



# HOUSE BILL 1083: Voluntary Portable Benefits Plan Act.

2025-2026 General Assembly

<b>Committee:</b>	House Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	June 30, 2026
<b>Introduced by:</b>	Reps. Reeder, Chesser, Rhyne, Schietzelt	<b>Prepared by:</b>	Zoey Howe and Trina Griffin
<b>Analysis of:</b>	PCS to Second Edition H1083-CSSVf-50		Staff Attorneys

**OVERVIEW:** *The Proposed Committee Substitute for House Bill 1083 would authorize a person or entity who hires an independent contractor ("hiring party") to voluntarily contribute funds into a portable benefit account to be owned and used by the independent contractor to purchase a variety of benefits traditionally provided to employees, such as health insurance, life insurance, disability insurance, and retirement benefits.*

**CURRENT LAW:** For federal tax purposes, the IRS applies traditional common law rules to determine if a worker is an independent contractor or employee. Applying the common law rules requires an examination of the relationship between the worker and the hiring party. The IRS divides this evidence into three categories: behavioral control, financial control, and the relationship between the parties. There is no single determinative factor in evaluating whether a worker is an independent contractor or an employee.

For traditional W-2 employees, they may deduct health insurance premiums, retirement contributions, life insurance premiums, or disability insurance premiums from the wages or salary paid by their employer, reducing their taxable income. A more detailed list of exempt fringe benefits is linked [here](#).

For independent contractors, the IRS considers them self-employed individuals, meaning they need to pay for benefits, such as health insurance, out-of-pocket to receive a tax deduction. These federal above-the-line deductions for the self-employed flow through to the State base.

**BILL ANALYSIS:** The PCS would create a framework for the administration and use of portable benefit accounts, including defined terms, permitted uses of funds, and safeguards for the independent contractor while explicitly stating that the making of such contributions is not to be treated as evidence of an employer-employee relationship.

**Affirmative Opt-In.** – An independent contractor must affirmatively opt-in to receive contributions from a hiring party in an express written agreement that is clear, unambiguous, and prominently displayed either in a work contract or a separate invoice. The agreement must indicate that all contributions are voluntary, and that the independent contractor may opt out at any time.

**Account Providers.** – An account provider is a third-party custodian of the funds kept in a portable benefit account and is chosen by the independent contractor. A portable benefit account provider may be a bank, an investment management firm, a technology provider or program manager that offers services through a bank or investment management firm, or another person approved by the Commissioner of Labor. A

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Legislative Analysis  
Division  
919-733-2578

# House 1083 PCS

Page 2

hiring party may not serve as a portable benefit account provider for an independent contractor that it engages.

The new G.S. 66-532 would create various requirements for portable benefit account providers that are intended to serve as safeguards for an independent contractor, including:

- Requiring account providers to segregate funds in a portable benefit account from any assets held for the hiring party and from the account provider's own assets.
- Requiring clear and conspicuous disclosure of any fees associated with the administration of the account in writing, prior to the independent contractor opening an account with that provider.
- Maintenance of accurate records of all contributions, fees, earnings, and distributions for each portable benefit account and provide the independent contractor with an account statement, no less than quarterly.
- Administration of each account with the standard of care of a prudent administrator.
- Requiring portable benefit account providers to maintain financial assurance sufficient to protect account owners against loss from the account provider's negligence, fraud, or insolvency.

**Use of Funds.** – Contributions must be treated as compensation to the independent contractor, but the hiring party cannot induce or require an independent contractor to maintain an account with a specific account provider as a condition of receiving contributions.

A portable benefit account is, at all times, the sole property of the independent contractor who owns it. The independent contractor may, at any time and without penalty, beyond reasonable disclosed transfer costs, cease contributions, change the portable benefit plans purchased through the account, and transfer the account balance to another qualified portable benefit account provider.

Funds contributed to the account would only be permitted to be used for the following purposes:

- Health Savings Accounts.
- Flexibility Spending Accounts.
- Health Reimbursement Arrangements.
- Transportation/parking accounts.
- Health insurance.
- Healthcare sharing contributions.
- Healthcare subscriptions.
- Income replacement insurance.
- Disability insurance.
- Life insurance.
- Individual Retirement Accounts.
- 401(k) retirement accounts.
- Retirement savings accounts.

**Tax Implications.** – The following tax implications would apply to portable benefit accounts:

❖ **For the Hiring Party**

While not specified in the text of the bill, to the extent contributions are treated as compensation, a hiring party may deduct contributions as a business expense under existing tax law.

# House 1083 PCS

Page 3

## ❖ *For the Independent Contractor*

**Section 2** would create an income tax deduction for independent contractors for contributions they receive in a portable benefit account to the extent the amount is included in the independent contractor's adjusted gross income. While an independent contractor who pays for these benefits out-of-pocket may qualify for a deduction under current federal law, which would flow through for State income tax purposes, some of the listed benefits are not deductible or excludible at the federal level.

If the independent contractor used money from the account for purposes other than permitted use, **Section 3** would require the independent contractor to add that amount back to the independent contractor's adjusted gross income.

## ❖ *Exemption from Withholding Requirement*

Under current law, a hiring party is required to deduct and withhold 4% of compensation from a payee, if the hiring party pays more than \$1,500 to the payee in a calendar year. For purposes of this requirement, a payee only includes a nonresident contractor, an ITIN contractor, a person who fails to provide a taxpayer identification number, or a person who fails to provide a valid taxpayer identification number.

**Section 4** would exempt a hiring party from having to make any withholdings for contributions to a portable benefit account for an independent contractor who meets the above definition of payee.

## ❖ *Informational Return*

**Section 5** would allow the Secretary of Revenue to request information from a portable benefit provider, including a portable benefit account owner's name, tax identification number, records of contributions and distributions from any portable benefit account owned by an account owner, and other information as deemed necessary for compliance purposes. The Secretary would not be permitted to request this information more than once in a calendar year.

**EFFECTIVE DATE:** This PCS would become effective January 1, 2027, and apply to taxable years beginning on or after that date.

**BACKGROUND:** Similar legislation regarding voluntary portable benefits has been enacted in other states, including Utah, Tennessee, Alabama, Wyoming, Idaho, Georgia, Kansas, and West Virginia.