

Modernizing Labor Policy to Support Independent Work and Portable Benefits

LIYA PALAGASHVILI

Senior Research Fellow, Mercatus Center at George Mason University

Subcommittee on Workforce Protections
Empowering the Modern Worker

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Good morning, Chairman Mackenzie and members of the Subcommittee on Workforce Protections. It is an honor to testify before you.

My name is Liya Palagashvili, and I am a labor economist at the Mercatus Center at George Mason University. I conduct empirical research on the independent workforce, with a focus on worker classification laws and portable benefits.

Today, my testimony focuses on policies that support independent work. The three key themes are the following:

1. The independent workforce is a diverse and growing part of the US labor market and offers both full-time careers and supplemental income opportunities for millions of Americans.
2. There are currently two ways of approaching the growth of the independent workforce. The first is through restrictive worker classification tests—like the ABC test—which aim to reclassify independent contractors as employees. Empirical evidence shows that this approach ultimately reduces work opportunities for both self-employed individuals and traditional W-2 workers.
3. The second policy option is to support independent workers by legalizing their access to portable benefits. Congress can encourage ongoing state-level innovation by enabling more workers to access benefits without risking their classification as independent contractors.

1. Independent Work Expands Job Variety and Side-Income Opportunities

Not all jobs come in the same size and shape, and that is a good thing. While most Americans prefer the structure of a nine-to-five job, many others value the autonomy of independent work—such as

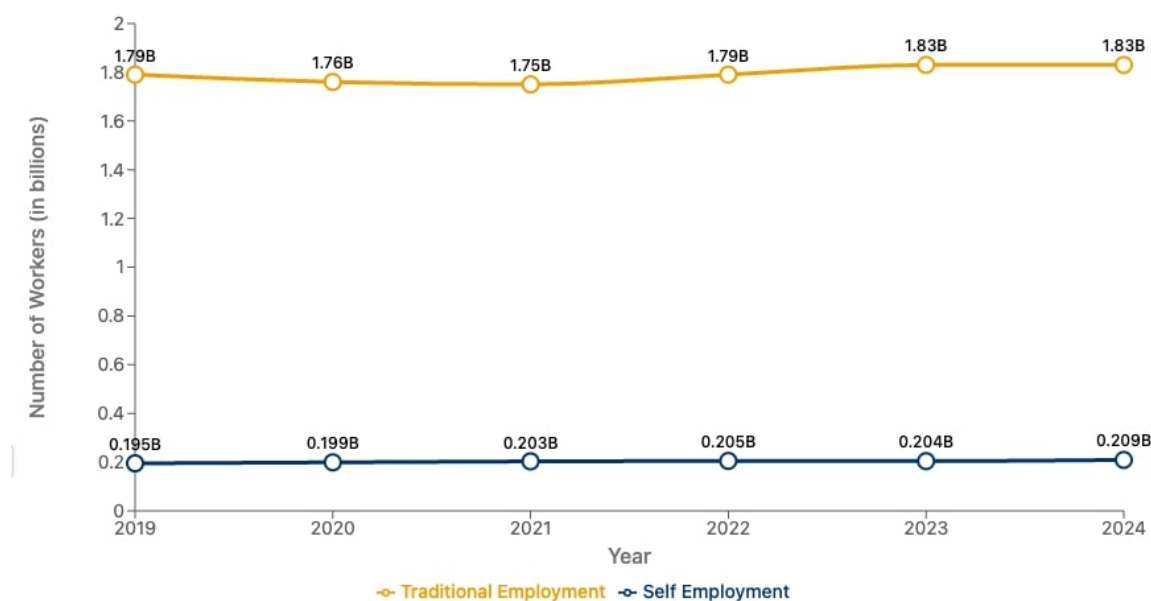
For more information or to meet with the scholar, contact
Mercatus Outreach, 703-993-4930, mercatusoutreach@mercatus.gmu.edu
Mercatus Center at George Mason University, 3434 Washington Blvd., 4th Floor, Arlington, Virginia 22201

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freelancing, consulting, or gig work. For some, this type of work provides supplemental income to help meet financial needs, while for others, it provides the only opportunity to enter the workforce. Indeed, according to the Bureau of Labor Statistics, over 80 percent of independent workers say they prefer their nontraditional work arrangement, and fewer than 9 percent would opt for a standard job instead.¹

While there is growing interest in independent work, it's important to recognize that this trend is not displacing traditional employment—rather, the two sustainably coexist and often complement one another. For example, over the last five years, my analysis of national data shows a steady coexistence of both types of work.² As figure 1 illustrates, the relative consistency in these trends highlights that independent work and traditional workforces are not in conflict—they operate side by side, meeting different needs within a diverse labor market.

FIGURE 1. The number of traditional and self-employed workers in the US, 2019–24



Source: IPUMS CPS (database), accessed May 13, 2025, <https://cps.ipums.org/cps/>.

Consider also that in 2024, 89.8 percent of US jobs were traditional W-2 employment—proof that the standard model is not disappearing.³ In fact, IRS data show that most independent workers already hold full-time W-2 jobs and take on independent work as a side opportunity.⁴ Independent work does

¹ Bureau of Labor Statistics, “Contingent and Alternative Employment Arrangements—July 2023,” news release no. USDL-24-2267, November 8, 2024, <https://www.bls.gov/news.release/conemp.nr0.htm>.

² IPUMS CPS (database), accessed May 13, 2025, <https://cps.ipums.org/cps/>.

³ Data calculated using the “worker classification” variable on primary earnings from IPUMS CPS (database), accessed May 13, 2025, <https://cps.ipums.org/cps/>. This is also consistent with the 2023 Contingent Worker Supplement to the Current Population Survey, which found 10.2 percent of all US workers were in alternative work arrangements outside of traditional employment.

⁴ Brett Collins et al., “Is Gig Work Replacing Traditional Employment? Evidence from Two Decades of Tax Returns” (Working Paper, Internal Revenue Service, March 25, 2019).

not replace traditional jobs—it expands the range of opportunities available, allowing people to earn income in ways that fit their individual needs and schedules.

Decades of data show that millions of US workers choose this kind of work not because they are misclassified or exploited, but because it fits their lives.

2. ABC Tests Fail to Deliver More Employment

Sadly, the growth of this independent workforce has sparked some well-intentioned, but counterproductive policies. Motivated to combat misclassification, policymakers have pursued overly rigid worker classification rules that make it difficult for even properly classified independent workers to earn a living.

For example, in 2019, California passed Assembly Bill 5 (AB 5), which codified a strict version of an ABC test, making California the most restrictive state for freelancers.⁵ Now, New Jersey is proposing even more aggressive ABC test rules that effectively ban many forms of independent work. Proponents argue that such laws prevent misclassification and encourage employers to reclassify contractors as employees. However, the evidence shows that these laws harm both contractors and employees alike. My colleagues and I have published two empirical studies using data from the Bureau of Labor Statistics and the Census Bureau. One focused on California’s AB 5; the other analyzed the broader effects of ABC tests nationwide. The results are clear:

- After AB 5 went into effect in California, self-employment dropped by 10.5 percent in occupations not exempted from the law, and total employment in those same occupations fell by 4.4 percent. **There was no increase in W-2 employment to offset these losses.**⁶
- Our national study found that when states adopt an ABC test, W-2 employment falls by 4.7 percent, self-employment drops by 6.4 percent, and overall employment declines by 4.8 percent compared to states using a common-law standard.⁷ These results are causal—that is, the ABC test directly caused these declines.

This research shows that ABC tests are not converting contractors into employees—they are simply reducing work opportunities for both types of workers.

Worker-classification laws should strike a balance between being strong enough to address bad-faith misclassification and not so restrictive that they deny legitimate freelancers and entrepreneurs the chance to work independently. Unfortunately, ABC tests fall on the extremely restrictive end of the spectrum and, so, fail that balancing act.

⁵ An “ABC” test narrows the definition of what is considered as an acceptable contracting relationship between a worker and a hiring party. Generally, “ABC” tests presume that workers are W-2 employees unless they meet a much stricter standard to qualify as independent contractors. As a result, many legitimate forms of independent, freelance, or gig work are effectively restricted.

⁶ Liya Palagashvili et al., “Assessing the Impact of Worker Reclassification: Employment Outcomes Post-California AB5,” (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, January 31, 2024).

⁷ Liya Palagashvili, “New Study: From Gig to Gone—ABC Tests and the Shrinking of Work,” Labor Market Matters (Substack), January 10, 2025, <https://liyapalagashvili.substack.com/p/new-study-from-gig-to-gone-abc-tests>.

3. A Path Forward: Portable Benefits Reforms

Rather than pursuing counterproductive and restrictive worker classification rules like the ABC test, federal policymakers can support independent workers by making it easier for them to access portable benefits—these are benefits that are tied to the worker rather than to a particular job or employer.

However, the current regulatory landscape restricts voluntarily providing benefits to independent workers. When a client or organization provides benefits to an independent worker, the worker may be falsely reclassified as an employee. The legal risk of misclassification prevents any hiring party from offering benefits to an independent worker, thereby effectively barring independent workers from accessing benefits.

To address the regulatory barrier to portable benefits, Congress can stipulate that federal agencies cannot use the presence of benefits to determine whether someone is an independent contractor or employee. This reform is highly popular with independent workers, as 80 percent would like access to flexible benefits.⁸

Some states have already started to forge this path. Maryland, Utah, Pennsylvania, Georgia, Tennessee, and Alabama have made reforms that legalize access to benefits for independent workers, paving the way for portable benefit pilot programs. These programs allow independent workers to open personal benefits accounts, to which a contracting company can voluntarily contribute. For example, in Pennsylvania, the company DoorDash is making monthly contributions (4 percent of earnings) into individuals' flexible savings accounts managed by the benefits company Stride. Delivery drivers are using those funds toward retirement savings, paid time off, and health insurance premiums.

Importantly, legalizing access to benefits does not lead to more workers being classified as independent contractors. My analysis of Utah's 2023 Portable Benefits Bill shows that after the bill was enacted, W-2 employment continued to grow at the same pace as before the law, and the growth rate of self-employment also remained unchanged. The portable-benefits law had no negative impact on labor market composition, but it did give more workers security without sacrificing autonomy. This demonstrates that portable benefits complement, rather than compete with, traditional employment benefits.

Congress can take steps to accelerate portable benefits by allowing independent workers to open portable benefits accounts and by enabling clients and platforms to make voluntary contributions to those accounts.

Conclusion

The American workforce is not one-size-fits-all. Workers differ in their needs, goals, and circumstances. A rigid employment model does not reflect the complexity of how people work today. Some policymakers have tried to stifle the independent workforce through overly rigid worker classification tests. The latest empirical research shows that these policies—like the ABC tests—often fail on their own terms: They do not convert independent workers into traditional employees but

⁸ Tito Boeri et al., "Solo Self-Employment and Alternative Work Arrangements: A Cross-Country Perspective on the Changing Composition of Jobs," *Journal of Economic Perspectives* 34, no. 1 (2020): 170–95.

instead reduce opportunities across the board. Rather than empowering workers, these laws too often sideline them.

Instead, lawmakers can pursue policies that support independent workers. Legalizing access to portable benefits offers independent workers more financial security without dismantling preferred jobs. At the state level, reforms to this end have been pragmatic and bipartisan and reflect the shape of the modern workforce. Congress can protect independent work and also modernize benefits policy so that Americans can build work lives that fit US values, goals, and families.

Thank you again for the opportunity to testify. I look forward to your questions.