

Portable Benefits for Independent Contractors

A Framework for State Policymaking



Background

The success of the American economy is linked to the strength and vibrancy of its workforce. The last decade's technological transformation, globalization, demographic shifts and pandemic disruptions have created unprecedented challenges and opportunities, recasting every facet of how work gets done. For example, McKinsey & Company, a global management consulting firm, reports a [seismic shift](#) in how Americans work and support themselves, with 36% of its survey respondents saying they worked as independent workers in 2022, up from 27% in 2016. Many members of an increasingly fluid and diverse workforce prize the flexibility and autonomy associated with non-traditional work arrangements. But independent workers are often ineligible for the benefits traditionally offered within an employer-employee relationship.

The pandemic accelerated many existing workforce trends, rewarding corporate agility and innovation and driving collaborative problem solving and experimentation with remote work and contactless payment, for example, while exposing the precariousness of many jobs with limited workplace protections and benefits. As 2023 begins, the number of job openings continues to [outpace](#) the number of workers available to fill them, driving fierce competition among businesses trying to acquire and keep talent. Workers are moving from traditional to nontraditional work, shuffling between jobs and industries, launching entrepreneurial ventures, retiring or reassessing and rebalancing their working lives with other priorities. Meanwhile, policymakers, industry innovators and other experts are exploring the potential of innovative benefit offerings as a way to foster healthy competition among companies and enhance worker financial security.

The following principles were developed by a working group of state legislators and legislative staff who met in-person and virtually numerous times throughout 2022. These principles outline the factors policymakers need to consider when examining portable benefits for independent contractors in their state.

The working group developed these principles after crafting this problem statement.

“Non-traditional workers, including independent contractors, may have a great [need](#) for a benefit safety net, depending, in part, on whether these work arrangements serve as a primary source of income or a supplement. Yet, they tend to have considerably [lower rates](#) of workplace [benefit coverage](#). Independent contractors often are not [eligible](#) for many benefits typically offered by employers, including paid sick leave, workers’ compensation, retirement plans, and health insurance.

“This work group is exploring the [potential](#) of portable benefits, or benefits that are linked to individuals rather than particular employers, as a way to expand worker financial security, encourage companies to compete for workers through innovative benefit offerings, decrease [future government social spending](#), and drive broader economic prosperity. We are exploring which benefits could follow independent workers from job to job, along with eligibility, funding, and administration considerations.”

Common Terms Regarding Benefits for Independent Contractors

Portable benefit: Sometimes referred to as universal benefits, portable benefits are benefits traditionally offered to full-time employees by an employer, such as health care, life insurance, retirement savings, but are attached to a worker instead of the employer. Portable benefits attached to the worker allows a worker to maintain benefits regardless of work arrangement, such as traditional W-2 employment, freelance work or gig work.

Nontraditional Worker: Throughout this report, the term nontraditional worker refers to workers who do not have a traditional employee-employer relationship, where the employer controls the work being done. These include independent contractors, self-employed, gig and freelance workers. For example, according to the Internal Revenue Service (IRS), an independent contractor is a worker who “has the right to control or direct only the result of the work and not what will be done and how it will be done.”

Gig Worker: This is short-term freelance or contract work in the labor market often coordinated through the use of mobile applications.



Is there a need for benefits in states?

- What types of nontraditional workers are prevalent in the state?
- Is there a measurable need for portable benefits from nontraditional workers?
- Are the employee and nontraditional worker voices in the conversation?
- What is the impact on the relationship between worker and company?

Collecting and understanding data around independent contractors at the state level is an important first step in determining each state's potentially unique needs for a portable benefits policy or program. Data collection on the number of independent contractors in the United States does exist; however, it often does not break the information down to state and local levels and is not always current. Traditionally, labor market data has relied on employer payroll information, thus making independent numbers harder to obtain. The Bureau of Labor Statistics [Contingent Worker Supplement](#), which was last conducted in 2017, is one of the best national resources on nontraditional workers but does not contain state level information.

In an effort to get a better understanding of the independent and gig workforce, organizations such as [Gallup, Inc. and Intuit](#) have partnered, surveying tax returns and providing state trends in the growth of these workers over time in states. Their research has found that Georgia, Florida and Vermont have some of the highest numbers of self-employed workers, with between 16.8% and 19% of their workforce considered self-employed. By contrast, Indiana, West Virginia and Wisconsin have some of the lowest levels of self-employed workers, ranging from 10% to 13.6% of their workforces. The report also looks at the median income of these workers by state, finding a large range from below \$30,000 a year to above \$42,000.

But understanding the number of workers in the state is just one important data point needed to make policy decisions. Others include surveys on the want and need of a portable benefits system for workers in the state, from both the worker and employer perspective, and how a new program would impact the relationships between workers and companies. A 2022 retirement survey from [Transamerica Institute](#) found that most workers value a wide range of benefits from their employers; 93% say health insurance is important and 89% say a 401(k) or similar instrument is important. However only 56% and 55% of employers offer these benefits, respectively, to their full-time employees. However, this survey was offered to full-time employees only and variances likely exist for those who are independent contractors and value other perks of nontraditional work, such as flexibility, which is important to [94% of workers](#) based on one gig economy survey.

Some states have begun collecting information to better inform whether there is a need for a system of portable benefits and answer the above questions.

STATE EXAMPLES:



In 2019, at the direction of the legislature, the [Washington State Department of Commerce](#) presented a report on the findings of a study to collect information on independent contractors in the state.



[CareerSource Florida](#), a 2019 report on non-traditional workers, working with public and private sector partners to do an examination.



Identifying and Prioritizing a Menu of Portable Benefits

- What benefits should be included in a portable benefits program?
- How can workers have state-to-state mobility?
- What are the biggest holes in benefits for independent contractors?
- What is the scope of benefit coverage and how should they be administered?
- What are the impacts of the benefits on the workforce?

To create a system for portable benefits, policymakers need to understand the scope of benefits that should be available to independent contractors. In 2019, the [Aspen Institute](#) released a resource for policymakers focused on designing portable benefits. The resource included considerations and possible options for policymakers to consider when looking at potential benefits. When exploring these options, it is important to consider what benefits are valued by independent contractors, who often have a different set of needs from traditional employees, often are also employed in a traditional job and/or have access to certain benefits from a partner or family member. Policymakers should also consider which benefits could reduce social spending from government trust funds.

When exploring offerings for portable benefits, it is important to recognize the scope of coverage that states can offer. In addition to the traditional benefits of health insurance and retirement, other benefits may not initially come to mind. Some additional examples include paid family leave, career and professional development and financial planning. The [Society for Human Resource Management](#) completes a yearly employee benefits survey asking employees about their most important benefits. While this doesn't take independent contractors into account, their poll shows that health-related benefits, retirement savings and planning benefits, and leave benefits are most important to employees. Career development is also an increasingly important benefit for employees.

Looking at specific benefits begs the question of whether benefits should be account-based or pooled. Account-based programs are tied and controllable by individuals. Pooled programs are based on group contributions and are generally controlled by another actor. For example, traditional 401(k)s are account-based and public pension funds are pooled arrangements. Some states, such as [New Jersey](#), introduced prescriptive legislation and others, such as [Alabama](#), leave many of the choices up to workers.

A key stakeholder to consider in these benefits discussions are the businesses utilizing independent contractors. In many traditional cases of employment, companies might not contribute towards an employee's benefits until a certain amount of time passes. If states open opportunities for companies to offer portable benefits, it is important to consider how legislation might address these contribution concerns.

Finally, when implementing portable benefits, it is important to consider required benefits. Should contractors and companies be mandated to enroll, or should they have the option to opt in and out? Should contractors and businesses be able to pick and choose benefits, or should they be required to opt into all or none? Policymakers will need to weigh benefit choice vs mandatory benefit coverage.

STATE EXAMPLE:



In 2020, Colorado voters approved a [Paid Medical and Family Leave Ballot Initiative](#). Through this initiative, all private employers in the state must allow employees to take up to 12 weeks of paid leave in connection with a serious health issue for themselves or a family member. The pay for these employees is held in a pooled fund by the state. This provision also includes the ability for independent contractors to opt-in for elective coverage under this program.

Establishing Eligibility and Coverage

- Should all independent contractors be eligible for portable benefits, or should certain thresholds be established?
- Should certain industries be targeted in pilot programs? If so, will these programs expand?
- Will all independent contractor occupations be eligible for benefits?



In conjunction with figuring out the benefits, policymakers need to establish requirements for eligibility. Although independent contractors make up an increasing number of workers, many of them use gig work to supplement their income. According to the [Pew Research Center](#), 68% of gig workers do the work as a side job. In addition, 64% of gig workers work less than 10 hours a week through these engagements. This data, and the questions they bring up, are important for policymakers to consider.

States have the opportunity to decide who might receive these benefits, so policymakers need to determine who is eligible. Should there be a threshold for how much work someone does as an independent contractor to be eligible to apply for benefits? The [Aspen Institute](#) also recommends that policymakers consider how self-employed individuals and small businesses are affected and whether all eligible workers are required to participate in portable benefits programs.

Some states may not have large “gig worker” economies but still have substantial independent contractor populations. Some occupations, such as agricultural workers, freelance artists, accountants, electricians and real estate agents, are likely to have a substantial rate of independent contractors. It is important for states to keep this in mind when exploring the potential for portable benefits. An important question to ask is whether all independent contractors should be eligible, or if these programs should be tailored to certain occupations or industries.

STATE EXAMPLES:



[Washington state](#) has a program focused on providing workers compensation coverage, paid sick leave, and guaranteed minimum pay benefits specifically for rideshare drivers. This legislation keeps independent contractor status for rideshare drivers as well.



In 2018, a bill was introduced in the [Georgia](#) legislature to allow all independent contractors who worked through a contracting agent to choose from available benefits, including health insurance, paid time off and retirement. Some of these benefits, like health insurance and worker’s compensation would be pooled. Others, such as retirement, would potentially involve individual accounts. If this legislation passed, contracting agents would provide funds for the administration of benefits.



Virginia passed and enacted [House Bill 768](#) and [Senate Bill 335](#) which allows Virginia realtors to form association health plans. The legislation lets workers at real estate brokerage firms purchase health insurance through a shared pool regardless of worker classification.



Mechanisms for Funding and Distribution

- In portable arrangements, how closely linked are the amounts charged or contributed and the amounts actually necessary to provide and administer meaningful benefits?
- Much of the state legislation that has been introduced is designed to permit workers to accrue benefits as they work. But various state proposals contain different formulas connecting the amount of work someone performs to the amount of benefit funding that activity generates. Who pays, how much and is it adequate?
- What proportion of costs to fund and administer benefits is borne by workers, businesses, customers or taxpayers?
- What are the consequences of imposing costs on one set of stakeholders; for example, does mandating employer contributions at a certain level depress wages?

To benchmark cost, states could look at the cost of providing benefits to an employee in a traditional work arrangement. Fringe benefit rates vary from business to business but average about 30% of employer compensation costs. According to the Bureau of Labor Statistics, hourly wage and salary costs averaged \$27.19 and accounted for 70.4% of employer costs for private industry workers in March 2022, while hourly [benefit costs](#) were \$11.42 and accounted for 29.6%. But the scope and resulting cost of a portable benefits package for a contractor who works seasonally or pursues different kinds of work simultaneously may differ considerably from those offered in traditional arrangements. Benefits calculated to retain employees for the course of a career and provide holistic household support may not look the same for a nontraditional workforce that prizes flexibility.

Initial considerations with considerable cost implications include which portable benefits are offered and how they are structured—are they private, account-based plans, or risk-pooling measures with payouts based on benefit claims? As we’ve discussed elsewhere, group insurance can create economies of scale, which can carry substantial savings. But with pooling arrangements, policymakers must also account for the possibility of selective participation by workers who are more likely to have claims, which could drive up costs. Moreover, costs associated with long-term retirement benefit administration may differ greatly from those related to, say, health care, which are determined on an annual basis. For example, data from the Bureau of Labor Statistics indicates benefit costs for private industry workers ranged from \$1.33 per hour worked for retirement and savings to \$2.96 for insurance, including life, health, and short-term and long-term disability. Insurance costs accounted for 7.6% of total compensation costs according to a June 2022 [BLS survey](#) of employer costs for employee compensation.

In some state portable benefits proposals, companies would contribute a percentage of worker earnings during a preceding time period. For example, a [2021 bill](#) from Massachusetts set the company contribution rate at 4% of worker earnings in the preceding quarter and offered drivers an option to contribute over and above that amount. In contrast, a [2021 proposal](#) from Pennsylvania set the company contribution rate at 2% of a worker’s quarterly earnings.

What are the relative merits of mandatory versus voluntary contributions? Reliability could be one advantage of the former, while stakeholder buy-in could be easier to secure with the latter. Another question policymakers might consider is whether contributions might be mandatory for some stakeholders and voluntary for others. There is certainly wide variation in state bills, ranging from explicit formulas to more flexible approaches. A [2021 bill](#) from Wisconsin is an example of the latter, where companies could elect to contribute an unspecified percentage of worker earnings from the preceding quarter. Under this proposal, companies also retain discretion to permit worker contributions, setting up an entirely elective system where one company might choose to offer benefits as a competitive advantage to attract workers.

Another factor in assessing funding mechanisms and their implications for benefit adequacy is whether a contribution might change over time, such as an auto-escalation feature in retirement savings plan. Similarly, are there work or wage thresholds in place for participation in benefits programs in the first place? As previously mentioned, some state legislative proposals include earnings thresholds. A 2021 [Massachusetts bill](#) requires that earnings through a network company total at least \$2,550 during a quarter.

Policymakers may also wish to consider the allocation of costs between benefit provision and program administration. Some state legislation specifies what portion of collected funds may be directed toward administration. For example, in bills introduced in [Georgia](#), [New Jersey](#), and [Washington](#), qualified nonprofit benefit providers may use up to 5% of the contribution funds received for administration of benefits.

Some state legislation, including a [2018 bill](#) from Alabama, permits a surcharge on consumer transactions and allows a company's contribution amount for a given exchange to be added to the customer's bill. Other state bills, like those previously mentioned in Georgia, New Jersey and Washington, would require companies to contribute according to a formula that takes the lesser of 25% of a given transaction fee or \$6 per hour worked. Connecticut's [2021 legislation](#) applies a surcharge to each trip or delivery between 6% and 12% of the transaction and explicitly states that funding may not come from network workers' earnings.

At the heart of many proposals' funding schemes lies the concept of proration—ensuring that companies contribute in proportion to hours worked, dollars earned, transactions completed or other types of outputs a worker produces *for that company*. This notion of proportionality characterizes the aforementioned bills from Georgia, New Jersey, and Washington, which all apportion contributions per worker, per transaction. One follow-on question is whether a prorated contribution percentage is sufficient to move a worker toward meaningful benefit coverage.

Alternatively, government funding could provide a measure of stability for these programs and some insulation from market volatility. A tax on related goods or services or a fee imposed on businesses that deploy independent workers could generate revenue to fund benefits and their administration. For example, Pennsylvania's 2021 proposed legislation would require network companies to pay an initial fee of \$20,000 as a condition of membership in a portable benefits fund. The earlier bill from Alabama calls on participating platforms to pay a \$500 fee to a state agency to fund the program's administration. But government funding could pose fiscal and political challenges for states. And there are plenty of questions about which level of government—federal, state, local—might be best equipped to fund and administer portable benefit programs.

Finally, the advantages of worker funding may include an enhanced sense of ownership and incentives to take advantage of benefit offerings more fully. Should there be incentives for workers to increase their contributions or savings, such as a government or company matching contributions? It's worth noting that company matches may trigger ERISA protections and a host of complications for the companies involved. ([ERISA](#) is the federal law that sets minimum standards for retirement and benefit plans in private industry.) Another mechanism could be pre-tax contribution arrangements. Workers may exercise more control over their desired benefits/savings while also establishing a system that is more politically sustainable over the long run. While this may be the case, it is important to consider that low-income workers may struggle to self-fund at appropriate levels and seek to realize immediate income rather than diverting pay to benefits/savings accounts.

Evaluating Different Program Models for Integration and Implementation

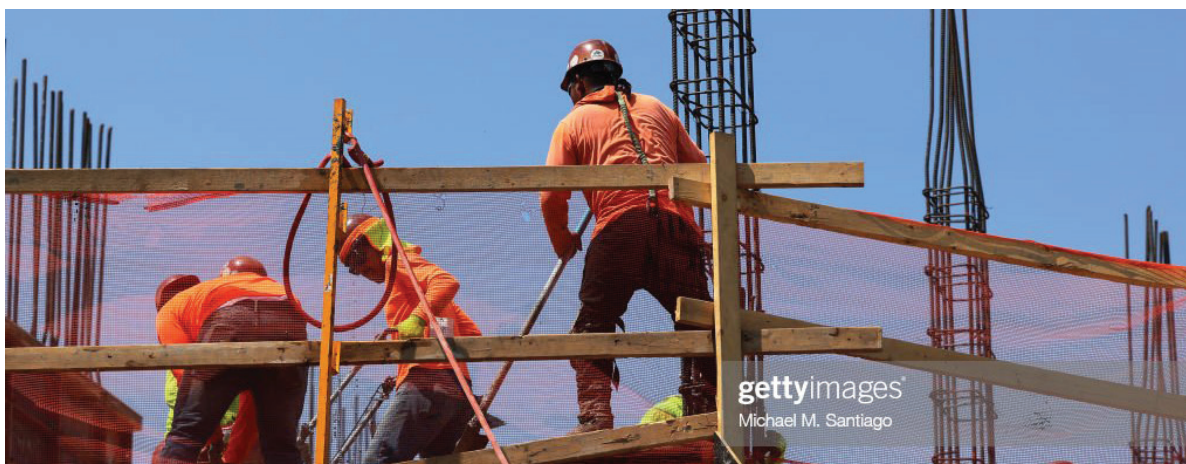
- What is involved in portable benefits administration and who should carry it out?
- What lessons might state policymakers draw from existing state benefits programs, state-facilitated (public-private partnership) models, private market solutions, international frameworks or from their own experiences using nontraditional workers?

Potential roles for a benefit administrator could include receiving contributions and monitoring related compliance issues; evaluating, selecting and contracting with benefit providers; and managing provisions related to program eligibility and service delivery. Questions quickly crop up about who is best positioned to do that work. Should portable benefits funds be administered by non-profits, for-profits (like financial institutions), state agencies, or some combination?

Previously introduced state legislation contemplates a variety of different administrative frameworks for portable benefits programs aimed at non-traditional workers. For example, [legislation](#) introduced in Massachusetts in 2021 directs the Department of Family and Medical Leave to promulgate rules applicable to banks that would administer portable benefit accounts for network company drivers. [Wisconsin's 2021 bill](#) also looks to financial institutions. Bills in [Georgia](#), [New Jersey](#), and [Washington](#) rely on qualified non-profit benefit providers, limiting the percentage of contributed funds that can be diverted for benefits administration. In those three proposals, state labor and workforce agencies are charged with adopting rules that govern qualified benefit providers, monitoring contracting agent compliance, and administering workers' compensation coverage.

State legislators want the flexibility to tailor any benefits program to the labor economy and political realities of their state. They envision portable benefits arrangements along a series of continuums, from those that serve platform-based gig workers in population centers to those tailored to the needs of seasonal agricultural laborers; from structures that echo traditional employee benefits packages designed to facilitate worker retention and long-term financial security to flexible, a la carte offerings that cater to shifting worker priorities; from publicly funded programs that may prioritize equity and uniformity to privately run packages that draw on industry-specific innovations and competition.

In that vein, the Aspen Institute analyzed some of the relative merits of public versus private programs. [Advantages](#) of public benefits administration include scale, inclusivity and accountability. Publicly run systems could yield efficiencies associated with larger risk pools. But creating new public programs can be challenging politically, and the process is both time and resource intensive. In contrast, for-profit governance could help keep costs low, processes efficient, and facilitate a speedy rollout. One vital consideration discussed elsewhere in this document is the role of purely private sector innovation such as short-term [disability insurance](#) products for gig workers or fintech platforms to address independent workers' tax, health insurance, emergency, and retirement savings needs in informing or ultimately leading the way to broader applications.



There are also compelling questions around public-private partnerships and how to leverage or expand existing public programs. For example, The [Federal-State Unemployment Insurance Program](#) is a joint effort between the states and the federal government to temporarily provide income to eligible workers. This public program is administered by the states and funded by employers. To [qualify](#) for unemployment insurance [benefit payments](#), every state requires claimants to be unemployed, able, available and actively searching for work in some capacity. Until the COVID-19 pandemic and the resulting economic downturn, independent contractors and other types of nontraditional workers were excluded from coverage. The pandemic era's temporary expansion of coverage has ignited debates about [improving](#) the portability and universality for unemployment insurance by revising eligibility criteria and simplifying documentation processes to better serve workers in non-standard arrangements.

In the meantime, state-facilitated retirement savings programs offer one example of public-private partnerships designed to afford a measure of benefit portability. In the last 10 years, state legislators have introduced and adopted a wide range of state-facilitated retirement savings programs, some of which feature IRAs that receive automatic deposits from workers' paychecks. These [programs](#) generally require employers of a certain size to offer their employees a way to save for their future. Businesses may sponsor their own 401(k) or similar savings vehicle, or their employees may participate in the state-facilitated alternative. In the latter type of arrangement, worker funds are pooled and professionally managed by financial services providers.

Thirteen states—California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, New Jersey, New Mexico, New York, Oregon and Virginia—have adopted similar auto-IRA programs in recent years. Implementation is already well underway in several states including [California](#), [Illinois](#) and [Oregon](#), whose combined saver assets now top [\\$500 million](#). Other state program variations include marketplaces, state-run “electronic clearinghouses” where businesses can find and compare retirement savings plans offered by private sector providers, and Multiple Employer Plans, in which several employers may band together voluntarily, offering higher contribution limits than an IRA and the potential for employer matching contributions. Recent innovations in the state-facilitated plan space include a first-of-its kind, [multistate collaboration](#) between Colorado and New Mexico, with the potential to increase access to portable benefits for workers, ease burdens on employers and smooth administration for the states and their industry partners. While most of these programs are currently geared toward employees, Maine's program must also permit individuals who are not employees, such as self-employed people and independent contractors, to participate.

Other models state policymakers are considering include multiple employer/Taft-Hartley plans in which several employers in the [same industry or geographic area](#) contribute according to the terms of a collective bargaining agreement. These contributions are pooled and invested for growth, and eventually, used to pay for plan members' benefits. The Taft-Hartley Act requires funds under these arrangements to be governed by boards of trustees with fiduciary duties, typically comprised of union and employer representatives, and invoke the Employee Retirement Income Security Act and National Labor Relations Act protections. The Screen Actors Guild-Producers Pension and Health Plan and the American Federation of Musicians Pension Fund are examples of this arrangement. Recent years have found some multiemployer plans [mired](#) in financial and legal trouble. Critical [considerations](#) for policymakers examining portable benefit design questions include the desirability and feasibility of linking benefits to collective bargaining regimes. Some observers question the fit between traditional collective bargaining and a nontraditional workforce whose members may hold seasonal jobs, perform multiple types of work simultaneously, or rarely interact. For example, high rates of movement between jobs may impact effective organizing among independent workers, [right-to-work laws](#) that have passed in many states may present special complications and the true portability of any benefits in a largely industry-specific scheme is a matter of debate.

One state legislative proposal which borrows from this multiple employer idea is [Connecticut's 2021 bill](#), whose sectoral bargaining provisions permit network workers to organize. They may seek representation on a tax-exempt industry council, creating collectively bargained recommendations regarding terms and conditions of work. Administration of portable benefit accounts and related funds, including the choice of providers, would be performed by a single nonprofit entity serving all of the industry councils in the state. Meanwhile, the director of the State Board of Labor Relations would maintain a supervisory role over the implementation of negotiated terms and conditions of work.

Legal Considerations

- How is the worker classification debate playing out across the United States?
- As overlapping jurisdictions create a patchwork of regulatory and enforcement environments, how can states pilot innovative policy solutions to allow non-traditional workers and companies to participate in the benefits space?

Worker classification issues are tightly bound up with portable benefits policy questions. According to many observers, the tests for determining worker classification have [not kept pace](#) with changes in the way people work. Nontraditional workers may not fit neatly into employee or contractor designations that were conceived centuries ago. The [consequences are steep](#) for companies forced to reclassify their workers as employees and could include new legal and regulatory obligations, increased compliance and compensation costs, and even fundamental changes to their business models. Broader economic [consequences](#) could include increases in price and limitations on services, innovation, and future economic development. Other observers caution against conflating two obligations—offering portable benefits does not negate the need to enforce existing worker classification laws. Not surprisingly, then, state legislative conversations often feature calls to think beyond the traditional employer/contractor dichotomy and create an entirely new class of worker.

A detailed analysis of state and federal worker classification law is outside the scope of this report. Worker classification tests are notoriously slippery, malleable and dynamic, with various multipart tests used to determine whether an individual is an independent contractor or an employee (depending on the type of inquiry and jurisdiction). Worker classification perspectives differ from state to state, and agency to agency. Policy prescriptions range from reclassifying workers from independent contractors to employees, to solidifying interpretations that self-employed workers are classified correctly, to eliminating the use of employment classifications altogether.

One vital classification problem for legislators exploring portable benefits appears to be whether the provision of benefits per se signals an employer-employee relationship. For example, in its worker status determination for federal tax purposes, the IRS takes benefit provision into account. It says, “if you receive benefits, such as insurance, pension, or paid leave, this is an indication that you may be an employee. If you do not receive benefits, however, you could be either an employee or an independent contractor.” Scholars have emphasized these complications among the barriers to gig platform workers’ receipt of benefits.

Some scholars have argued that the debate over whether to classify independent workers as contractors or employees is a [red herring](#). They assert that the labor market is highly heterogenous and that not all workers will benefit from a blunt classification as employees. For these scholars, the larger issue is how to modernize employment benefits and labor protections to fit with the realities of how people work today. In this view, policymakers should strive to create categories of protection that are not based on employee status, and allow workers and companies to enter into benefits and social safety net programs without fear of tripping worker classification laws. Some seek a safe harbor, legislation or regulations allowing companies to explore providing benefits to independent contractors without fear of those actions being held against them in future worker classification conversations.

The worker classification debate has played out across the United States as overlapping jurisdictions create patchwork regulatory and enforcement environments. The federal government has changed its perspective on self-employed worker classification from administration to administration, states pursue novel solutions state-by-state, and a consensus remains likely years away. In the meantime, states—as the laboratory of experimentation—lead the way in piloting innovative systems to allow non-traditional workers and companies to participate in the benefits space.



Data Collection, Evaluation and Analysis

- How will a new program gather data and who will administer it?
- How will a new program be evaluated, how often and by whom?
- Will there be funding available for pilots, program evaluation and analysis?

As states begin to implement portable benefits programs or pilots, data collection and evaluation is vital in determining what is working for all stakeholders, workers, employers and the state, and what is not. As noted at the start of this report, state level data on independent contractors and other nontraditional workers is not perfect. But as noted in the [Aspen Institute's Portable Benefits in Action report](#), creating new portable benefits systems has the added advantage of generating more data that could lead to beneficial interventions for these workers. According to NCSL's [The ABCs of Evidence-Informed Policymaking](#), collecting research and data can help state policymakers “target resources to programs and policies that are effective, promote innovation, improve transparency in budgeting, and build and sustain a culture of continuous learning and improvement.”

The need for data collection and research on portable benefits has been an interest in a handful of states over the last few years. In 2019, Georgia's [Senate Study Committee on Portable Benefits for Independent Workers](#) spent a good deal of time examining the issue, including funding and legal challenges, and collecting state-level data. Although their final report did not recommend legislation, it did recommend continued research in the state. A [2018 bill in Iowa](#) similarly sought to study the feasibility of establishing a portable benefits program for nontraditional workers in the state, including who should administer the program, what benefits to include, and the method of financing the benefits.



Dedicating resources to this data collection, research and analysis can lead to the best policy decisions for the state. However, collecting and analyzing data and evaluating new or existing programs can be expensive and require up-front costs.

There have been a handful of efforts at the state and federal levels to create innovation funds, allowing states to implement and evaluate different existing or new models for providing portable benefits. In 2016, the U.S. Department of Labor's Women's Bureau [awarded research grants to three programs](#) in Chicago, Seattle and Massachusetts for portable retirement savings plans for low-wage workers. Legislation was introduced in [Massachusetts in 2019](#) to establish an innovation fund for portable benefits for independent contractors but was not enacted.

The [Aspen Institute's Future of Work Initiative](#) has recommended the United States Department of Labor create an innovation fund of \$25 million to be granted to states and nonprofits to evaluate existing and new models of portable benefits. The Initiative suggests the grants be awarded “based on whether the portable benefit models (1) are portable across businesses, jobs, or on-demand platforms, and ideally

across sectors; (2) accommodate pro-rated contributions from multiple businesses, jobs, or on-demand platforms on behalf of an individual worker; and (3) are potentially scalable to a nation level.”

In multiple recent sessions, bipartisan legislation has been introduced in Congress that closely resembles the Future of Work Initiative's suggestion. [The Portable Benefits for Independent Workers Pilot Program Act](#) would authorize the U.S. Department of Labor to award \$5 million in grants to states and nonprofits in the evaluation of existing portable benefits models and \$15 million in the design, implementation, and evaluation of new portable benefits models.

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The Portable Benefits Work Group first convened in May of 2022 with the goal of developing, identifying and refining key principles for implementing portable benefits. The bipartisan group included state legislators and legislative staff from nine states across the country. The group met virtually and in-person throughout 2022 to refine principles and advise NCSL on future portable benefits projects.

NCSL extends deep appreciation to each work group member for reviewing multiple drafts of this report and for contributing their thoughts and opinions over the course of 2022. We are grateful to them for consistently dedicating their time and energy to this project. Through the group's engagement, we were able to develop this report built to advise other policymakers on the important considerations and principles for implementing portable benefit systems in their states. It is the intent of NCSL and this work group that the principles presented here will help guide and inform portable benefits policy now and into the future.

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