

# CREATING A 21<sup>ST</sup> CENTURY SOCIAL CONTRACT

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### **Social contract**

*The social contract includes the employer-based benefits system and the government-based safety net programs that surround workers. It represents the relationship and responsibilities between the private sector and public sector and the American worker.*

### **Traditional full-time workers**

*Those who have a direct employer-employee work arrangement. These workers generally have access to employer-sponsored health insurance, retirement benefits, paid leave, and other benefits.*

Generations of advocates, policymakers, and thought leaders have fought for the benefits, worker protections and social safety net enjoyed by most working Americans. Advances made during the Great Depression and post-World War II eras, and the **social contract** that was established at that time, made our workforce the envy of the world. As American GIs returned home to enter the workforce, the nation made unprecedented investments in the skills of our people through policies such as the GI Bill, expanding upon the social contract created during the Great Depression. This turned America into an economic super power of shared prosperity that built a strong middle class. For reasons that made economic sense at the time, that social contract was mainly offered through an unofficial public-private partnership between the government and employers. The government incentivized companies to offer benefits to their employees, and, in turn, provided a safety net to those workers who fell out of the workforce.

Our goal has always been, and must remain, to protect and advance the interests of the American worker. Prior generations designed our safety net and benefits system for a **traditional full-time worker** who spends their career with one employer. However, in recent decades, relentless attacks on organized labor and the disruption of work by globalization and technology has accelerated changing dynamics between workers

### Benefits

*Generally refer to the employer-based benefit system, including employer-sponsored group health insurance plans, retirement savings, paid time off, workers' compensation, and others. The relationship and responsibilities between the private sector and public sector and the American worker.*

### Alternative workers

*Those who work through alternative arrangements, meaning they are not employees of the companies for which they directly work. [Click here](#) and [here](#) to learn about the various types of alternative work arrangements.*

### Safety net

*Refers to government sponsored support programs and worker protections, including social security, worker displacement assistance, and labor protections like antidiscrimination provisions.*

and companies, and given rise to **alternative work**.<sup>1</sup> American workers now live in two different worlds: many still enjoy the stability of the 20<sup>th</sup> century social contract, while a growing number of workers find themselves left out of employment protections, benefits, and the financial security that comes with them.

**American workers now live in two different worlds: many still enjoy the stability of the 20<sup>th</sup> century social contract, while a growing number of workers find themselves left out of employment protections, benefits, and the financial security that comes with them.**

The New Democrat Coalition (NDC) believes all workers should have the opportunity to earn a good life. Unfortunately, many laws and regulations governing the employee-employer relationship are in need of updates. As workers change jobs or industries due to disruption, hold multiple jobs at once, or work in alternative arrangements, legacy employer-provided benefits and protections may no longer meet their needs. The New Democrat Coalition supports updating the social contract by creating an option of portable benefits, modernizing the worker safety net, and expanding eligibility for these protections and programs. Doing so would give more American workers financial security, and help unleash the independence, innovation, and economic potential of our workforce.

**Creating an option of portable benefits, modernizing the worker safety net, and expanding eligibility...would give more American workers financial security, and help unleash the independence, innovation, and economic potential of our workforce.**

1. Note: Alternative workers as defined by the Bureau of Labor Statistics (BLS) make up just 10 percent of the total working population as of May 2017. Economists generally argue this figure is likely lower than reality due to the subjective nature of the questions, and because the BLS data only measures primary alternative work. For example, Katz and Krueger estimated alternative workers made up 15.8 percent of all workers in 2015, and the University of Chicago's General Social Survey (GSS) found that 20.3 percent of workers had independent arrangements. When measuring for non-primary alternative work, the Federal Reserve Bank of New York found that roughly 34 percent of U.S. adults engage in alternative work.





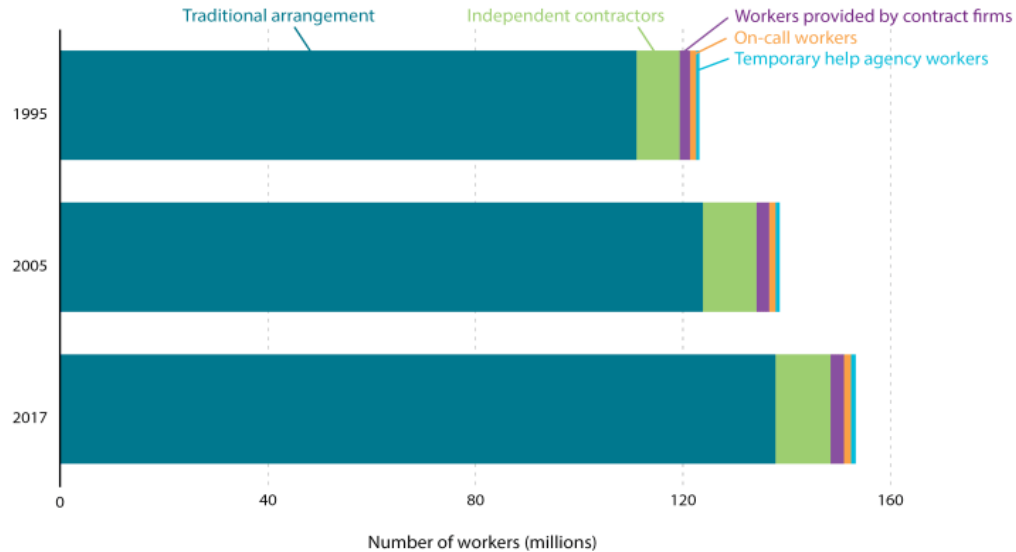
## TODAY'S WORK LANDSCAPE

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While the vast majority of workers operate within the traditional employer-employee system, today's workers are increasingly on their own either by choice or circumstance<sup>2</sup> as more jobs are becoming short-term, project-based and temporary. The alternative workforce—including independent contractors, on-call workers, temporary help agency workers, workers provided by contract firms, gig economy workers, and contingent workers—has grown in recent decades.<sup>3</sup> The Bureau of Labor and Statistics' (BLS) recent Contingent Worker Supplement (CWS) found that the portion of the American workforce engaged in alternative work as primary employment has remained relatively constant over the last two decades.<sup>4</sup> However, the growth of alternative work can also be measured by those who may have primary traditional employment and engage in

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2. Cornell University ILR School and The Aspen Institute Future of Work Initiative, (2018) "[What are the experiences of gig workers?](#)", Gig Economy Data Hub
  3. Cornell University ILR School and The Aspen Institute Future of Work Initiative, (2018) "[How many gig workers are there?](#)", Gig Economy Data Hub
  4. Bureau of Labor Statistics (2018), "[Contingent and Alternative Employment Arrangements](#)", U.S. Department of Labor

## Workers by Type of Employment, 1995, 2005, and 2017



Source: Bureau of Labor Statistics Current Population Survey Contingent Worker Survey 1995, 2005, 2017.  
 Note: The sample for the Contingent Worker Supplement is all employed persons in the monthly Current Population Survey. Respondents answered questions about contingent and alternative work arrangements based on the characteristics of their main job, i.e. the job at which they worked the most hours.

THE HAMILTON  
PROJECT  
BROOKINGS

Above: Shambaugh, Jay; Nunn, Ryan; Bauer, Lauren (2018) *"Independent Workers and the Modern Labor Market"*, The Hamilton Project, Brookings Institution

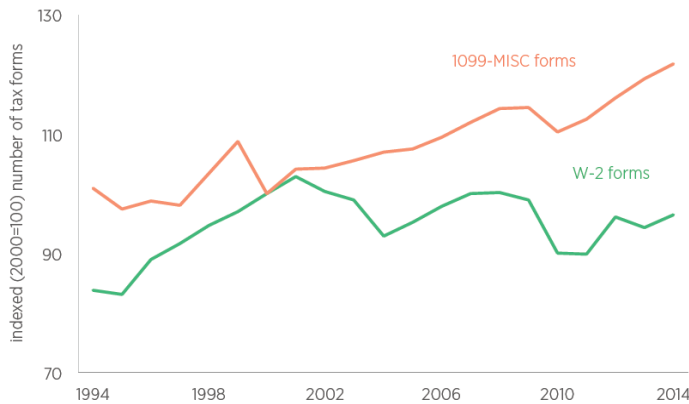
the alternative workforce to supplement their income.<sup>5</sup> The population of workers operating outside of traditional full-time employment grows even more when inclusive of standard part-time workers<sup>6</sup> who, like alternative workers, sometimes must piece together multiple part-time jobs to string together a full-time income.<sup>7</sup>

**Our goal has always been, and must remain, to protect and advance the American worker.**

The trend toward alternative and part-time work has several causes, including: workers embracing the independence alternative work provides to monetize unused

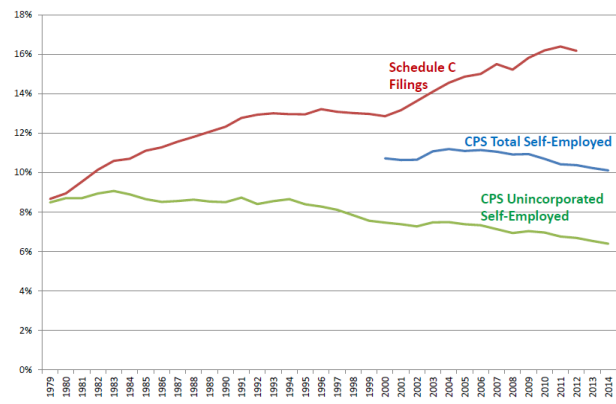
5. Bracha, Anat and Burke, Mary A. (2018), "Wage Inflation and Informal Work", Federal Reserve Bank of Boston
6. Jeszeck, Charles A. (2015), "Contingent Workforce: Size, Characteristics, Earnings, and Benefits", U.S. Government Accountability Office Note: The GAO report found that, based on their analysis of 2010 GSS data, 40.4 percent of the workforce operates outside of traditional employment structures. This includes both alternative workers, standard part-time workers, and self-employed workers not self-identified as independent contractors.
7. Swanson, Ana (2016), "Who gets hurt when part-time work becomes the new normal", The Washington Post; Golden, Lonnie (2016), "Still falling short on hours and pay" Economic Policy Institute

## IRS Data on Nonstandard Work Filings over Time



**Source:** Dourado and Koopman (2015) using IRS data.

**Note:** Form 1099-MISC is used to report income received outside traditional employment relationships, such as from Uber, TaskRabbit, and Airbnb.



**Source:** Katz and Krueger (2016) using IRS data.

**Note:** Schedule C (Form 1040) is used to report earnings or losses from operating business or practicing a profession as a sole proprietor.

Above: Bracha, Anat and Burke, Mary A. (2018), "[Wage Inflation and Informal Work](#)", Federal Reserve Bank of Boston

time, space, and labor; workers turning toward alternative work as a flexible way to supplement income or because they cannot find traditional work; or due to fissuring of the workplace, in which some firms intentionally misclassify workers or replace full-time employees with alternative and part-time workers, sometimes to avoid the costs of employer-based benefits. Our goal has always been, and must remain, to protect and advance the interests of the American worker.

The employer-employee relationship extends beyond salary and job responsibility. Employment status determines eligibility for employer-sponsored benefits, worker protections and access to government support programs often referred to as the safety net. Our benefits and safety net laws and regulations favor work arrangements that are traditional full-time arrangements. Traditional full-time workers make up the majority of the overall workforce<sup>8</sup> and are more likely than other workers to have access to employer-sponsored benefits like health insurance and retirement savings, protection from workplace discrimination and harassment, and safety net programs such as unemployment insurance or worker displacement assistance.

8. Bureau of Labor Statistics, (2018) "[Contingent and Alternative Employment Arrangements](#)" Table 5, U.S. Department of Labor. Note: Many economists believe the latest BLS data underrepresents the alternative worker population. Several members of the New Democrat Coalition have advocated for better funding, more frequent surveying, and improved and expanded questions to better measure alternative work.

### ***The 20<sup>th</sup> century social contract is not serving the non-traditional worker population***

Because alternative workers are not employees of the companies where they work (ex: independent contractors and temporary workers), our current system excludes them from many protections and benefits designed for and afforded to direct full-time employees. Offering access to employer-sponsored benefits to certain alternative workers could trigger a reclassification as an employee. Fearful of inviting litigation, and sometimes reluctant to make the additional investments in their workforces, companies have instead opted to refrain from offering most alternative workers access to, or substitutes for, company sponsored benefits, such as retirement savings, health insurance, and job protected leave.

Part-time workers often face the same challenges as these alternative workers. While part-time workers who have a direct employment relationship with a firm can often access benefits and the social safety net, many of the mandated protections, such as those in the Family Medical Leave Act (FMLA) and the Affordable Care Act (ACA), depend on the number of hours worked by an employee. For example, a company is not required to offer health insurance to a part-time employee who works fewer than 30 hours per week. We must work to ensure that workers not covered by the current system are not being left out or left behind.

Our employee benefit system still reflects a post-World War II era where people work for one company their whole lives and receive full benefits from that company when our workforce no longer reflects that reality. For example, the federal government spends \$260 billion per year subsidizing employer-sponsored health insurance through the exclusion of employer's contributions from taxable income with no analog for alternative or part-time workers who have limited or no access to employer-provided insurance.<sup>9</sup> The Affordable Care Act created health insurance exchanges to offer insurance to those left behind by our employer-based system, and one in five participants in ACA health insurance exchanges are small business owners or self-employed.<sup>10</sup> The ACA extended affordable coverage to millions of Americans, and despite that advancement, as well as the need to support other workers excluded from the employer-sponsored health insurance, Republicans in Congress have continued to attack and undermine the ACA, which has kept it from truly serving as a platform for portability, access, and affordability.

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9. Congressional Budget Office, (2013), "[The Distribution of Major Tax Expenditures in the Individual Income Tax System](#)", U.S. Congress

10. Reder, Libby; Foster, Natalie (2017) "[Health insurance portability key for independent workers' access to coverage](#)", The Aspen Institute

The uneven treatment of our workers is not limited to healthcare. Among the many benefits traditional full-time workers generally enjoy, and alternative and part-time workers have significantly less access to, are also: retirement savings, paid and unpaid leave, worker's compensation, and education and training. This disparity of access extends to our government-sponsored social safety net. Alternative and standard part-time workers have limited or no access to unemployment insurance, worker displacement assistance, and certain labor and wage protections. See Appendix A for more details on how different types of workers access the social contract.

**Today's policymakers must step into the breach to give every American the opportunity to succeed.**

For some workers, third-party organizations facilitate access to benefits and other protections that traditional workers are offered through employers and the government.<sup>11</sup> The Freelancers Union, for example, provides many independent workers the opportunity for members to purchase benefits and protections provided through the union. By opting-in, these workers have access to negotiated benefits, such as medical, disability, and term life insurance. Other unions and guilds, like those for TV or movie production and construction workers who tend to have project-based work, serve a similar function for their membership. They offer benefits at a negotiated rate; however, unlike the Freelancers Union, the guilds and unions receive pro-rated benefits contributions on behalf of workers from the companies at which they work. Additionally, New York State passed a statute in 1999 to establish the Black Car Fund (BCF), which is funded through a surcharge on consumers and provides and administers workers compensation insurance, as well as vision and telemedicine benefits. Recently through efforts to the Independent Drivers Guild, drivers for ride sharing companies received access to benefits offered through the BCF. While these efforts deserve commendation and further exploration, they also vividly demonstrate the glaring lack of momentum amongst policymakers to address the looming crisis at a national level. Today's policymakers must step into the breach to give every American the opportunity to succeed.

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11. Reder, Libby; Foster, Natalie; Nelson, Greg (2016), "[Portable Benefits Resource Guide](#)", The Aspen Institute Future of Work Initiative





## PRINCIPLES FOR CREATING A 21<sup>ST</sup> CENTURY SOCIAL CONTRACT THAT WORKS FOR THE FUTURE

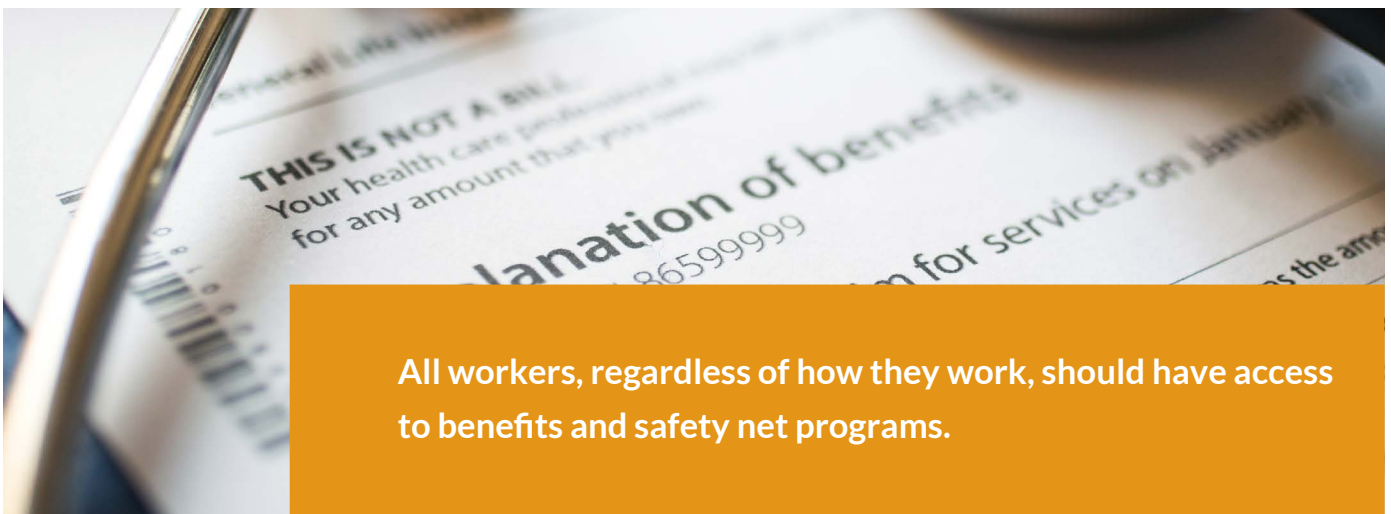
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The New Democrat Coalition believes our benefits and safety net structures should change to meet the needs of the 21<sup>st</sup> century workforce. All workers should have certainty and security, and all companies should be able to provide benefits to those who do work for them. Because the provision of our benefits and safety net systems exist through a partnership with the private sector, efforts to modernize the systems should maintain the expectations and requirements of the private sector to provide or contribute towards these systems. To achieve that, we need a modern social contract for the 21<sup>st</sup> century.

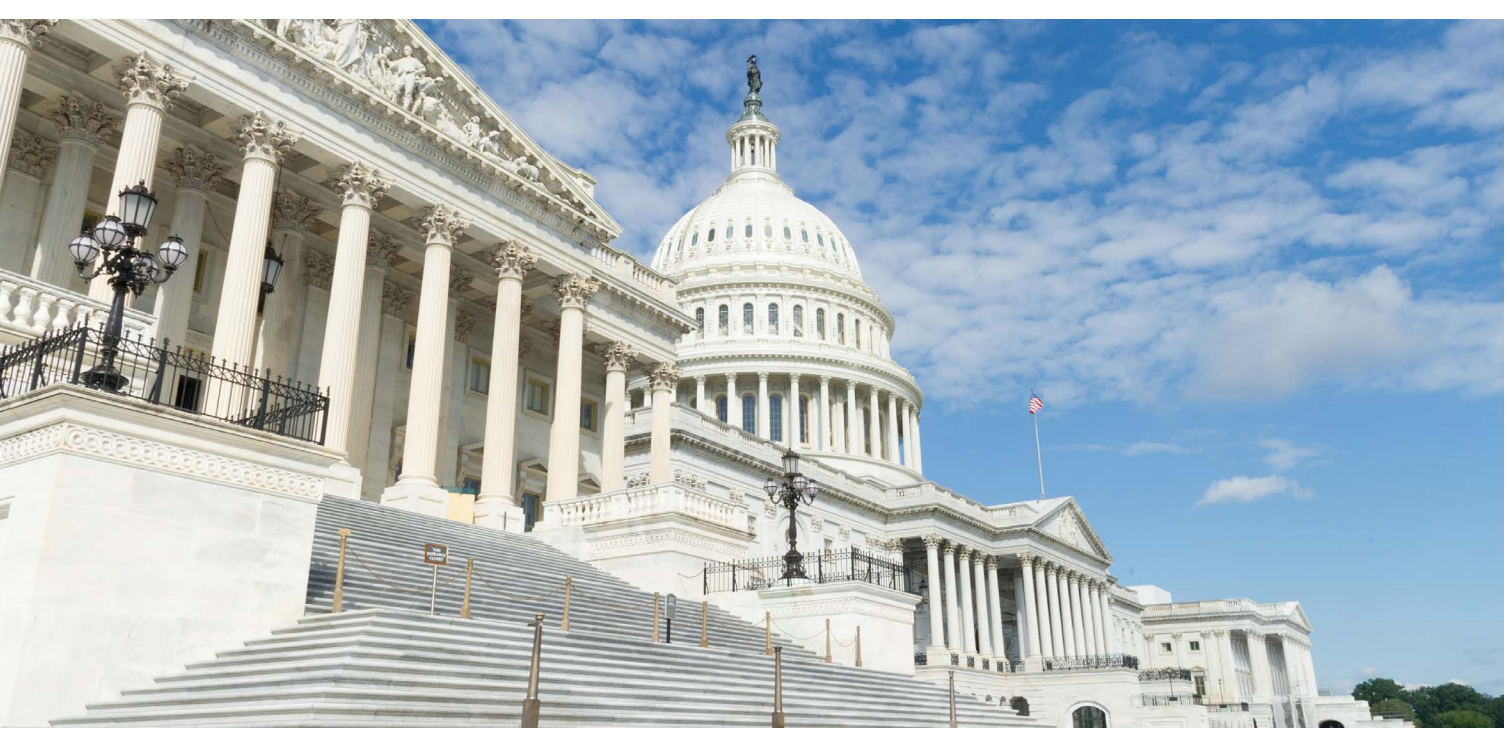
**All workers should have certainty and security, and all companies should be able to provide benefits to those who do work for them.**

We suggest three overall principles for a new social contract:

- I. Universal:** All workers should have access to benefits and safety net programs. Employers are still expected to participate in the system and should receive equitable treatment from the government for providing all workers with benefits regardless of the means of provision, whether directly through employer sponsored benefits or indirectly through stipends given to workers to acquire benefits independently. We should maintain what works in the existing employer and multiemployer-based benefits models while making modifications to meet the shifting landscape of the changing economy and workforce. Furthermore, all workers, regardless of classification, should receive basic protections and access to the safety net.
- II. Portable:** All workers should have the choice to access worker benefits, protections, and the safety net untethered from employers to provide portability, security and mobility. Workers should maintain continuous access to the same type of benefits regardless of where and when they work. A new system should enable companies to make pro-rated contributions on behalf of workers, based on the amount of work they do with that company, and in a way that does not reduce the responsibility companies currently have to provide benefits.
- III. Innovative:** All workers will benefit from innovation in the benefits system and safety net. We must expand access to and modernize the foundation of the social contract by rethinking how the safety net and benefits support all workers today and in the future. We should also promote innovation by local and state governments as well as other non-governmental organizations with a goal of scaling what works.



All workers, regardless of how they work, should have access to benefits and safety net programs.



## POLICY RECOMMENDATIONS

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In the realm of public policy, maintaining the status quo often wins out as it offers the path of least resistance. When dealing with the challenges faced by American workers in the 21<sup>st</sup> century, however, maintaining the status quo is leaving many people behind. The times are changing, and we must change with them. Like a shark, if we are not moving forward, we are slowly dying.

**To effectively serve the 21<sup>st</sup> century worker, the private sector and government must come together to modernize the entire social contract.**

We must modernize not only our benefits system, which exists largely within a private sector infrastructure, but also the government-sponsored social safety net, which does not reach the needs of all Americans workers. To effectively serve the 21<sup>st</sup> century

worker, the private sector and government must come together to modernize the entire social contract. To ensure that we have a social contract that works for the future, the New Democrat Coalition recommends exploring the following policies:

### ***Support innovation and experimentation***

A national effort to provide a 21<sup>st</sup> century social contract to workers will take time to develop and fully implement. In the interim, federal policymakers should empower innovation and experimentation at lower levels of government and in the private sector who can act more quickly and take risks. Doing so will fill a void that currently exists and develop options policymakers could scale nationally.

**Fund innovative portable benefit pilots:** Congress should establish and seed a portable benefits pilot grant fund at the Department of Labor to help fund the design, implementation and evaluation of new and existing models and approaches to provide portable benefits. Through a competitive grant program, state, local, and non-profit organizations can experiment with innovative ways to reach more workers left out of the current benefits model. Senator Mark Warner and NDC Vice Chairwoman Suzan DelBene led a group of NDC Members to introduce the *Portable Benefits for Independent Workers Pilot Program Act*, bicameral legislation to establish the fund to provide such grants.

**Support private sector and non-profit innovation:** Like the Freelancers Union, many private sector entities are filling the void of government inaction. Congress should support these efforts. Where appropriate, the federal government should grant a limited safe harbor from worker misclassification liability to entities who provide benefits or contributions toward benefits to non-traditional workers not classified as employees.

**Health insurance, retirement savings, training, paid leave, and workers compensation, among others, are core benefits that make up the social contract that enables workers to live the American Dream.**

### ***Develop benefit models that work for all workers***

Building on the innovation and experimentation occurring in the private sector and local and state governments, federal policymakers should take steps to design a benefits system that works for all workers. Health insurance, retirement savings, training, paid

leave, and workers compensation, among others, are core benefits that make up the social contract that enables workers to live the American Dream. In developing a 21<sup>st</sup> century social contract, benefits systems and the social safety net should be available to workers regardless of their work arrangement.

**Create parity for workers and companies in the benefits system:** In developing a 21<sup>st</sup> century social contract, all workers should have access to benefits—including retirement savings, healthcare insurance, and disability insurance—either directly through employer-sponsored plans or through portable benefits systems. Employer contributions to worker-controlled accounts for both traditional and alternative workers should be treated as another form of direct, tax-preferred compensation and not trigger changes in worker classification. Similarly, were companies to give access to their employer-sponsored group plans to certain alternative workers, this benefit should not trigger changes in worker classification. Furthermore, federal policy should provide equal tax preferences for providing benefits to workers regardless of how they choose to access these crucial benefits. To have benefits be truly portable, we eventually should allow all workers—traditional full-time, part-time, and alternative—to choose their benefits plans and how and where they are managed.

**The Affordable Care Act established the first federally supported system of privately administered portable benefits.**

**Turn the Affordable Care Act health insurance exchanges into a portable benefits model of excellence:** Every American should have access to affordable health insurance for themselves and their families. Passage of the *Affordable Care Act* established the first federally supported system of privately administered portable benefits. The ACA created state-based exchanges where consumers and small businesses shop for and purchase health insurance. Small businesses that use the ACA exchanges (Small Business Health Options Program or SHOP exchanges) can make tax-exempt premium contributions on behalf of their employees just as they would for employer-sponsored plans.<sup>12</sup> The ACA should be the foundation for a truly portable system for workers and other Americans to receive health insurance benefits.

**Stabilize and expand upon the ACA to achieve universal coverage:** Unfortunately, since the ACA's passage, Congressional Republicans and now the Trump Administration

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12. ["Overview of SHOP: Health insurance for small businesses", HealthCare.gov](#)



## **Health Reimbursement Accounts (HRAs)**

*Employer-funded accounts from which employees are reimbursed tax-free for qualified medical expenses up to a fixed dollar amount per year. Unused amounts may be rolled over to be used in subsequent years. The employer funds and owns the account.*

## **Qualified small business health reimbursement arrangements (QSEHRAs)**

*Can be used for qualified out of pocket medical expenses, including health insurance premiums for non-employer-based plans. The 21<sup>st</sup> Century Cures Act signed into law in December 2016 allows for small businesses to use HRAs to fund employees who purchase health insurance on the individual market.*

have sabotaged the implementation of the ACA, driving up costs and limiting access. Congress should take immediate action to stabilize and improve the ACA along the lines of the proposals outlined by the New Democrat Coalition in our July 2017 [Solutions Over Politics plan](#). As Congress seeks to stabilize the ACA, it should also focus on expanding the number of quality coverage options consumers can access through the ACA markets, including the individual and small business SHOP exchanges. Expanding market coverage is one important way to increase market competition and lower premium costs. Auto-enrolling individuals eligible for premium assistance or Medicaid, creating more affordable plans for individuals with low usage of care, and streamlining enrollment periods to increase participation will also improve access and affordability. NDC Health Care Task Force Co-Chairman Ami Bera introduced three bills to strengthen the ACA and move towards universal coverage: the Pathway to Universal Coverage Act, the Modernize Health Savings Act, and the Easy Enrollment Act.

**Create portable health insurance accounts:** Building on the model of **qualified small employer health reimbursement arrangements** (QSEHRAs), Congress should establish portable health insurance accounts (PHIA) for workers who currently do not receive health insurance through work. Through a PHIA, workers would receive tax-exempt contributions from companies or other sources of income to put toward purchasing health insurance on an ACA exchange. While maintaining overall employer requirements under the ACA, contributions should be encouraged where they are not currently required. For example, small companies that are currently exempt from the ACA employer mandate, or part-time and alternative workers who do not count as full-time employees under the law. Further, to promote true portability of health insurance and consistent coverage as workers change jobs, we should explore how we could eventually expand this model, while minimizing adverse selection, to provide workers eligible for employer-sponsored health insurance with the option to apply their employer's full existing contribution to a PHIA in lieu of participation in an employer's plan.

**Promote the ACA for gap coverage:** When workers leave a company that provides employer-sponsored health insurance, the company is only required to inform them of their Consolidated Omnibus Budget Reconciliation Act (COBRA) eligibility, which allows workers to extend their health insurance coverage by purchasing the plan at full price. Congress should require companies to also inform workers that they qualify for a special enrollment period to acquire insurance coverage through the ACA exchange, which in many cases may be cheaper than a COBRA plan. NDC Rep. Brad Schneider introduced the Common SENSE Act to achieve this.

**In addition to keeping our commitments to workers who have paid into the Social Security system, every worker should have a savings vehicle to help provide financial security in retirement.**

**Give all workers access to retirement savings:** The current retirement savings system is not working for all Americans. Millions of Americans are unable to properly prepare for retirement. America's current retirement savings system is complex, reliant on employers, and leaves out many working Americans. While employer-sponsored plans are a good option for those covered, not every company offers one and part-time and alternative workers often do not have access to these plans. In addition to keeping our commitments to workers who have paid into the Social Security system, every worker should have a savings vehicle to help provide financial security in retirement. Unfortunately, moreover, the current system makes companies, most lacking in investment expertise, liable for the management of their employees' savings. This can be burdensome and costly for employers, discouraging some from offering retirement accounts. We need improvements to the system to offer more options to workers to retire with dignity and security.

***Make it easier for more employers to provide retirement savings vehicles to workers:***

While the current 401(k) system works well for employees of large and established businesses, most people who work for small businesses have significantly less access to retirement savings due to the cost and liability of running a small business plan. Changes to federal law can expand access for more workers to the employer-based retirement savings system and allow companies to encourage more savings by their employees. We support reforms to expand access to open multiple employer plans (MEP), which allow multiple small employers to establish shared retirement savings plans, by streamlining the process to make it easier for companies to join. Doing so will allow more workers to have access to employer-based retirement plans. As an example of one way to do this, NDC Chairman Emeritus Ron Kind co-introduced the *Retirement Enhancement & Savings Act (RESA)*, which includes Open MEP and other reforms to expand access to and increase savings within the employer-based retirement system.

***Allow for universal portable retirement accounts:*** All Americans should have access to a portable savings vehicle that they can carry throughout their lifetime, regardless

of work arrangement. Workers should also have the option to have tax-advantaged employer contributions made into one individually managed account that follows them as they change or work multiple jobs. As an example of one way to do this, NDC Chairman Jim Himes will introduce the *Personal Retirement Investment Account (PRIA) Act*, which would give Americans greater flexibility in how they save for their futures. The bill establishes a universal retirement savings vehicle connected to the worker through their lifetime that is able to receive employer contributions and allows individuals to choose where to keep their savings within the existing market of qualified providers.

**Make company retirement contributions the norm:** Building on top of what currently exists and is proposed above, Congress should consider requiring companies to make a minimum contribution to retirement accounts for workers not already covered by an employer-based retirement plan. Companies would be required to make a minimum contribution per hour worked while workers would be encouraged to make their own contributions as well. To offset the cost of the employer's contribution in the early years, eligible businesses would receive a tax credit for a portion of their contributions.

**Lifelong learning is core to a worker's financial security.**

**Make lifelong learning more worker centric and portable:** As was discussed in [Closing the Skills and Opportunity Gaps](#), workers need to constantly update their skills. Lifelong learning is core to a worker's financial security. To provide workers a way to stay current on relevant skills outside of training they may receive at work, Congress should establish lifelong learning accounts. Similar to health savings accounts, lifelong learning accounts would be a tax preferred savings vehicle for workers and employers to contribute into an individual, portable account. The accounts would be available for workers to pay for eligible skills training, career-related learning and professional development programs of their choosing throughout their careers. NDC Vice Chairman Derek Kilmer introduced the Skills Investment Act to establish these accounts.

**Create Worker Benefit Accounts for other benefits:** Non-traditional workers need access to other benefits that are generally offered by employers to traditional workers. These benefits include, but are not limited to, workers' compensation insurance, disability insurance and paid leave. To provide access to these benefits, Congress

should create Worker Benefit Accounts, similar to the accounts discussed for portable health insurance contributions, for alternative workers. They would be funded through paycheck withholding, and the accounts could be used to purchase additional benefits through a benefits portal. These portals would be established either by the federal government, state and local governments, or third parties, which would establish a similar network to ACA exchanges. Companies would be encouraged to make pre-tax contributions to workers' portable benefits accounts regardless of work arrangements.

**The safety net should lift American workers up, not exacerbate the challenges of variable work schedules and economic pain through overly prohibitive hoops, like stricter work requirements.**

### ***Modernize the government-sponsored safety net to catch all workers***

We support modernizing the social safety net to make sure all workers, regardless of their work arrangement, have access to appropriate federal support systems. The safety net should lift American workers up, not exacerbate the challenges of variable work schedules and economic pain through overly prohibitive hoops, like stricter work requirements. Just as the nature of work has changed, so should the safety net that serves to protect workers when they are in between jobs, critically injured or disabled, reach retirement age, or need other support later in life.

**Protect the civil rights of all workers:** There are several federal statutes that protect employees from workplace and job applicant discrimination. We should find ways to expand appropriate provisions that provide these protections to independent contractors without disrupting their work arrangements or infringing on their independence.

**Update unemployment insurance for all workers:** All workers should be protected by unemployment insurance regardless of their work arrangement. Reforms should be made to expand coverage to independent workers who can demonstrate an involuntary loss of income akin to a traditional worker being laid off. In addition, unemployment eligibility formulas and rules should be updated so workers are not discouraged from performing non-traditional work to make ends meet as they seek their next career opportunity.

**Establish reemployment insurance:** All workers should have the tools to get reemployed. Worker displacement programs like trade adjustment assistance (TAA) are focused on acute impacts for groups of workers; those who lose their job due to trade imports may be most well-known. As noted in [Closing the Skills and Opportunity Gaps](#), many of the federal programs focused on retraining displaced workers are not inclusive, do not consistently prepare those seeking reemployment for in-demand jobs, place a premium on immediate employment over long-term employment (often sending displaced workers to temporary help agencies), and can be slow to help displaced applicants as they work to validate the claimed cause of job loss. We should replace the fragmented and clunky worker displacement programs of the old economy with an individualized, earned reemployment insurance benefit available to all workers regardless of their work arrangement. In concert with the income support received through unemployment insurance, reemployment insurance would be tailored to the needs of individuals by providing a training grant for certified programs, a stipend to relocate for a new job, or a bonus for landing a new job early. Because of its flexibility, reemployment insurance would also complement the individuality and flexibility of lifelong learning savings accounts.

**All workers should have the tools to get reemployed.**

**Simplify taxes for alternative workers:** All workers should have the ability to file their taxes with relative ease regardless of how they work. Currently, tax filing is significantly more burdensome for independent workers.<sup>13</sup> Congress should consider simplifying and standardizing tax reporting process for those who engage in alternative work. We could also create a standard business deduction for eligible independent contractors that file with 1099 tax forms to ease some of the administrative burden of tracking and itemizing business expenses. Furthermore, while employers withhold Social Security, Medicare, and income taxes for direct employees, independent contractors do not have taxes withheld on paychecks and therefore must estimate how much they will owe and make four payments to the Internal Revenue Service (IRS) throughout the year. We should give independent workers the option to have payers withhold expected income taxes and *Federal Insurance Contributions Act* taxes (commonly referred to as FICA, which cover contributions for Social Security and Medicare) from their compensation and report those withholdings to the IRS.

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13. Fitzpayne, Alastair; Steward, Shelly; Pollack, Ethan (2018), "[Tax Simplification for Independent Workers](#)", The Aspen Institute





## CONCLUSION

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At our nation's founding, Americans pieced together income through agricultural and artisanal work. As the American economy developed, workers were drawn to employers for job security, steady pay, and, eventually, benefits. The next chapter of America's economic evolution, in which workers are increasingly likely to be on their own, either by choice or circumstance, requires an update to the regulatory framework. Policymakers have a duty to empower the fiercely independent, hard-working, and optimistic spirit that embodies the American people. Giving all workers access to a 21<sup>st</sup> century social contract and expanding portability will support independence and entrepreneurship and provide all workers with the security and opportunity to succeed.

**Giving all workers access to a 21<sup>st</sup> century social contract and expanding portability will support independence and entrepreneurship and provide all workers with the security and opportunity to succeed.**

## APPENDIX

### *Benefits and the worker social safety net: Access for traditional full-time workers vs. alternative and part-time workers.*

Traditional full-time employees generally have access to the following employer sponsored benefits:	Non-traditional workers have limited or no access to many employer-sponsored benefits:
<p><b>Health insurance</b></p> <p>Many workers are covered by employer-sponsored insurance (ESI), or private market, employer-based group plans. The ACA included several provisions that expanded protections for workers under these plans,<sup>1</sup> and imposed penalties on certain employers with 50 or more full-time equivalent workers (those working 30 hours or more per week) if they failed to offer affordable health coverage.<sup>2</sup></p> <p>At some point in 2017, 88.7 percent of all workers (aged 18-64) and 90.2 percent of full-time workers had health insurance coverage. Of this working population, 71.7 percent of all workers and 77.1 percent of full-time workers had employer-based coverage, including employees and individuals on a spouse's or parent's employer-based plan.</p> <p>At some point in 2017, 88.7 percent of all workers (aged 18-64) and 90.2 percent of full-time workers had employer-based coverage, including employees and individuals on</p>	<p>For part-time workers, the ACA exempts companies from having to provide health insurance to part-time employees who work less than 30 hours a week. For alternative workers, especially independent contractors, companies are generally limited in their ability to provide health insurance since the worker is not a direct employee. 84.9 percent of part-time workers had health insurance coverage at some point of 2017. This gap widens even further when we look at access to employer-based coverage: 57.7 percent of part-time workers received employer-based coverage (25.1 percent through their own employer).</p> <p>Finally, part-time workers are much more likely to have health insurance coverage outside of an employer: 17.5 percent of part-time workers and are covered through direct-purchase plans, and 22.6 percent of part-time workers are covered by a government plan.<sup>4</sup></p>
<ol style="list-style-type: none"> <li>1. Employee Benefits Security Administration (2018), "Affordable Care Act - Information for Workers and Families", U.S. Department of Labor</li> <li>2. Whittaker, Julie (2016), "The Affordable Care Act's (ACA) Employer Shared Responsibility Determination and the Potential Employer Penalty", Congressional Research Service</li> </ol>	

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<p><i>Health insurance continued</i></p> <p>a spouse's or parent's employer-based plan. Within the employer-based population, 52.2 percent of all workers and 62.8 percent of full-time workers were covered by their own employer-based plans.</p> <p>Outside of the employer-based system, 14.6 percent of all workers and 13.1 percent of full-time workers had direct purchase insurance, and 14.2 percent of all workers and 10.9 percent of full-time workers were covered by a government plan, including Medicaid and Medicare.<sup>3</sup> Employers are able to make pre-tax contributions toward health costs for their employees.</p>	<p>Furthermore, the recent Contingent Worker Supplement (CWS) report found that, as of May 2017, 73.4 to 75.1 percent of contingent workers and 75.4 percent of independent contractors, 77 percent of on-call workers, 67.3 percent of temporary help agency workers, and 85.3 percent of workers provided by contract firms had health insurance coverage. Those with employer-based health insurance include anywhere from 13.4 to 25.1 percent of contingent workers, 28.2 percent of on-call workers, 12.8 percent of temporary help agency workers, and 41.3 percent of workers provided by contract firms.<sup>5</sup> Note, the data does not measure employer-based coverage for independent contractors and the self-employed.</p>
<p>3. U.S. Census Bureau (2017), "Health Insurance Coverage in 2017", U.S. Department of Commerce                      Note: these figures will not add up to 100% because the survey measures coverage at any point in the year, meaning a worker could have reported being covered by both Medicaid coverage and employ-based coverage at different points in the year.</p> <p>4. U.S. Census Bureau (2017), "Health Insurance Coverage in 2017", U.S. Department of Commerce                      Note: these figures will not add up to 100% because the survey measures coverage at any point in the year, meaning a worker could have reported being covered by both Medicaid coverage and employer-based coverage at different points in the year. This data also does not further differentiate by worker classification (alternative vs. traditional) beyond full-time vs. part-time.</p> <p>5. Bureau of Labor Statistics (2018), "Contingent and Alternative Employment Arrangements" Table 9, U.S. Department of Labor</p>	

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<p><b>Retirement savings</b></p> <p>While employer-based retirement plans and employer contributions are not required, many contribute to these plans to both attract talent and minimize taxable income.<sup>6</sup></p> <p>According to the Bureau of Labor Statistic (BLS) Employee Benefits Survey, 66 percent of all workers and 77 percent of full-time workers have access to employer-sponsored retirement benefits. While 50 percent of all workers and 60 percent of full-time workers participate in a retirement benefit plan, 75 percent of all workers and 78 percent of full-time with access to a plan participate.<sup>7</sup> The Employee Retirement Income Security Act (ERISA) of 1974 established the regulation of and standards for private sector plans and fiduciaries, as well as protections for participants.<sup>8</sup></p>	<p>Part-time workers have less access to employer-based retirement plans than traditional full-time workers. Only 38 percent of part-time workers have access to employer-sponsored retirement benefits, and only 21 percent participate. Of part-time workers with access, the take-up rate is low, with only 56 percent participating.<sup>9</sup> For alternative workers, companies are generally limited in their ability to provide retirement contributions since the worker is not an employee and providing contributions could disrupt that relationship.</p>
<p>6. Morrissey, Monique (2016), "<a href="#">The State of American Retirement</a>", Economic Policy Institute</p> <p>7. Bureau of Labor Statistics (2017), "<a href="#">Employee Benefits Survey</a>", U.S. Department of Labor</p> <p>8. Purcell, Patrick (2009), "<a href="#">Summary of the Employee Retirement Income Security Act (ERISA)</a>", Congressional Research Service</p> <p>9. Bureau of Labor Statistics (2017), "<a href="#">Employee Benefits Survey</a>", U.S. Department of Labor</p>	

Traditional full-time employees generally have access to the following employer sponsored benefits:	Non-traditional workers have limited or no access to many employer-sponsored benefits:
<p><b>Paid and unpaid leave</b></p> <p>The Family and Medical Leave Act (FMLA) provides certain workers with 12 weeks of unpaid, job-protected leave for the birth and care of an employee’s child, for the placement of an adopted or foster child, to care for an immediate family member with a serious health condition, and to take medical leave when faced with a serious health condition. FMLA only applies to employees who have worked with their employer for at least 12 months and has worked at least 1,250 hours in the last year. FMLA exempts small employers, applying only to those with 50 or more employees within 75 miles of the place of work. Under these provisions, only 59 percent of American employees qualify for FMLA-protected leave, and many do not take their allowed leave because of lack of pay protection.<sup>10</sup> Today, however, some employers do offer paid leave, with 84 percent of full-time workers and 36 percent of part-time workers having access to paid sick leave.<sup>11</sup></p>	<p>Part-time workers are not eligible for FMLA if they do not meet the minimum of 1,250 hours worked (just over 24 hours per week) over the previous year. While alternative workers who control their own schedules may have more flexibility to take leave, they are ineligible for FMLA protected, job-guaranteed leave. Furthermore, while there is no federal requirement that employers offer paid leave, many do. Part-time workers’ access to this paid leave is based on the individual policies set by their employer, with 36 percent having access to paid sick leave.<sup>12</sup> Alternative workers generally do not have access to employer paid leave.</p>
<p>10. Mathur, Aparna; Sawhill, Isabel et al. (2017), “Paid Family and Medical Leave”, AEI-Brookings Working Group on Paid Family Leave 11. Engler, John (2018), “The Work Ahead Machines, Skills, and U.S. Leadership in the Twenty-First Century”, Council on Foreign Relations</p>	



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<p><b>Workers' compensation</b></p> <p>Workers who qualify for workers' compensation are entitled to full medical coverage and cash benefits to replace a portion of lost wages when a worker becomes injured, ill, or dies as a result of their employment. Workers' compensation is largely administered at the state level.</p>	<p>While workers' compensation is regulated and administered at the state level, part-time workers are generally covered by the same policies that cover full time workers. Certain alternative workers assume all liability for their work and are not covered by a company's workers' compensation policy.</p>
<p><b>Education and Training</b></p> <p>In general, it would appear employer-sponsored and on-the-job training is available to less workers than in the 1990s. The latest available data shows that 11.2 percent of workers in 2008 received employer-sponsored training, and 8.4 percent received on-the-job training.<sup>13</sup> However, as the half-life of skills grows shorter and the skills gap grows broader, anecdotal evidence suggests more employers are beginning to make serious investments in education and training for their employees. Employers are able to make tax deductible contributions toward an employee's education and training expenses up to a certain limit. It is not, however, a requirement for employers to make such contributions.</p>	<p>Because company contributions toward training and education expenses are not required, there is not much data that delineates between the availability of employer-based training or employer contributions toward traditional and non-traditional workers. However, it stands to reason that existing models make it more difficult for such training and contributions to be made for non-employees, and therefore non-traditional workers likely have less access to this benefit.</p>
<p>12. Engler, John (2018), "The Work Ahead Machines, Skills, and U.S. Leadership in the Twenty-First Century", Council on Foreign Relations</p> <p>13. Council of Economic Advisers (2015), "Economic Report of the President", via U.S. Census Bureau, Survey of Income and Program Participation</p>	

Traditional full-time employees have access to government established safety net and worker protections such as:	Non-traditional workers have limited or no access to government established safety net and worker protections such as:
<p><b>Unemployment insurance</b></p> <p>Currently, the Department of Labor’s Unemployment Insurance (UI) programs provide unemployment benefits—including unemployment compensation (UC), a “work sharing” program, and self-employment assistance (SEA)—to eligible workers who become unemployed through no fault of their own and meet certain other eligibility requirements.<sup>14</sup></p>	<p>While part-time workers may be eligible based on earnings over the previous 52-week period similar to full-time workers, they are often penalized for income earned from other part-time jobs while seeking reemployment. Alternative workers not classified as employees generally do not qualify for unemployment insurance; however, certain self-employed individuals may be eligible if they paid unemployment insurance taxes for themselves.<sup>15</sup></p>
<p><b>Worker displacement assistance</b></p> <p>Programs such as Trade Adjustment Assistance for Workers (TAA) provides federal assistance to workers who have involuntarily lost their jobs due to externalities outside of their firm’s control.<sup>16</sup></p>	<p>Part-time workers generally have access to worker displacement assistance, though there may be certain state level eligibility requirements. Certain alternative workers do not qualify for worker displacement assistance.</p>
<p><b>Labor, wage and employment discrimination protection</b></p> <p>The Fair Labor Standards Act (FLSA) provides employees with minimum wage, overtime pay, child labor protections, and discrimination protection. The FLSA covers most, but not all, private and public sector employees. In addition, certain employers and employees are exempt from coverage.</p>	<p>The FLSA protects part-time workers meaning they are eligible for minimum wage, overtime pay, child labor protections, and discrimination protection. Alternative workers are exempted from many FLSA protections on wages and discrimination protection since they are not direct employees.</p>
<p>14. “Unemployment Insurance”, U.S. Department of Labor                      15. Keefer, Amber (2018), “If a Business Shuts Down Can the Owner Get Unemployment Benefits?”, Chron                      16. Collins, Benjamin (2018), “Trade Adjustment Assistance for Workers and the TAA Reauthorization Act of 2015”, Congressional Research Service</p>	

