



# **MODERNIZING UNEMPLOYMENT INSURANCE FOR THE CHANGING NATURE OF WORK**

**By Conor McKay, Ethan Pollack, and  
Alastair Fitzpayne**

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**THE ASPEN INSTITUTE'S FUTURE OF WORK INITIATIVE** is a nonpartisan effort to identify concrete ways to address the challenges American workers and businesses face due to the changing nature of work in the 21<sup>st</sup> century. The growth of the independent workforce, the increased importance of education and skills as a result of new technologies and increased automation, and the focus on short-term profits over long-term value creation are impacting workers and businesses today, and could bring dramatic changes in the years ahead. Rather than waiting to react to future disruptions, it is critical to address the changes transforming the U.S. economy by investing in workers and strengthening preparedness for the jobs of the future. The Initiative focuses on policy solutions at the federal, state, and local level to:

- Improve economic security for both traditional and independent workers
- Expand investment in and access to effective education and training programs
- Reduce pressure on businesses to prioritize short-term profits and encourage investment in long-term value creation

Established in 2015, the Initiative is driven by the leadership of Honorary Co-Chairs Senator Mark R. Warner and Purdue University President and former Governor of Indiana Mitch Daniels, Co-Chairs John Bridgeland and Bruce Reed. Executive Director Alastair Fitzpayne leads an Aspen Institute staff, based in Washington, DC. For more information, visit [www.aspeninstitute.org/futureofwork](http://www.aspeninstitute.org/futureofwork).

# EXECUTIVE SUMMARY

**CREATED IN 1935**, Unemployment Insurance (UI) is a central pillar of the social insurance system for American workers. The UI program – which is overseen by the U.S. Department of Labor and administered by the states – collects payroll taxes from employers to insure workers against unexpected job loss. Eligible workers who become unemployed through no fault of their own can receive temporary income support while they search for reemployment. In 2016, the program paid \$32 billion to 6.2 million out-of-work individuals.

UI is one of America's most important anti-poverty programs for individuals and families, serving as a key counter-cyclical stabilizer for the broader economy. In 2009, the worst year of the Great Recession, the UI program kept 5 million Americans out of poverty,<sup>1</sup> and prevented an estimated 1.4 million foreclosures between 2008 and 2012.<sup>2</sup> During the Great Recession, the entire UI program – including normal and extended unemployment benefits – created roughly two dollars of economic activity for each dollar spent, and closed nearly 20 percent of the gap in real GDP caused by the Great Recession.<sup>3</sup>

Despite UI's history of helping workers weather difficult economic times, labor market changes require policymakers to enact reforms that strengthen its ability to protect them in the 21<sup>st</sup> century. UI was designed to insure traditional, full-time workers, and to help them return to traditional, full-time work. But today, growing numbers of Americans are working in non-traditional jobs. Growth in non-traditional work has contributed to a long-term decline in the percentage of unemployed workers eligible for UI. With automation and globalization threatening major disruptions in the job market, policymakers should strengthen the UI program now, while unemployment is low and the economy is strong, so that it is better able to help both traditional and non-traditional workers who lose their jobs in the next economic downturn.

The first section of the paper reviews changes in the labor market since UI was created. Although most workers still have traditional full-time jobs, the prevalence of non-traditional work has increased. Non-traditional work includes self-employed, independent contractors and freelancers who operate outside formal employer-employee relationships. Other types of non-traditional arrangements include temp-agency workers, on-call workers, contract company workers, multiple jobholders, and part-time workers. These arrangements can be structured as W-2 employment, yet do not provide traditional, stable full-time work. While non-traditional work can provide increased flexibility, it can also heighten job<sup>4</sup> and financial insecurity,<sup>5</sup> and can leave workers without access to critical employment-based benefits and protections.<sup>6</sup>

1 Sherman and Trisi 2015. "Safety Net More Effective Against Poverty Than Previously Thought." Center on Budget and Policy Priorities. May 6. <https://www.cbpp.org/research/poverty-and-inequality/safety-net-more-effective-against-poverty-than-previously-thought>

2 Hsu, Matsa, and Melzer 2014. "Positive Externalities of Social Insurance: Unemployment Insurance and Consumer Credit." National Bureau of Economic Research. July. <http://www.nber.org/papers/w20353>

3 Vroman 2010. "The Role of Unemployment Insurance As an Automatic Stabilizer During a Recession." The Urban Institute and IMPAQ International. July. [https://wdr.doleta.gov/research/fulltext\\_documents/etaop2010-10.pdf](https://wdr.doleta.gov/research/fulltext_documents/etaop2010-10.pdf)

4 Government Accountability Office 2015. "Contingent Workforce: Size, Characteristics, Earnings, and Benefits." April 20. <http://www.gao.gov/assets/670/669766.pdf>

5 Aspen Institute Future of Work Initiative 2017. "Toward a New Capitalism: The Promise of Opportunity and the Future of Work." January 12. <https://www.aspeninstitute.org/publications/the-promise-of-opportunity-and-the-future-of-work/>

6 Foster, Nelson, and Reder 2016. "Portable Benefits Resource Guide." Aspen Institute Future of Work Initiative. July. <https://www.aspeninstitute.org/publications/portable-benefits-resource-guide/>

The second section of the paper explains why workers in non-traditional jobs often lack UI coverage. Independent contractors and freelancers are excluded from UI because they do not work for a traditional employer that would make contributions on their behalf. Other non-traditional workers, such as part-time workers, can qualify for UI as a benefit of W-2 employment, but are disadvantaged relative to traditional workers in how the program is structured.

The third section of the paper discusses the opportunity to use non-traditional work to help unemployed Americans return to the labor market. Most states generally require UI recipients to seek traditional full-time work in order to continue receiving benefits, even if their original jobs were part-time. Very few states offer Self-Employment Assistance (SEA) to help UI recipients become entrepreneurs. Further, there are structural incentives that discourage regional workforce offices from helping workers find and prepare for non-traditional work.

The final section of the paper reviews proposals to modernize the UI program to account for the growth in non-traditional work. The proposals are grouped according to three goals: first, protecting independent contractors – who currently lack UI coverage – from job and income loss; second, providing better coverage to non-traditional workers in W-2 arrangements; and third, supporting entrepreneurship and voluntary transitions from unemployment into non-traditional work.

The paper does not include proposals for improving the solvency of state UI trust funds, as it focuses on reforms to broaden eligibility for workers in non-traditional work arrangements. However, the authors strongly support improving solvency as an important goal of any UI reform effort.

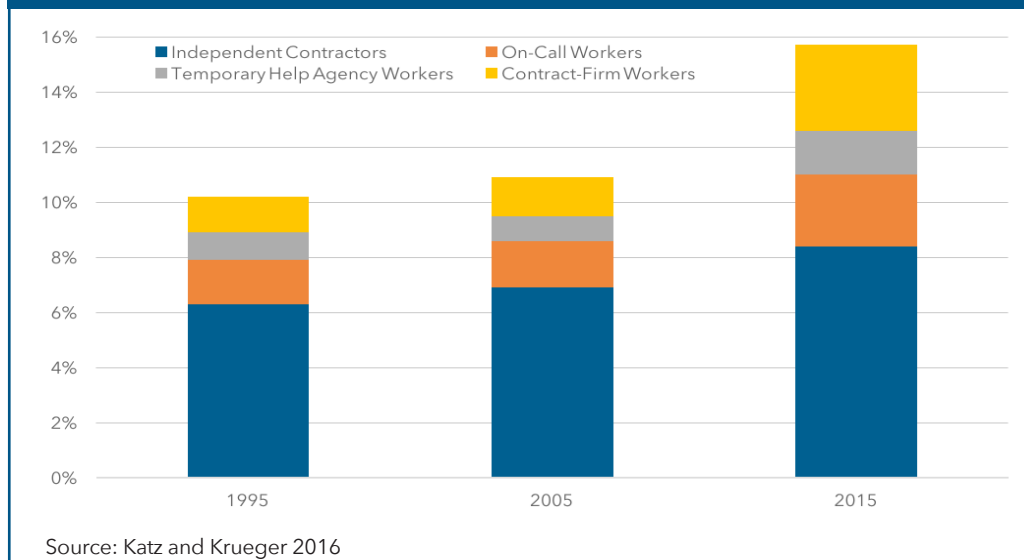
The proposals to modernize UI represent ideas from across the political spectrum. While more research and pilot projects are needed to assess their effectiveness, we hope their inclusion in the paper will advance the conversation about how to update the UI program and help workers adapt to the rapidly changing economy.

# I. BACKGROUND

## THE GROWTH OF NON-TRADITIONAL WORK AND INCREASED FINANCIAL AND JOB INSTABILITY

**THE NATURE OF WORK IS CHANGING.** Although the majority of workers remain in traditional, full-time W-2 employment, the share of workers engaged in non-traditional work has grown over the last ten years. According to economists Lawrence Katz and Alan Krueger, from 2005 to 2015 the percentage of the workforce participating in what they describe as “alternative” work arrangements – which includes independent contractors, temp workers, on-call workers, and contract firm workers – increased by nearly 50 percent, from 10.7 to 15.8 percent (see Chart 1). This rise accounts for 94 percent of all net job growth over that decade.<sup>7</sup> Other analyses have found similar increases in non-traditional work in recent years.<sup>8</sup>

CHART 1: PERCENTAGE OF THE EMPLOYED IN ALTERNATIVE WORK ARRANGEMENTS



Non-traditional workers experience more financial instability than those in traditional full-time work. According to a Century Foundation analysis of the Survey of Income and Program Participation, non-traditional workers experience nearly twice as

*From 2005 to 2015, the percentage of the workforce participating in "alternative" work arrangements – which includes independent contractors, temp workers, on-call workers, and contract firm workers – increased by nearly 50 percent.*

7 Katz and Krueger 2016. "The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015." National Bureau of Economic Research. September. <http://www.nber.org/papers/w22667>

Katz and Krueger also found that the share of tax filers with Schedule C income – the filing for unincorporated self-employment income – rose steadily from 8.7 percent in 1979 to 16.5 percent in 2014. And though cyclical forces tend to increase the prevalence of non-traditional work generally, the economists have shown in other research that the Great Recession accounts for only a modest amount of the overall recent growth in alternative work arrangements.

Katz and Krueger 2017. "The Role of Unemployment in the Rise in Alternative Work Arrangements." American Economic Review Papers and Proceedings. <https://scholar.harvard.edu/katz/publications/role-unemployment-rise-alternative-work-arrangements>

8 An analysis of IRS data by the Mercatus Center found that from 2000 to 2014 the number of 1099-MISC tax forms filed by employers – those received by independent contractors – increased 22 percent, while the number of W-2 forms filed for traditional employees fell 3.5 percent.

Dourado and Koopman 2015. "Evaluating the Growth of the 1099 Workforce." Mercatus Center at George Mason University. December 10. <https://www.mercatus.org/publication/evaluating-growth-1099-workforce>

A 2016 research synthesis by The Rockefeller Foundation and The Bridgespan Group reported that at least 36 million workers are engaged in independent work today in some capacity. This number constitutes roughly a quarter of the U.S. workforce, and is predicted to reach between 33 percent and 50 percent by 2020.

Carlton, Korberg, Pike, and Seldon 2016. "The Freedom, Insecurity, and Future of Independent Work." Stanford Social Innovation Review. December 16. [https://ssir.org/articles/entry/the\\_freedom\\_insecurity\\_and\\_future\\_of\\_independent\\_work](https://ssir.org/articles/entry/the_freedom_insecurity_and_future_of_independent_work)

much earnings volatility as standard workers.<sup>9</sup> Drawing on tax-filing data on low- and middle-income taxpayers from TurboTax, the Aspen Institute's Financial Security Program found that self-employed workers were 58 percent more likely to experience income volatility than full-time traditional workers.<sup>10</sup>

Non-traditional workers are also more likely to experience job instability. Independent contractors were more than twice as likely as standard full-time workers to report having been previously laid off in the prior year, while temporary, on-call, and contract company workers were three times more likely.<sup>11</sup> Similarly, a GAO analysis of Census data found that "contingent workers" – those whose jobs are considered temporary in nature, or whose schedules are variable and unpredictable – have a job separation rate "several times higher" than that of the overall labor force, with between 11.7 percent and 16.2 percent leaving the labor force or losing their job in a given month.<sup>12</sup> The UI system can help address this financial instability, but non-traditional workers often lack UI coverage, and those who do have coverage are often disadvantaged by how the program is structured.

## II. NON-TRADITIONAL WORKERS HAVE POOR ACCESS TO UI

**BECAUSE THE UI SYSTEM WAS DESIGNED** for traditional workers, it does not adequately cover non-traditional workers. There are two reasons for this shortcoming. First, in order to be covered by UI, a worker must have a W-2 employment relationship with their employer, which excludes independent contractors and freelancers. Second, though other non-traditional workers work under a W-2 employment relationship, they are nonetheless disadvantaged by a system that favors stable full-time work over other arrangements. Work history requirements can disqualify workers with less stable employment, part-time, and low-paid work.<sup>13</sup> Waiting periods – which delay UI eligibility by one week after an unemployed worker applies for benefits<sup>14</sup> – can disadvantage non-traditional workers who are more likely to experience multiple bouts of unemployment.<sup>15</sup>

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9 Stettner, Cassidy, and Wentworth 2016. "A New Safety Net for An Era of Unstable Earnings." The Century Foundation. December 15. <https://tcf.org/content/report/new-safety-net-for-an-era-of-unstable-earnings/>

10 Roll, Mitchell, Bufer, Lynne, and Grinstein-Weiss 2017. "The Experience of Volatility in Low- and Moderate-Income Households: Results From a National Survey." Aspen Institute's Expanding Prosperity Impact Collaborative (EPIC) and Washington University's Center for Social Development (CSD). October. [https://assets.aspeninstitute.org/content/uploads/2017/10/ASPEN\\_RESEARCH\\_INCOME\\_VOLATILITY\\_CSD-Web.pdf](https://assets.aspeninstitute.org/content/uploads/2017/10/ASPEN_RESEARCH_INCOME_VOLATILITY_CSD-Web.pdf)

11 Government Accountability Office 2015.

12 Ibid.

13 Most states define their base period as the first four of the last five completed calendar quarters. Under this calculation, the most recent three months of a worker's earnings are not counted toward UI eligibility or weekly benefit amount. Although the purpose of these limitations is to restrict UI eligibility to those with strong ties to the labor market, they disadvantage workers in non-traditional arrangements who have strong labor market ties but who transition into and out of various types of work, leading to uneven or intermittent earnings histories in both covered and uncovered employment. While most states have adopted alternative base periods (ABPs) – which allow workers who would otherwise not be eligible under the traditional base period to count more recent earnings toward their UI benefits – some states have not, and some that do only do so for workers with a verifiable disability or workers' compensation claim.

Earnings thresholds often require workers earn above a minimum amount during a Base Period to be eligible to receive benefits. Often these thresholds include a minimum amount earned during a single quarter ('high quarter') as well as a minimum over the entire base period (often one and a half times the high quarter amount). In some states, to meet the minimum high quarter amount could require having worked 25 hours or more per week for an entire quarter if earning minimum wage. Inevitably, this could disadvantage part-time workers, particularly if they are low-income.

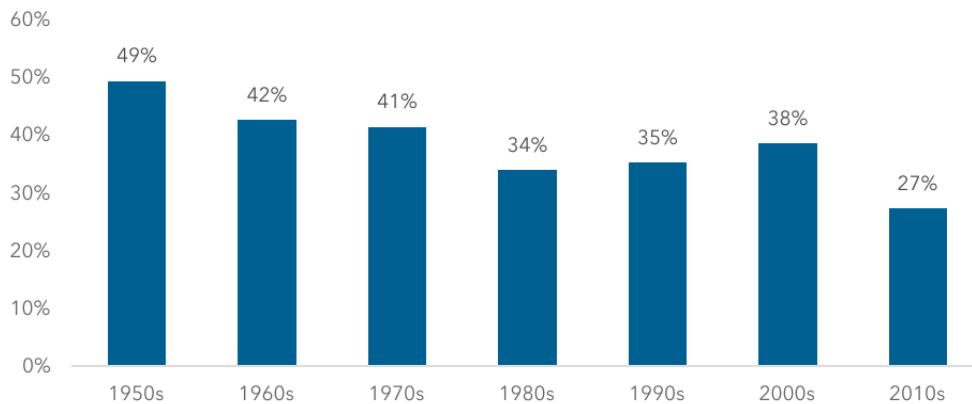
Department of Labor 2017. "Comparison of State Unemployment Insurance Laws." <https://workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2017/complete.pdf>

14 Ibid.

15 Government Accountability Office 2015.

Given that UI eligibility requirements exclude independent contractors and disadvantage other non-traditional workers, it is unsurprising that as this segment of the workforce has grown, the percentage of workers covered by UI has fallen to historic lows. The percent of unemployed workers who receive unemployment benefits fell from an average of about 50 percent in the 1950s<sup>16</sup> to about 35 percent in 1990s<sup>17</sup> to under 30 percent since 2010 (see Chart 2).<sup>18</sup> While there are multiple factors driving the long-term decline in the reciprocity rate, changes in the way people work and how businesses organize labor are major contributing factors.<sup>19</sup>

**CHART 2: SHARE OF UNEMPLOYED WORKERS RECEIVING UNEMPLOYMENT INSURANCE BENEFITS**



Source: U.S. Department of Labor, Unemployment Insurance Chartbook. Chart A12.  
<https://workforcesecurity.doleta.gov/unemploy/chartbook.asp>

### III. UI DOES NOT SUPPORT RE-EMPLOYMENT IN NON-TRADITIONAL WORK

**WHEN A WORKER IS LAID OFF**, non-traditional work can help the worker re-enter the labor market. The longer a worker is unemployed, the more difficult it is to return to the labor force. Skills can atrophy or become outdated, and resume gaps can deter potential employers.<sup>20</sup> A worker's future earnings generally decrease as unemployment

<sup>16</sup> McMurrer and Chasanov 1995. "Trends in Unemployment Insurance Benefits." Monthly Labor Review. September. <https://www.bls.gov/opub/mlr/1995/09/art4full.pdf>

<sup>17</sup> McHugh and Kimball 2015. "How Low Can We Go? State Unemployment Insurance Programs Exclude Record Numbers of Jobless Workers." Economic Policy Institute. March 9. <http://www.epi.org/publication/how-low-can-we-go-state-unemployment-insurance-programs-exclude-record-numbers-of-jobless-workers/>

<sup>18</sup> The lowest rates of annual average insured unemployment in the U.S. have all come since 2011. Department of Labor 2018. "Unemployment Insurance Chartbook." Last accessed January 24. <https://oui.doleta.gov/unemploy/chartbook.asp>

<sup>19</sup> Other factors that have contributed to the declining reciprocity rates include workforce demographics, growth in the number of long-term unemployed, and the lowering of maximum lengths of UI receipt in some states. For further discussion on causes for declining reciprocity: Office of Management and Budget. "Meeting Our Greatest Challenges: Opportunity for All." Budget of the United States Government, Fiscal Year 2017. <https://obamawhitehouse.archives.gov/sites/default/files/omb/budget/fy2017/assets/opportunity.pdf>

<sup>20</sup> Bartash 2014. "Why companies are wary to hire long-term unemployed." MarketWatch. April 3. <https://www.marketwatch.com/story/%20why-companies-are-wary-to-hire-the-long-term-unemployed-2014-04-03>

duration increases,<sup>21</sup> and lower wages after unemployment can persist for years.<sup>22</sup> While independent contracting and other non-traditional work do not typically offer the same long-run stability as traditional full-time jobs, they can help workers maintain existing skills, acquire new skills, and earn vital income as they search for more stable employment. The scheduling flexibility offered by non-traditional arrangements may be particularly valuable for some workers, such as for those juggling caregiver responsibilities, dealing with housing or transportation instability, or managing health conditions. Additionally, engaging in discrete independent contracting and freelancing opportunities can help prepare workers to transition into a more permanent career in self-employment. In both cases, non-traditional work can be an on-ramp back to stable, secure work.

UI eligibility rules often discourage unemployed Americans from seeking part-time or self-employed work. For unemployed workers to remain eligible to receive UI, most states require them to be actively seeking and available for traditional full-time work.<sup>23</sup> As a result, unemployed workers can lose their benefits if they only search for part-time work. In many states, this is true even if part-time work was the type of employment the beneficiary had lost in the first place, and even if part-time work is the only kind of employment that fits his or her schedule. While these policies are meant to encourage unemployed workers to seek and transition into full-time, stable employment, they also prevent workers from seeking more flexible, non-traditional work, even if they need or would benefit from these arrangements. And only nine states currently have active Self-Employment Assistance (SEA) programs, which allow unemployed workers to continue receiving UI benefits while starting a business rather than seeking full-time W-2 employment.<sup>24</sup>

Finally, the state-run regional workforce offices that provide re-employment services to UI recipients are discouraged from helping workers access non-traditional work. Some regional offices report confusion as to whether the law allows the promotion of non-traditional work, even though there is no restriction at the federal level. Additionally, regional offices are evaluated based on the success of their clients in re-employment, but the offices largely lack access to self-employment earnings data, so they generally do not receive credit for helping workers find non-traditional jobs. Lastly, employees at these regional offices receive scant resources relating to non-traditional work.<sup>25</sup>

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21 Lindner, Mitchell, and Nichols 2013. "Consequences of Long-Term Unemployment." The Urban Institute. July. <https://www.urban.org/sites/default/files/publication/23921/412887-Consequences-of-Long-Term-Unemployment.PDF>

22 Jacobson, Lalonde, and Sullivan 1993. "The Costs of Worker Dislocation." Upjohn Institute for Employment Research. [http://research.upjohn.org/up\\_press/69/](http://research.upjohn.org/up_press/69/)

23 Department of Labor 2017.

24 These states include Delaware, Maine, Mississippi, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, and Rhode Island. As of this paper's writing, Louisiana also has an SEA program in law, however it is non-operational. Ibid.

25 Pollack and Greenberg 2017. "GAO: The workforce development system does not adequately prepare workers for independent work." Aspen Institute Future of Work Initiative. October 26. <https://www.aspeninstitute.org/blog-posts/gao-workforce-development-system-independent-workers/>

## IV. POLICY OPTIONS

### 1. PROTECTING INDEPENDENT CONTRACTORS FROM JOB AND INCOME LOSS

Like traditional workers, non-traditional workers experience job and income loss during their careers. However, unlike traditional workers who can benefit from UI, non-traditional workers are limited in their ability to access the economic security that UI provides. For workers, like independent contractors, that are ineligible for UI, policymakers should consider creating alternative mechanisms – such as expanded unemployment benefits coverage, short-term savings accounts, or a jobseeker’s allowance – that provide resources to weather a loss of income or a job.

#### 1.a. Experiment with Expanding UI Coverage to Independent Contractors

Extending UI to independent contractors is challenging because it is hard to differentiate between voluntary and involuntary unemployment for these workers. By contrast, for traditional workers, a layoff is clear evidence of involuntary unemployment. However, with strict, narrow definitions of qualifying events and third-party verification, it could be possible to insure independent contractors with stable earnings histories.

Extending UI coverage to independent contractors could be done in one of two ways. First, UI could be part of a suite of work-related benefits extended to independent contractors as part of a portable benefits system. For example, legislators in Washington state recently introduced a bill that would create new portable benefits for independent contractors who connect to customers through an intermediary, like an online labor platform. Those intermediaries would pay premiums for workers’ compensation, as well as contribute 15 percent of each transaction – up to \$2 per hour per worker – to a benefit fund that would administer benefits to the workers. Workers and benefits administrators would work together to determine which benefits would be provided, so a UI-style benefit could conceivably be included.<sup>26</sup>

Alternatively, policymakers could experiment with allowing some permanent self-employed workers with long, stable earnings histories to opt into traditional UI coverage. Researchers at the Century Foundation suggest piloting a program that would allow some self-employed workers to opt into UI – provided they pay in for a period of time before being eligible for benefits, similar to eligibility for workers in traditional employment.<sup>27</sup>

In Denmark, self-employed workers can pay into the country’s UI system and collect benefits if they go bankrupt or shut down their business and begin searching for traditional work. Workers must pay into one of the available private, non-profit unemployment funds for at least a year before becoming eligible for benefits, and must prove their self-employment work is their main occupation. The country also recent-

<sup>26</sup> Washington H.B. 2109 of 2017, 2017-2018 Regular Session. <http://app.leg.wa.gov/billssummary?BillNumber=2109&Year=2017>

<sup>27</sup> Stettner, Cassidy, and Wentworth 2016.

ly adopted reforms to improve unemployment coverage for those in non-traditional jobs, including changes to wage base calculations that improve a worker's ability to count self-employment income toward benefit eligibility.<sup>28</sup>

In some U.S. states, a self-employed worker can opt into UI if she incorporates, "hires" herself as a W-2 worker, and pays UI taxes on her wages. For example, in Virginia, the owner of a business structured as a corporation who has been receiving a salary can apply for benefits if they go out of business.<sup>29</sup> For those self-employed workers who do incorporate, UI eligibility requires that workers have business income steady enough to pay themselves consistent wages over a long enough period of time to build up qualifying earnings and employment history. Additional research is needed to understand how these state experiments are functioning and the degree to which self-employed individuals are incorporating to access UI coverage.

Either approach – a system of portable unemployment benefits for independent contractors, or an opt in provision within UI – would require standards to verify that the unemployment is involuntary. There are, however, existing practices that may prove instructive. For example, CERF+, a non-profit designed to provide a safety net of resources and financial support for artists, provides emergency relief grants to "established" artists who can prove that their ability to produce or market their work was significantly and adversely affected by an "unforeseen emergency" or "triggering event." Though the relief offered by CERF+ is not insurance, it does offer a potential model for identifying qualifying events outside of a worker's control that affect his or her ability to work and earn income.<sup>30</sup>

Similarly, Disaster Unemployment Assistance (DUA) provides financial assistance through the UI system to individuals whose employment or self-employment is lost or interrupted as a result of a major disaster and who are not otherwise eligible for traditional UI benefits.<sup>31</sup> DUA provides an example of processes already in place within UI in which administrators must determine what it means for self-employment to be lost or interrupted due to an event outside the worker's control.

## 1.b. Create Individual Savings Accounts that Workers Can Use During Periods of Earnings Shock

In 2017, the Aspen Institute's Financial Security Program proposed "sidecar" accounts as a solution to the short-term savings needs of workers.<sup>32</sup> Workers would fund a savings account that they could draw from in the case of near-term emergencies, such as job or income loss. Once the account reaches a sufficient level of savings, additional contributions would be diverted to a long-term savings account, such as a traditional retirement account. Though accounts like these cannot replicate the social insurance protection provided by UI, they could offer important financial support for

*Though sidecar accounts cannot replicate the social insurance protection provided by UI, they could offer important financial support for workers who lack unemployment coverage.*

28 Kvist 2017. "Denmark: A new unemployment insurance scheme for the future labour market." European Social Policy Network. July. <http://ec.europa.eu/social/BlobServlet?docId=17993&langId=en>

29 Virginia Employment Commission 2017. "FAQ's - Employer Services - Business Owners filing for Unemployment Compensation." <http://www.vec.virginia.gov/employers/faqs/Business-Owners-filing-for-Unemployment-Compensation>

30 CERF+ 2018. "Get Help Now." <https://cerfplus.org/get-relief/apply-for-help/craft-emergency-relief-fund/>

31 Department of Labor 2018. "Disaster Unemployment Assistance (DUA)." Last accessed January 24. <https://workforcesecurity.dola.gov/unemploy/disaster.asp>

32 Mitchell and Lynne 2017. "Driving Retirement Innovation: Can Sidecar Accounts Meet Consumers' Short- and Long-Term Financial Needs?" Aspen Institute Financial Security Program. June 27. <https://www.aspeninstitute.org/publications/driving-retirement-innovation-can-sidecar-accounts-meet-consumers-short-long-term-financial-needs/>

workers who lack unemployment coverage. Many proposals exist: some mandatory, others voluntary; some funded by the worker, others with employer or federal matching funds; some purely for unemployment and others covering a far broader set of emergencies. The proposals are similar, however, in that they could all be used to help provide financial support during periods of earnings loss.

As an example, in a 2016 paper for the Future of Work Initiative's Fresh Perspective Series, MIT economist Jonathan Gruber proposed the creation of Individual Security Accounts (SA).<sup>33</sup> For every dollar earned by a worker – regardless of the employment arrangement – the federal government would make contributions into this publicly managed individual account. Federal contributions would start at six percent for the first \$25,000 of income, would phase out progressively, and end after the first \$100,000 of income. Account balances would be capped at a maximum of either 6.5 weeks worth of wages or 6.5 times the median weekly earnings in the worker's area, whichever is less. Above this threshold, federal contributions would be made into a retirement account for that worker instead. Workers could then draw down from the first account in the case of a major earnings shock, an on-the-job injury, a disability, for family or medical leave, or in response to a medical bill that exceeds a week's salary. Workers could only collect UI benefits after exhausting their SA account.

As another example, in a 2006 paper for the Brookings Institution, Lori Kletzer and Howard Rosen proposed creating new tax-advantaged Personal Unemployment Accounts (PUA), which could be accessed by independent contractors.<sup>34</sup> Under their proposal, the self-employed could contribute up to 0.25 percent of annual wages into their PUA, which would be matched by the federal government. They proposed allowing workers to draw down from these accounts in periods of severe earnings loss or to fund training and job search, taxing withdrawals as normal income.

### **1.c. Create a Jobseeker's Allowance for Independent Contractors and New Labor Market Entrants**

The Center for American Progress (CAP), the National Employment Law Project (NELP), and the Georgetown Center on Poverty and Inequality (GCPI) proposed creating a new Jobseeker's Allowance (JSA) that would provide a weekly stipend to fund job search and preparation activities for all unemployed low- and middle-income workers who are ineligible for unemployment insurance.<sup>35</sup> They envision a benefit that is similar to UI – a weekly cash benefit provided to unemployed workers contingent on job search requirements – but smaller (about \$180 per week in today's dollars<sup>36</sup>) and for a shorter period of time (just 13 weeks rather than the usual 26 weeks for UI). The benefit would be available to those who have not paid into the UI system or have limited recent work histories, such as independent contractors and new labor market entrants or re-entrants.

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33 Gruber 2016. "Security Accounts as Short Term Social Insurance and Long Term Savings." Aspen Institute Future of Work Initiative. August 31. [https://assets.aspeninstitute.org/content/uploads/2016/08/2security\\_accounts\\_final.pdf](https://assets.aspeninstitute.org/content/uploads/2016/08/2security_accounts_final.pdf)

34 Kletzer and Rosen 2006. "Reforming Unemployment Insurance for the Twenty-First Century Workforce." The Brookings Institution. September 1. <https://www.brookings.edu/research/reforming-unemployment-insurance-for-the-twenty-first-century-workforce/>

35 West, Dutta-Gupta, Grant, Boteach, McKenna, and Conti 2016. "Strengthening Unemployment Protections in America." Center for American Progress, National Employment Law Project, and Georgetown Center on Poverty and Inequality. June. [https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI\\_JSAreport.pdf](https://cdn.americanprogress.org/wp-content/uploads/2016/05/31134245/UI_JSAreport.pdf)

36 Adjusted for inflation since publication.

Such a proposal would provide earnings loss protection for uncovered workers. It could also support unemployed workers seeking non-traditional work, as long as the work-search requirements do not mandate that workers seek full-time employment. A JSA would also promote labor force participation among those who may lack strong connections to the labor market. Such a benefit is expected to cost about \$10.9 billion per year and would serve about 5.4 million jobseekers annually.

## 2. IMPROVING UI COVERAGE FOR WORKERS IN NON-TRADITIONAL W-2 ARRANGEMENTS

As the paper has discussed earlier, the UI system favors traditional work over non-traditional work. Workers in non-traditional W-2 employment arrangements find themselves disadvantaged when it comes to UI eligibility, benefit receipt and calculation, and even the taxes paid on their behalf. The Department of Labor should seek ways to level the playing field and ensure that workers in non-traditional W-2 work are not disadvantaged by program design features, which presume a more traditional work model. This policy option includes reforms that could help provide better coverage to non-traditional workers. The Department of Labor should analyze these options and other areas that may help improve UI's ability to help workers in the 21st century.

### 2.a. Standardize How States Determine UI Eligibility

UI requires workers to have a sufficient work history in order to be covered. Workers must earn above a given amount (the earnings threshold) over the first four of the last five recently completed quarters (the base period). This means that at least the last three months of earnings (and up to six months, if the worker loses her job near the end of a quarter) do not count toward eligibility. This base period disqualifies those who are recent labor market entrants or re-entrants, and – coupled with earnings thresholds – can exclude many part-time, temporary, and intermittent workers, especially those who are low-income. As more and more workers transition into and out of various types of work – including uncovered work such as self-employment – using the traditional base period can leave a greater number of workers uncovered, despite having strong ties to the labor market.

States do have the option to adopt a base period that extends UI coverage to more non-traditional workers: as part of the American Recovery and Reinvestment Act (ARRA), states were encouraged to adopt an Alternative Base Period (ABP) for workers whose work histories do not qualify them for benefits under the traditional base period. ABPs include earnings in the most recently completed quarter and potentially even the current quarter in the base period, shifting the time frame for earnings in a way that can include many otherwise ineligible workers. While many states have since adopted ABPs, a few still exclusively use the traditional base period, and some that do offer ABPs only do so for workers with a verifiable disability or workers' compensation claim.<sup>37</sup> Policymakers should look to standardize how states determine UI eligibility by

*Workers in non-traditional W-2 employment arrangements find themselves disadvantaged when it comes to UI eligibility, benefit receipt and calculation, and even the taxes paid on their behalf.*

<sup>37</sup> Department of Labor 2017.

requiring adoption of ABPs nationwide, while seeking to ensure all workers can use ABPs regardless of why they were unemployed, in order to cover more non-traditional workers.

## 2.b. Remove Waiting Weeks

Policymakers should also consider removing waiting week policies, which disadvantage non-traditional workers. In 43 states, UI claimants do not receive a benefit check for the first week they file, meaning that the second week claimed is the first week of payment.<sup>38</sup> Workers who frequently transition into and out of unemployment can be affected because a worker must wait a week each time they experience unemployment. If a worker experiences multiple bouts of unemployment, over the long run they will receive fewer weeks of UI benefits than a worker who experiences the same total length of unemployment over fewer incidences. Non-traditional workers with W-2 relationships are at greater risk of being subject to multiple waiting weeks because they are more likely to cycle through jobs and unemployment.<sup>39</sup> Removing waiting weeks would help equalize the treatment of some non-traditional work within the UI system.

## 2.c. Examine Tax Treatment of Multiple Jobholders

Additionally, because UI is designed to insure against the loss of a specific job from an individual employer rather than to insure an individual worker against a more generalized loss of work or income, workers with multiple jobs may be disadvantaged by bearing a greater tax burden. State unemployment taxes are paid by the employer on at least the first \$7,000 of each employee's earnings (states are free to set their taxable wage base higher). Because each employer pays into the system for their employees, this means that in a state with the minimum wage base, a single jobholder earning \$50,000 per year will have UI taxes paid on \$7,000 of wages, whereas a worker with two jobs that total \$50,000 per year will have UI taxes paid on the first \$14,000 of wages.<sup>40</sup> This design may make some sense: under the current system, each job must be insured individually, in part because each job and employer carries unique circumstances, and in part due to moral hazard concerns. But this also means that multiple-jobholders may end up with lower wages because their employers end up paying a greater tax burden.

Policymakers should explore possible reforms to alleviate these disadvantages for multiple job-holders, such as ways to make unemployment benefits more portable. In a recent paper, the Aspen Institute's Financial Security Program suggested associating unemployment taxes paid by employers with specific workers, pooling contributions across employers, and basing an individual's benefits on their total work rather than that with a single employer.<sup>41</sup> Changing UI's structure toward insuring individuals

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<sup>38</sup> Ibid.

<sup>39</sup> Government Accountability Office 2015.

<sup>40</sup> This calculation assumes both jobs include earnings above the taxable wage base. Most states have a taxable wage base that is greater than the \$7,000 minimum. The numbers given here are meant as an example.

<sup>41</sup> Lucas McKay 2017. "Reforming Unemployment Insurance to Support Income Stability and Financial Security." Aspen Institute's Expanding Prosperity Impact Collaborative (EPIC). August. [http://www.aspenepic.org/wp-content/uploads/2017/09/ASPEN\\_EPIC\\_UNEMPLOYMENT\\_INSURANCE\\_02.pdf](http://www.aspenepic.org/wp-content/uploads/2017/09/ASPEN_EPIC_UNEMPLOYMENT_INSURANCE_02.pdf)

rather than jobs could provide greater security to non-traditional workers, but more research is required to understand the potential impact of such a change.

### 3. SUPPORTING NON-TRADITIONAL WORK OPTIONS AND ENTREPRENEURSHIP

Non-traditional work can provide pathways back to stable employment. While it may not provide long-run stability, non-traditional work can help workers maintain existing skills and acquire new skills – while also providing additional income – as they continue to search for more stable employment. And if workers find themselves enjoying project-based work, they will be better prepared to transition into formal self-employment by starting their own business.

The UI system should help unemployed workers prepare for and connect to non-traditional work, provided they maintain the right to also pursue work that is similar to the type they had lost. Policymakers should help UI recipients seek part-time work, and ensure that UI rules do not discourage unemployed workers from taking on part-time self-employed work. They should also help unemployed workers who want to earn income through self-employment by expanding Self-Employment Assistance programs and encouraging workforce boards to connect clients with non-traditional work opportunities.

#### 3.a. Allow UI Recipients to Seek Part-Time Work

As part of the UI modernization efforts included in ARRA, states were encouraged to adopt reforms that would allow UI recipients to seek part-time work. However, as many as 21 states still require UI beneficiaries to pursue full-time work to remain eligible for benefits even if their benefits were earned through part-time work.<sup>42</sup>

Limiting job searches to full-time work is meant to help unemployed workers return to stable employment. This requirement was created because UI is meant to insure against the loss of full-time work and part-time work can offer lower pay, fewer benefits, and less job security than full-time work.<sup>43</sup> But workers may benefit from seeking part-time work. It may work better for their schedules, personal health, or caregiving obligations; the best opportunities available in their area or industry may be part-time; and part-time work offers the ability to return to work more quickly while still seeking full-time, longer-term work. Also, the ability for UI recipients to seek part-time work may be particularly important during recessions, when part-time work typically

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<sup>42</sup> Department of Labor 2017.

Per table on 5-25, only 36 states plus Washington, DC, Puerto Rico, and the Virgin Islands have policies that allow exceptions for UI beneficiaries to seek only part-time work. Among these states, five only allow exceptions in the case of medical or disability restrictions or other reasons. Though Pennsylvania includes an exception for those with part-time work histories, it still considers an individual ineligible for benefits for any week in which his or her unemployment is due to failure to accept an offer of suitable full-time work in order to pursue seasonal or part-time work. New Hampshire requires that an individual be available for and seek temporary work, whether full-time or part-time, if permanent work for which the individual is qualified is not immediately available within the individual's labor market area, if the individual is reasonably expected to be recalled in 4 to 26 weeks, and if the wages, hours, and other conditions of the temporary work are not substantially less favorable than those prevailing for similar temporary or permanent work in the locality.

<sup>43</sup> Glauber 2013. "Wanting More but Working Less: Involuntary Part-Time Employment and Economic Vulnerability." Carsey Institute at the University of New Hampshire. July 23. <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1198&context=carsey>

increases as a share of all employment.<sup>44</sup> The Economic Policy Institute (EPI) has proposed that workers qualify for UI benefits as long as they seek work of at least 20 hours per week,<sup>45</sup> matching the standard already in place in several states.<sup>46</sup>

### 3.b. Encourage States to Create and Expand Self-Employment Assistance Programs

Self-Employment Assistance (SEA) programs allow unemployed workers eligible for UI benefits to receive benefits while working full-time on starting a new business. Despite research that has shown positive outcomes for SEA participants in both future rates of employment and earnings,<sup>47</sup> only nine states have active programs: Delaware, Maine, Mississippi, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, and Rhode Island.<sup>48</sup>

The major reason states do not offer SEA is that it is costly to offer the program relative to the size of the population served, which is capped at less than one percent of UI beneficiaries. While the 2012 Middle Class Tax Relief Act appropriated \$35 million in grant funds for states to implement, improve, and promote SEA programs, less than \$3 million of those funds were disbursed, as few states applied for grants.<sup>49</sup> The funds were appropriated per state in accordance with their proportional share of nationwide unemployment – such that individual states could only apply for a relatively small amount of funding, and for many states this funding was not enough of an incentive to create new programs.

A new grant program to encourage states to implement, improve, and promote SEA programs could be more effective if the total appropriated funding were distributed among the states that apply. Alternatively, the Center for American Progress (CAP), the National Employment Law Project (NELP), and the Georgetown Center on Poverty and Inequality (GCPI) have proposed requiring all states to offer SEA as a condition of receiving the full Federal Unemployment Tax Act (FUTA) tax credit that reduces the tax burden on businesses from 6 percent to 0.6 percent of taxable wages.<sup>50</sup> To make the program more attractive to the states and potentially benefit more unemployed workers interested in self-employment, policymakers could consider removing the restriction that limits participation to UI recipients identified as likely to exhaust their benefits – also proposed by CAP, NELP, and GCPI.<sup>51</sup>

Additionally, policymakers should consider providing access to capital for unemployed workers who want to start a business and have a verifiable business plan. The upfront costs of starting a new business could be an obstacle to many unemployed

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44 Valletta and Bengali 2013. “What’s Behind the Increase in Part-Time Work?” Federal Reserve Bank of San Francisco. August 26. <https://www.frbsf.org/economic-research/publications/economic-letter/2013/august/part-time-work-employment-increase-recession/>

45 Golden 2016. “Still falling short on hours and pay: Part-time work becoming new normal.” Economic Policy Institute. December 5. <http://www.epi.org/publication/still-falling-short-on-hours-and-pay-part-time-work-becoming-new-normal/#epi-toc-21>

46 Department of Labor 2017.

Twenty-hour standards exist at least in Delaware, Georgia, Idaho, New Mexico, Maryland, and Nebraska.

47 Weigensberg, Needels, Gould-Werth, Patnaik, and Lee 2017. “A Study of the Self-Employment Assistance Program: Helping Unemployed Workers Pursue Self-Employment.” Mathematica Policy Research. January 11. <https://www.dol.gov/asp/evaluation/completed-studies/SEA-Study-Report.pdf>

48 As of this paper’s writing, Louisiana has an SEA program in law, however it is non-operational. Department of Labor 2017.

49 Weigensberg, Needels, Gould-Werth, Patnaik, and Lee 2017.

50 West, Dutta-Gupta, Grant, Boteach, McKenna, and Conti 2016.

51 Ibid.

workers who might be aspiring entrepreneurs. The Self-Employment Training (SET) demonstration, which concluded in December 2016, was created to test providing case management, business training, and seed capital funding to dislocated workers who want to start a business. Participants were able to receive up to \$1,000 in micro-grant funding to cover business startup expenses.<sup>52</sup> Evaluations of the program's effectiveness should be released sometime in 2018. If the program proves to be successful, policymakers should consider whether to create a permanent program.

### 3.c. Ensure Partial UI Formulas Don't Discourage Part-Time and Non-Traditional Work

Every state offers partial UI benefits to workers whose hours are reduced and to fully unemployed workers who take a part-time job while receiving UI benefits. States generally set a "disregard" threshold – if UI recipients earn less in partial wages than the disregard, they receive their full benefit; if they earn more than the disregard, states use an "offset," which reduces benefits at a certain ratio to earned dollars. The Century Foundation has proposed that states create a simple online calculator to raise awareness of partial UI eligibility and expected benefit amounts, improving program reach and effectiveness.<sup>53</sup>

However, there is concern that some partial UI rules might discourage work. For instance, a 1:1 offset ratio (which 38 states use<sup>54</sup>) would create a disincentive for workers to engage in part-time work because each dollar earned leads to a dollar reduction in UI benefits. Additionally, some states can withhold all UI benefits if an unemployed worker engages in any self-employed work. For example, a worker in New York with a family farm laid off from a factory job can be disqualified from UI if he keeps working on that farm.<sup>55</sup> Policymakers should study the effects of various partial UI rules, and seek to adopt formulas with fewer work disincentives. Policymakers should also consider standardizing the treatment of self-employment income so that it does not count against partial benefits any more than would W-2 wages. It may even make sense for self-employment income to count less against partial benefits to account for the fact that W-2 wages simultaneously earn workers unemployment benefit coverage, while self-employment income does not.

### 3.d. Encourage Workforce Boards and Job Centers to Connect UI recipients to Non-Traditional Work

Workforce boards and job centers differ in how they treat independent work. Some actively connect unemployed workers to gig jobs: for example, boards in Chicago

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<sup>52</sup> Weigensberg, Needels, Gould-Werth, Patnaik, and Lee 2017.

<sup>53</sup> Stettner, Cassidy, and Wentworth 2016.

<sup>54</sup> Thirty-eight states and Puerto Rico use a static disregard level, above which each dollar earned offsets a dollar in weekly benefits. These states often specify the disregard as a set dollar amount (i.e. \$30 in Arizona), a set ratio compared to the recipient's full weekly benefit amount (i.e. one-third of the weekly benefit amount in Alabama), or as a multiple of the minimum wage (i.e. eight times the federal hourly minimum wage in Florida). By contrast, 11 states, the District of Columbia, and the Virgin Islands all use a formula that at least partially allows for a lower offset ratio. These states either specify the offset ratio (i.e. in Minnesota, for each dollar earned the weekly benefit amount is reduced by 50 cents) or use a variable disregard based on partial earnings (i.e. one-fifth of weekly wages in Kentucky). New York is the only state to determine partial benefits based on the number of days worked during a benefit week, rather than earnings.  
Department of Labor 2017.

<sup>55</sup> New York State Department of Labor, Unemployment Insurance Division, Adjudication Services Office. <https://labor.ny.gov/ui/aso/19.htm#1900>

and Dallas have held recruitment events for ridesharing services, while San Francisco's board helped workers in the media and visual arts develop their portfolios and build their professional networks.<sup>56</sup> But many boards and jobs centers do not for several reasons. First, some mistakenly believe it is against federal rules, or see it as inconsistent with their mission to put workers in stable work. Second, despite it not being against federal rules, some states have chosen to prohibit or actively discourage efforts to prepare workers for and place them in non-traditional work.<sup>57</sup> And third, workforce boards and job centers have a difficult time collecting and reporting data on worker outcomes because they generally rely on UI wage data, which doesn't cover self-employment income. Because funding is partly contingent on the performance of their training programs, their inability to report the outcomes means that they have a disincentive to train workers for independent work opportunities.

DOL should clarify that federal rules allow state workforce systems to connect unemployed workers to non-traditional work, and that it is consistent with the mission of the workforce system. In addition, DOL should encourage states to allow workforce boards and job centers to connect workers with non-traditional work.

Moreover, policymakers should explore options to make it easier for workforce boards and job centers to track self-employment income of workers who are no longer receiving UI, for the purposes of evaluating the effectiveness of training and reemployment practices. They should consider adopting the recommendation of the Commission on Evidence-Based Policymaking to create a National Secure Data Service (NSDS), which would link existing data and provide secure access to those data for exclusively statistical purposes in connection with approved projects.<sup>58</sup> The NSDS could potentially facilitate access to IRS income data, which includes self-employment income of every American worker.

*Some states have chosen to prohibit or actively discourage efforts to prepare workers for and place them in non-traditional work.*

56 Government Accountability Office 2017. "DOL Can Better Share Information on Services for On-Demand, or Gig, Workers" September 26. <https://www.gao.gov/products/GAO-17-561>

57 For example, Pennsylvania's state UI plan makes clear that local workforce boards should avoid non-traditional work: "It is also imperative that the workforce development system engage the right employers - those offering jobs with reasonable wages, benefits, full-time stable employment, ongoing training and advancement opportunities, paid sick days, family leave and medical leave, and predictable schedules to balance family needs."

Pennsylvania Department of Labor and Industry 2017. "Workforce Innovation and Opportunity Act (WIOA) Combined State Plan." December. <http://www.dli.pa.gov/Businesses/Workforce-Development/Pages/WIOA-Combined-State-Plan-Posted.aspx>

58 Commission on Evidence-Based Policymaking 2017. "The Promise of Evidence-Based Policymaking." <https://www.cep.gov/cep-final-report.html>

# CONCLUSION

**SINCE THE UI PROGRAM WAS CREATED IN 1935**, the American economy and labor market have transformed dramatically. A growing segment of the workforce participates in non-traditional forms of work, such as independent contracting and freelancing. In addition, as we move further into the 21st century, we face even greater economic change as technology, automation, and globalization threaten major disruptions to the nature and distribution of work. McKinsey estimates that nearly a third of the American workforce will need to change occupations by 2030.<sup>59</sup> Autonomous vehicles threaten to displace millions of American workers who drive for a living – many of whom work as independent contractors without UI coverage. But it isn't just drivers who are at risk. As computers are increasingly capable of performing tasks previously done by humans, blue and white collar workers will likely experience job loss and will turn to unemployment insurance as a bridge to help them transition to new jobs and careers. For UI to meet the critical needs of workers, it must be reformed and strengthened.

A modern unemployment system must help protect all workers from the effects of unexpected job and income loss, and maximize their ability to return to productive work. Reforms should improve coverage for workers in non-traditional arrangements, both by updating eligibility rules and by creating new protections to improve their financial security. It also must help workers transition back to employment through non-traditional work and take advantage of entrepreneurial opportunities.

The realities of work and unemployment today require new approaches to protecting the economic interests of hard-working Americans. As policymakers consider how best to update and strengthen the UI program, they should broaden the program's reach to incorporate independent and other forms of non-traditional work.

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<sup>59</sup> Manyika, Lund, Chui, Bughin, Woetzel, Batra, Ko, and Sanghvi 2017. "What the future of work will mean for jobs, skills, and wages." McKinsey Global Institute. November. <https://www.mckinsey.com/global-themes/future-of-organizations-and-work/what-the-future-of-work-will-mean-for-jobs-skills-and-wages>

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