive calendar days ending at midnight on Saturday.

(26) "Weekly benefit amount" means the amount of benefits that an individual would be entitled to receive for 1 week of total unemployment."

**Section 29. Part-time work search -- eligibility for benefits.** (1) Except as provided in subsection (2), an individual may not be denied regular unemployment compensation benefits solely because the individual is seeking only part-time work, as that term is defined in rules adopted by the department.

(2) In order to be qualified for benefits under subsection (1), the majority of the individual's workweeks in the base period must have been part-time.

**Section 30. Participation in worker training program -- eligibility for training benefits.** (1) Subject to the requirements of this section, training benefits are available to an individual who has exhausted all rights to regular unemployment compensation benefits and who is attending an approved worker training program.

(2) An unemployed individual who is participating and making satisfactory progress in a state-approved training program or a job training program authorized by the Workforce Investment Act of 1998 that is necessary for the individual's reemployment is eligible to receive training benefits if, as determined by the department:

(a) the individual was:

(i) separated from a declining occupation; or

(ii) involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment;

(b) the training enhances the individual's marketable skills and earning power; and

- (c) the training is targeted to those industries or skills that are in demand within the labor market.
- (3) Benefits must be paid under this section at the individual's average weekly benefit amount during the applicable benefit year and under the same terms and conditions as regular benefits.
- (4) Benefits are payable under this section only for weeks during which the individual is attending an approved training program.
- (5) An employer's account may not be charged for payment of benefits to an individual under this section.

**Section 31.** Section 52-3-115, MCA, is amended to read:

**"52-3-115. Older Montanans trust fund.** (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

(2) (a) The money in the fund may be used to create new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, ~~as used in 53-6-1204,~~ of appropriations for those services.

(b) As used in subsection (2)(a), the phrase "trended traditional level of appropriations" means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

- (3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.
- (4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. Until the year 2015, if assets in the fund reach the following amounts, money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):
  - (a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.
  - (b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.
  - (c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.
- (5) On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).
- (6) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210."

**Section 32.** Section 53-4-212, MCA, is amended to read:

I hereby certify that the within bill,  
HB 0645, originated in the House.



Chief Clerk of the House



Speaker of the House

Signed this 4<sup>th</sup> day  
of May, 2009.



President of the Senate

Signed this 5<sup>th</sup> day  
of May, 2009.