

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 645

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE PORTABLE BENEFIT PLAN ACT; AMENDING TITLE 44, IDAHO CODE,
2 BY THE ADDITION OF A NEW CHAPTER 28, TITLE 44, IDAHO CODE, TO PROVIDE A
3 SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR ADMINISTRATION OF PORTABLE
4 BENEFIT PLANS, AND TO PROVIDE FOR TAX IMPLICATIONS; AND DECLARING AN
5 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
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7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Title 44, Idaho Code, be, and the same is hereby amended
9 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
10 ter 28, Title 44, Idaho Code, and to read as follows:

11 CHAPTER 28

12 PORTABLE BENEFIT PLAN ACT

13 44-2801. SHORT TITLE. This act shall be known and may be cited as the
14 "Portable Benefit Plan Act."

15 44-2802. DEFINITIONS. For the purposes of this chapter:

16 (1) "Bank" means a state bank, national bank, credit union, out-of-
17 state state-chartered bank, or foreign bank organized under the laws of a
18 territory of the United States, the Commonwealth of Puerto Rico, Guam, Amer-
19 ican Samoa, the United States Virgin Islands, or Greenland with deposits
20 insured by the federal deposit insurance corporation.

21 (2) "Department" means the Idaho department of insurance.

22 (3) "Hiring party" means a person or entity who hires or enters into a
23 contract with an independent contractor.

24 (4) "Independent contractor" means any person who renders service for
25 a specified recompense for a specified result, under the right to control or
26 actual control of the independent contractor's principal as to the result of
27 the independent contractor's work only and not as to the means by which such
28 result is accomplished.

29 (5) "Portable benefit account" means an account owned by an independent
30 contractor to fund the purchase of one (1) or more benefit plans.

31 (6) "Portable benefit account provider" means the administrator of a
32 portable benefit account and includes:

33 (a) A bank;

34 (b) An investment management firm;

35 (c) A technology provider or program manager that offers services
36 through a bank or investment management firm; or

37 (d) Any other person who demonstrates to the satisfaction of the
38 department that the manner in which the person will administer the
39 portable benefit account will be consistent with the portable benefit
40 account requirements under this chapter.

- 1 (7) "Portable benefit plan" means a benefit plan:
2 (a) Administered by a third party benefit plan provider chosen by an in-
3 dependent contractor and assigned to a beneficiary rather than to a hir-
4 ing party; and
5 (b) Includes but is not limited to:
6 (i) Disability insurance;
7 (ii) Health insurance;
8 (iii) Income replacement insurance;
9 (iv) Life insurance;
10 (v) Retirement benefits; or
11 (vi) Unemployment insurance.

12 44-2803. ADMINISTRATION. (1) Any person or entity, whether public or
13 private, including an internet-based or application-based company, may vol-
14 untarily contribute funds to a portable benefit account for an independent
15 contractor.

16 (2) Contributions by a hiring party to any portable benefit account
17 shall not be treated as evidence that a worker is an employee of the hiring
18 party pursuant to employment security law, worker's compensation law, the
19 Internal Revenue Code, or any state and federal employment or labor laws.

20 (3) Contributions to a portable benefit account may be made using:

21 (a) The funds of the hiring party; or

22 (b) A percentage of funds withheld from the compensation owed to an in-
23 dependent contractor if all of the following conditions are met:

24 (i) The withholding of compensation is expressly agreed to in
25 writing;

26 (ii) The written agreement is clear, unambiguous, and prominently
27 displayed either in a work contract or in a separate invoice;

28 (iii) The withholdings are voluntary and require the independent
29 contractor to opt-in; and

30 (iv) The independent contractor may choose to opt-out of such
31 withholdings at any time.

32 44-2804. TAX IMPLICATIONS. (1) A hiring party that contributes funds
33 to a portable benefit account pursuant to section 44-2803(3) (a) or (b),
34 Idaho Code, may deduct as a business expense an amount equal to one hundred
35 percent (100%) of any such contributions during the applicable tax year.

36 (2) An independent contractor may exclude from taxable income an amount
37 equal to one hundred percent (100%) of the amount contributed by a hiring
38 party pursuant to section 44-2803(3) (a) or (b), Idaho Code, during the ap-
39 plicable tax year.

40 SECTION 2. An emergency existing therefor, which emergency is hereby
41 declared to exist, this act shall be in full force and effect on and after
42 July 1, 2026.