

ASSEMBLY BILL NO. 312—ASSEMBLYMAN WHEELER

MARCH 17, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Creates the Independent Contractor Benefits Program. (BDR 53-886)

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

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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 employment; creating the Independent Contractor Benefits Program; requiring the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to administer the Program; setting forth certain requirements for the operation of the Program; requiring a participant in the Program to pay certain contributions; providing for the payment of benefits to participants in the Program who are out of work; creating the Independent Contractor Benefits Fund; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 12** of this bill creates the Independent Contractor Benefits Program and
2 requires the Administrator of the Employment Security Division of the Department
3 of Employment, Training and Rehabilitation to administer the Program. **Section 13**
4 of this bill requires a person who wishes to participate in the Program to submit an
5 application to the Administrator which includes, among other requirements: (1)
6 proof sufficient to the Administrator that the person received the majority of his or
7 her income in the immediately preceding year for services performed as an
8 independent contractor; and (2) an identification of the amount of money that the
9 person wishes to contribute to the Program each month. **Section 14** of this bill
10 requires each participant in the Program to, with certain exceptions, pay a
11 contribution to the Administrator in an amount specified in the application
12 submitted pursuant to **section 13**. **Section 19** of this bill requires such a
13 contribution to be deposited in the State Treasury for credit to the individual
14 account of the participant in the Independent Contractor Benefits Fund created by
15 **section 19**.

16 **Section 15** of this bill requires a participant who wishes to receive benefits for
17 any week in which the participant is out of work to submit a request to the



18 Administrator. **Section 9** of this bill sets forth the circumstances in which a
19 participant will be deemed to be out of work. If the participant satisfies the
20 eligibility requirements set forth in **section 16** of this bill, **section 15** requires the
21 Administrator to pay the participant benefits, the amount of which is then required
22 to be deducted from the participant's individual account in the Fund. **Section 17** of
23 this bill requires the amount of benefits paid to a participant for a week in which the
24 participant is out of work to be an amount equal to: (1) the balance of the
25 participant's individual account in the Fund as of the date on which the participant
26 submits a request for benefits divided by 52; or (2) if such amount is less than \$1,
27 the balance of the participant's individual account in the Fund. **Section 18** of this
28 bill requires the Administrator to terminate the participation in the Program of any
29 participant who fails to pay the required contributions. **Section 18** also authorizes a
30 participant to voluntarily terminate his or her participation in the Program at any
31 time.

32 **Sections 3-11** of this bill define certain words and terms for the purposes of this
33 bill.

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

1 **Section 1.** Title 53 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 20, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 11,*
6 *inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*

8 **Sec. 3.** *“Administrator” means the Administrator of the*
9 *Division.*

10 **Sec. 4.** *“Benefits” means the money payments payable to a*
11 *participant, as provided in this chapter, with respect to the*
12 *participant being out of work.*

13 **Sec. 5.** *“Contributions” means the money payments by a*
14 *participant to the Fund required pursuant to section 14 of this act.*

15 **Sec. 6.** *“Division” means the Employment Security Division*
16 *of the Department of Employment, Training and Rehabilitation.*

17 **Sec. 7.** *“Fund” means the Independent Contractor Benefits*
18 *Fund created pursuant to section 19 of this act.*

19 **Sec. 8.** *“Independent contractor” means any person who*
20 *renders service for a specified recompense for a specified result,*
21 *under the control of the person's principal as to the result of the*
22 *person's work only and not as to the means by which such result is*
23 *accomplished.*

24 **Sec. 9.** *A participant shall be deemed to be “out of work” in*
25 *any week during which the participant performs no services and*
26 *with respect to which no remuneration is payable to the person.*



1 **Sec. 10.** *“Participant” means a person who has been*
2 *approved by the Administrator to participate in the Program.*

3 **Sec. 11.** *“Program” means the Independent Contractor*
4 *Benefits Program created by section 12 of this act.*

5 **Sec. 12.** 1. *The Independent Contractor Benefits Program*
6 *is hereby created for the purposes of providing the payment of*
7 *benefits to participating independent contractors who are out of*
8 *work.*

9 2. *The Administrator shall administer the Program.*

10 **Sec. 13.** 1. *A person who wishes to participate in the*
11 *Program shall submit to the Administrator an application, which*
12 *must include, without limitation:*

13 (a) *The name and address of the applicant;*

14 (b) *Proof sufficient to the Administrator that the applicant*
15 *received the majority of his or her income for the immediately*
16 *preceding year for services performed as an independent*
17 *contractor;*

18 (c) *An identification of the amount of money that the applicant*
19 *wishes to contribute to the Program each month; and*

20 (d) *Any other information the Administrator deems necessary.*

21 2. *If an applicant for participation in the Program satisfies*
22 *the requirements of this section and any other requirements the*
23 *Administrator may establish by regulation, the Administrator shall*
24 *approve the applicant to participate in the Program.*

25 **Sec. 14.** 1. *Except as otherwise provided in subsection 2,*
26 *each participant shall, on or before the last day of each month,*
27 *pay to the Administrator a contribution in the amount specified in*
28 *the application submitted pursuant to section 13 of this act.*

29 2. *A participant is not required to pay a contribution in any*
30 *month in which the participant receives benefits.*

31 **Sec. 15.** 1. *A participant who wishes to receive benefits for*
32 *any week in which the participant is out of work shall submit to*
33 *the Administrator a request for benefits. The request must be*
34 *submitted in the form and manner prescribed by the Administrator*
35 *and contain any information the Administrator deems necessary.*

36 2. *Upon receipt of a request submitted pursuant to subsection*
37 *1, the Administrator shall review the request. If the Administrator*
38 *determines that the participant is eligible for benefits pursuant to*
39 *section 16 of this act, the Administrator shall pay to the participant*
40 *benefits in an amount determined pursuant to section 17 of this*
41 *act.*

42 3. *The Administrator shall deduct the amount of the benefits*
43 *paid pursuant to subsection 2 from the individual account of the*
44 *participant in the Fund.*



1 **Sec. 16.** *A participant is eligible for benefits with respect to*
2 *any week only if the Administrator finds that the participant:*

- 3 1. *Is out of work;*
4 2. *Has submitted a request for benefits pursuant to section 15*
5 *of this act;*
6 3. *Has participated in the Program for at least 6 months; and*
7 4. *Has a balance in his or her individual account in the Fund*
8 *that is greater than zero.*

9 **Sec. 17.** *A participant who is otherwise eligible to receive*
10 *benefits must be a paid a benefit in an amount equal to:*

- 11 1. *The balance of the participant's individual account in the*
12 *Fund as of the date the participant submitted a request for benefits*
13 *pursuant to section 15 of this act divided by 52; or*
14 2. *If the amount determined pursuant to subsection 1 is less*
15 *than \$1, the balance of the participant's individual account in the*
16 *Fund.*

17 **Sec. 18.** 1. *The Administrator shall terminate the*
18 *participation in the Program of any participant that fails to pay*
19 *the contributions required pursuant to section 14 of this act.*

20 2. *A participant may voluntarily terminate his or her*
21 *participation in the Program at any time by sending written notice*
22 *of the termination of participation to the Administrator.*

23 3. *The Administrator shall pay to a participant whose*
24 *participation in the Program terminates pursuant to this section*
25 *the remaining balance of the participant's individual account in*
26 *the Fund.*

27 **Sec. 19.** 1. *The Independent Contractor Benefits Fund is*
28 *hereby created as a trust fund in the State Treasury. The*
29 *Administrator shall administer the Fund.*

30 2. *All money collected by the Administrator as a contribution*
31 *by a participant pursuant to section 14 of this act must be*
32 *deposited in the State Treasury for credit to the individual account*
33 *of the participant in the Fund.*

34 3. *The Fund is a continuing fund without reversion. The*
35 *money in the Fund must be invested as the money in other state*
36 *funds is invested.*

37 4. *The interest and income earned on the money in the Fund,*
38 *after deducting any applicable charges, must be credited to the*
39 *Fund. Claims against the Fund must be paid as other claims*
40 *against the State are paid.*

41 5. *The Administrator may apply for and accept any gift,*
42 *donation, bequest, grant or other source of money for use by the*
43 *Fund. Any money so received must be deposited in the State*
44 *Treasury for credit to the Fund.*



1 **6. The money in the Fund may be expended only to carry out**
2 **the provisions of this chapter.**

3 **Sec. 20. The Administrator may adopt regulations as**
4 **necessary to carry out the provisions of this chapter.**

5 **Sec. 21.** This act becomes effective on January 1, 2022.



