

SENATE FILE NO. SF0041

Portable benefit accounts.

Sponsored by: Senator(s) Olsen, Boner and Crago and
Representative(s) Filer and Williams

A BILL

for

1 AN ACT relating to labor and employment; authorizing the
2 creation and use of portable benefit accounts; specifying
3 requirements and conditions for portable benefit accounts;
4 providing definitions; requiring rulemaking; and providing
5 for effective dates.

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7 *Be It Enacted by the Legislature of the State of Wyoming:*

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9 **Section 1.** W.S. 27-1-117 is created to read:

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11 **27-1-117. Portable benefit accounts.**

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13 (a) As used in this section:

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1 (i) "Financial institution" means any bank,
2 savings and loan association or credit union chartered
3 under the laws of Wyoming, the laws of the United States or
4 the laws of another territory or state of the United States
5 that is insured by the federal deposit insurance
6 corporation or the national credit union administration.
7 "Financial institution" shall include any special purpose
8 depository institution as defined by W.S. 13-1-101(a)(xvi);
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10 (ii) "Hiring party" means a person that hires or
11 enters into a contract with an independent contractor;
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13 (iii) "Independent contractor" means as defined
14 by W.S. 27-14-102(a)(xxiii);
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16 (iv) "Portable benefit account" means an account
17 opened by an independent contractor that is:
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19 (A) Administered by a portable benefit
20 account provider; and
21

22 (B) Assigned to a beneficiary of one (1) or
23 more benefit plans for the purpose of funding the purchase

1 of one (1) or more benefit plans, including but not limited
2 to plans that provide health benefits, income replacement
3 insurance, life insurance or retirement benefits.

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5 (v) "Portable benefit account provider" means
6 the administrator of a portable benefit account and shall
7 include:

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9 (A) A bank;

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11 (B) An investment management firm;

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13 (C) A technology provider or program
14 manager that offers services through a bank or investment
15 management firm;

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17 (D) Any other person that demonstrates to
18 the satisfaction of the state banking commissioner that the
19 manner in which the person will administer the portable
20 benefit account is consistent with the requirements of this
21 section.

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1 (b) Any person, including but not limited to an
2 independent contractor, internet-based company and
3 application-based company, may voluntarily contribute funds
4 to a portable benefit account for or on behalf of an
5 independent contractor.

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7 (c) Any contribution to a portable benefit account
8 made under this section shall not be used as a criterion or
9 factor for determining a person's employment
10 classification, including a classification or determination
11 under W.S. 27-3-104.

12
13 (d) A contribution to a portable benefit account
14 under this section may be made using the funds of the
15 hiring party or as a percentage of funds withheld from
16 compensation owed to an independent contractor if all of
17 the following are met:

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19 (i) The withholding of compensation, if
20 applicable, is expressly agreed to by the independent
21 contractor in writing;

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1 (ii) The written agreement for withholding funds
2 or contributing employer funds is clear, unambiguous and
3 prominently displayed in a work contract or separate
4 agreement;

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6 (iii) The withholdings are made only after an
7 independent contractor opts in to the withholdings;

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9 (iv) The independent contractor is authorized to
10 opt out of the agreement at any time.

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12 **Section 2.** The department of workforce services shall
13 promulgate all rules necessary to implement this act.

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