SENATE BILL NO. 336–SENATOR ROGICH

MARCH 12, 2025

Referred to Committee on Commerce and Labor

SUMMARY—Establishes provisions relating to portable benefit accounts. (BDR 53-621)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

AN ACT relating to compensation; authorizing a sole proprietor or independent contractor to open a portable benefit account under certain circumstances; authorizing certain contributions to and disbursements from a portable benefit account under certain circumstances; setting forth certain restrictions on the consideration by the Labor Commissioner of a contribution to a portable benefit account in determining whether the holder of the account should be classified as an employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill authorizes a natural person who is a sole proprietor or an independent contractor to open and contribute to a portable benefit account, under certain circumstances, which may be used for the benefit of the account holder or a spouse, domestic partner, child or other dependent of the account holder. **Section 3** of this bill authorizes the money in a portable benefit account to be used for the payment of costs for: (1) maintaining health insurance coverage; (2) coverage for or the purchase of prescription drugs; (3) any agreement or arrangement for the payment of medical expenses; (4) other out-of-pocket medical expenses; or (5) other benefits, including income replacement insurance, life insurance or an individual retirement account.

Section 4 of this bill authorizes a person who contracts for the services of a sole proprietor or an independent contractor to contribute money to a portable benefit account which is held by the sole proprietor or independent contractor. **Section 4** authorizes, under certain circumstances, such a contribution to be based on withholding a percentage of payment otherwise owed to the sole proprietor or independent contractor.

Existing law requires the Labor Commissioner, the Attorney General and certain state agencies to share certain information relating to suspected or actual

employee misclassification. (NRS 607.217) Existing law also authorizes the Labor Commissioner to impose various administrative penalties against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify a person as an employee. (NRS 608.400, 608.410) **Section 4** provides that the fact that a contribution is made to a portable benefit account is, in and of itself, insufficient to support any determination by the Labor Commissioner as to whether or not the holder of the account should be classified as an employee. If the Labor Commissioner considers such a contribution in any proceeding or determination relating to the classification of the holder of the account, **section 4** requires the Labor Commissioner to make at least three additional findings of fact in support of any determination that a person was not properly classified.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 608 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. A natural person who is a resident of this State may open a portable benefit account if the person works as a sole proprietor or an independent contractor during the calendar year in which the person opens the account.***

2. The holder of a portable benefit account may make contributions to the portable benefit account during any calendar year in which the holder works as a sole proprietor or independent contractor.

3. Distributions from a portable benefit account that are made in compliance with the requirements of section 3 of this act may be used for the benefit of the holder of the account or a spouse, domestic partner, child or other dependent of the holder of the account.

4. As used in this section, "portable benefit account" means an account that meets the requirements of section 3 of this act.

Sec. 3. ***1. A portable benefit account must be offered through and administered by a bank, credit union, investment manager or other provider or program that offers services through a bank, credit union or investment manager.***

2. Distributions from a portable benefit account may only be made for the:

(a) Payment of costs relating to:

(1) Maintaining health insurance coverage, including, without limitation, premiums, copays, deductibles or coinsurance;

(2) Coverage for or the purchase of prescription drugs;

(3) Any agreement or arrangement for the payment of medical expenses; or

(4) Other out-of-pocket medical expenses; or

(b) Payment of costs relating to or an investment in other benefits, including, without limitation, income replacement insurance, life insurance or an individual retirement account.

3. As used in this section:

(a) "Bank" has the meaning ascribed to it in NRS 657.016.

(b) "Credit union" has the meaning ascribed to it in NRS 672.070.

Sec. 4. ***1. A person who contracts for the services of a sole proprietor or an independent contractor may contribute money to a portable benefit account which is held by the sole proprietor or independent contractor.***

2. A contribution made pursuant to subsection 1 may be based on withholding a percentage of payment otherwise owed to the sole proprietor or independent contractor, if:

(a) In the contract for services or a notice accompanying the contract, an explanation of the optional withholding is clear, unambiguous and prominently displayed;

(b) The contract for services or a notice accompanying the contract requires the sole proprietor or independent contractor to indicate his or her intention to opt in or opt out of the withholding;

(c) The sole proprietor or independent contractor expressly agrees in writing to opt in to the withholding; and

(d) The sole proprietor or independent contractor has the right to opt out of the withholding at any time without penalty.

3. The fact that a contribution is made to a portable benefit account pursuant to this section is, in and of itself, insufficient to support any determination by the Labor Commissioner as to whether or not the holder of the account should be classified as an employee. If the Labor Commissioner considers any such contribution in any proceeding or determination relating to such classification, including, without limitation, pursuant to NRS 607.217, 608.0155, 608.400 or 608.410, the Labor Commissioner shall not make a determination that a person was not properly classified unless the Labor Commissioner makes at least three other findings of fact in support of the determination.

4. As used in this section, "portable benefit account" means an account that meets the requirements of section 3 of this act.

Sec. 5. This act becomes effective on July 1, 2025.

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