


Portable Benefits in the 21st Century





**Shaping a New System of Benefits
for Independent Workers**

David Rolf, Shelby Clark, and Corrie Watterson Bryant



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Portable Benefits in the 21st Century: Shaping a New System of Benefits for Independent Workers

David Rolf, Shelby Clark, and Corrie Watterson Bryant

DURING TIMES OF PROFOUND ECONOMIC CHANGE, American society has always taken a step back to evaluate how rapid evolution can provide a new basis for a prosperous middle class. The most striking example in the modern era is the New Deal, which strengthened income security for workers after the Great Depression by establishing unemployment insurance, retirement insurance, and welfare programs. The Fair Labor Standards Act of 1938¹ eliminated child labor, established a national minimum wage, required overtime payment for certain industries, and implemented the modern forty-hour workweek.

In the 21st century, as traditional work has become increasingly fissured and many of last century's protections have eroded, America must once again re-examine our workforce safety net. The social contract that provided security and prosperity for previous generations is coming undone, as work becomes increasingly contingent, and companies do less and less to keep workers for a lifetime— or even a year. According to a recent study by Lawrence F. Katz of Harvard and Alan B. Krueger of Princeton, the number of workers in “alternative work arrangements” (including temporary workers and independent contractors) rose by 9.4 million over the last decade. This increase accounts for the entire net rise in overall employment in the U.S. economy over that time.²

Many in alternative work arrangements have ridden the rise of the “on-demand economy” through a growing number of peer-to-peer marketplaces like Uber, Lyft, or TaskRabbit. These marketplaces represent a great economic opportunity, but also have the potential to become a race to a bottom for workers: one without a shared safety net, not unlike the era that preceded the Great Depression. Right now, we have an unprecedented opportunity to create a new working world, one in which workers have the ability to choose how and when they work, and do not have to sacrifice social insurance to do so.

We know this to be true: the shared safety net attached to full-time employment, once so crucial to the establishment and sustenance of the middle class, is no longer as relevant as it once was. In addition to being subjected to the constant threat of reduction due to economic and political tides, it ignores millions of workers in



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¹ The Fair Labor Standards Act of 1938, Pub. L. No. 112, U.S.C. 29, § 209-262, Department of Labor (2011).
² Katz, Lawrence F., and Alan B. Krueger. The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015. Rep. Princeton University, 29 Mar. 2016. Web.

America, including independent contractors and many part-time employees. Under current employment laws and regulations, if a company provides benefits to a worker, it is one factor that suggests that the worker must be classified as an employee. While many on-demand platforms have stated a desire to offer benefits to their workers (some of whom are legitimately independent contractors and others of whom may be found to be victims of misclassification by the courts), paradoxically, this act of support is discouraged by current regulations.

We should ensure that all workers, regardless of employment classification, have affordable access to a safety net that protects them when they are sick, injured, and when it is time to retire. Accepting this challenge, in November of 2015 an unlikely collaboration of individuals and organizations across the political spectrum made a call for a system of “Portable Benefits,”³ to serve as a new form of support for modern workers who are slipping through the gaps in our social safety net. New models, and likely enabling laws and regulations, will be required to fill these gaps in our safety net.

At its core, this Portable Benefits proposal springs from the modern belief that workers should not need to choose between the flexibility of jobs in this new economy and stability of traditional employment. As Nick Hanauer and David Rolf originally postulated in their article, “Shared Security, Shared Growth” in *Democracy Journal* last summer, “We must acknowledge the radically different needs of a new generation of Americans—many of whom already have more employers in a week than their parents had in a lifetime—by adopting a new (system) designed to fit the flexible employment relationships of the ‘sharing economy.’”⁴ While there are currently more questions than answers regarding the structure of such a system, most envision the system to contain three core tenets:



PORTABLE

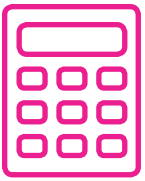
workers’ benefits are not tied to any particular job or company; they own their own benefits. Traditionally, benefits are attached to a specific job. This does not match the reality of work for many in today’s economy, who may derive their income from multiple sources simultaneously or who may regularly switch jobs or employers. A worker should be able to select and maintain their benefits from year to year, and their protections should not depend on the app they currently have open.



We should ensure that all workers, regardless of employment classification, have affordable access to a safety net that protects them when they are sick, injured, and when it’s time to retire.

³ “Common Ground for Independent Workers - What’s The Future of Work?” Medium. N.p., 10 Nov. 2015. Web. 08 June 2016.

⁴ Rolf, David, and Nick Hanauer. “Shared Security, Shared Growth.” *Democracy Journal* Summer 2015. 37 (2015): n. pag. *Democracy Journal*. Democracy: A Journal of Ideas, Inc., 01 June 2015. Web.



PRO-RATED

each company contributes to a worker's benefits at a fixed rate depending on how much he or she works, or earns. People are earning income from a variety of sources, so any model of Portable Benefits should support contributions from companies that can be pro-rated by dollars earned, jobs done, or time worked, covering new ways of micro-working across different employers or platforms. For example, if a person works an hour for a delivery platform and an hour for a house cleaning platform, both would contribute an equal amount toward that worker's benefits on a per hour basis, such as \$1 for each hour worked.



UNIVERSAL

benefits cover independent workers, not just traditional employees. All workers must have universal access to the critical benefits they need. Today, it can be difficult if not impossible for an independent worker to access a critical protection such as disability or workers compensation insurance. Other benefits of employment, such as paid time off and unemployment insurance, simply don't exist for independent workers. Any viable benefits system for the new economy must cover individuals working outside of a traditional employment relationship.

A Portable Benefits system could apply to any type of worker, though it is designed with workers who do not have access to affordable benefits, namely independent contractors and part-time workers. The system should likely provide at least a core of workers compensation (or something similar, such as disability insurance), health insurance, and retirement, but could be expanded to cover optional types of insurance (such as vision, dental, life, etc), paid time off, education and training, and potentially even novel products like income-smoothing tools or wage insurance. It could also form the basis of an effective and resourced worker voice organization in an era where traditional collective bargaining is increasingly inaccessible to most private sector workers.

As we define what a system of Portable Benefits could look like, we should begin by looking to relevant and historical models and asking what we can learn. From which institutions should we draw inspiration? How can these models be updated to leverage technology or fit today's context? To begin to answer these questions, we profiled five institutions relevant to Portable Benefits, and yielded the following insights:



All workers must have access to the critical benefits they need. Today, it can be difficult if not impossible for an independent worker to access a critical protection such as disability or workers compensation insurance.

① **MULTIEMPLOYER PLANS / PAGE 6**

Responsibility for providing benefits can be shared among multiple employers.

② **BLACK CAR FUND / PAGE 10**

Benefits can be delivered to independent contractors when mandated by law, and can be funded by an industry-wide fee paid by customers.

③ **GHENT SYSTEM / PAGE 13**

Offering insurance through voluntary worker organizations can serve as an effective mechanism to build economic power for workers.

④ **GROUP INSURANCE / PAGE 16**

Group insurance can be provided for individual independent contractors, much as the AARP offers inexpensive group life insurance to its members.

⑤ **SECURECHOICE RETIREMENT PLANS / PAGE 19**

Emerging state-based retirement plans which provide new retirement options accessible to independent contractors



1 Multiemployer Plans

A **MULTIEMPLOYER PLAN** is an employee benefit plan shared by two or more employers, who are often in the same geographic area or industry.⁵ The benefits provided to workers are based on a negotiated hourly contribution made to the Multiemployer Plan on behalf of an employee by his or her employer. This provides a useful mechanism to share the costs of benefits when a worker has multiple employers or regularly switches employers, such as actors or construction workers. The terms of the plan are collectively bargained between the employers and a union, or group of unions. As set forth in the Taft-Hartley Act, these plans are governed by a board comprised equally of employer and union representatives, and are only applicable to unionized workforces.

Many participants in multiemployer plans are employed by small companies in the building and construction industries. Multiemployer Plans make sense for industries that don't employ a long-term, full-time workforce – they can pro-rate their contributions while still ensuring that they meet their insurance, retirement, and other benefit obligations under collective bargaining agreements. The plans also meet the needs of workers in short-term or seasonal work because their benefits are portable — workers can often take their insurance from job to job among participating employers. A painter, roofer, or construction laborer can go from job to job without any interruption in coverage.

About 20 million people get their health insurance through Multiemployer Plans⁶, for instance, and 10 million people have a retirement account through one of 1,400 multiemployer defined benefit pension plans.⁷ There are a few major types of Multiemployer Plans: 1) Welfare benefit plans, which may include group life, disability, unemployment, and health insurance; prepaid legal services; and vacation; 2) Pension plans, which are heavily regulated under the Employee Retirement Income Security Act of 1974 (ERISA); and 3) Training and education funds (including apprenticeships and educational scholarships). Multiemployer Plans receive preferential tax treatment so long as they meet rules established by ERISA and the Internal Revenue Code (IRC).

Employers are typically responsible for making Multiemployer Plan contributions, though employees are sometimes required or permitted to make additional contributions. The collective bargaining agreement between the companies and the



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⁵ General references:

<https://www.ebri.org/pdf/publications/books/fundamentals/fund14.pdf>
CWA Pensions and Trusts." Communications Workers of America. AFL-CIO, 28 Jan. 2010. Web.
<http://www.cwa-union.org/for-members/cwa-pensions-and-trusts>

<http://www.cwa-union.org/for-members/cwa-pensions-and-trusts>
⁶ Norman, Brett. "Unions and Obamacare: 5 Questions." Politico. Politico LLC, 12 Sept. 2013. Web.
<http://www.politico.com/story/2013/09/questions-about-unions-obamacare-096738>

⁷ United States of America. Pension Benefit Guarantee Corporation. Introduction to Multiemployer Plans. PBGC, n.d. Web. <http://www.pbgc.gov/prac/multiemployer/introduction-to-multiemployer-plans.html>

union sets forth the employers' contribution rates, which may be negotiated on a cents per hour, dollars per day, or percentage of earnings basis. These contributions are then pooled in a fund that pays for benefits, and often enhanced through investments, and the types of investments available vary by plan size.

One of the best-known examples of a multiemployer plan is the Screen Actors Guild-Producers (SAG) pension and health plan. Actors – like contingent workers – are often working simultaneously on multiple projects for multiple employers. SAG solved the problem of providing traditional benefits for these non-traditional workers by establishing a multiemployer plan in 1961, through collective bargaining with the studios. (In an interesting historical side note, the plan was created through the leadership of then-SAG president Ronald Reagan.) More than 40,000 actors and their dependents now benefit from SAG's plans. The pension plan is funded solely by the contributions made by television and movie producers, while the health plan is funded by contributions from both producers and participants. Contributions are deposited into a trust fund that provides benefits for all participants who meet plan's eligibility requirements.

One additional component of some Multiemployer Plans is the concept of an "hour bank," which provides for continuous coverage of benefits, despite fluctuating hours. For each hour of employment, the worker "banks" the hourly contribution defined in the bargaining agreement. A worker must meet a certain threshold of hours to become eligible to receive benefits (for example 140 hours per month) and hours worked beyond that threshold are "banked" for future months. Further, an employee can bank hours earned from multiple employers that are members of the same plan. If a worker's number of hours drops below the threshold in future months, due to a job ending, weather, or other factors, hours will be deducted from the bank to maintain eligibility. This arrangement is particularly relevant in industries with short-term projects, multiple employers, and seasonal working conditions, such as the construction industry, as the hour bank can fill gaps in employment.⁸

An example of a Multiemployer Plan with an hour bank is the Family Medical Care Plan administered jointly by National Electrical Contractors Association and International Brotherhood of Electrical Workers. As negotiated in the collective bargaining agreement, workers earn approximately \$6 per hour in health benefits and \$3 per hour in pension. In order to be eligible for benefits in a given month, the employee must work a minimum of 140 hours, or have the balance of hours in his or her hour bank. In addition, for this particular fund, the worker is able to make self-payments for up to six months to fill in any additional gaps necessary to reach the 140 hour threshold. The worker is able to earn hours for his or her hour bank by working



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⁸ EISB. "Health and Welfare Summary Plan Description." Electrical Industry Service Bureau, Inc., n.d. Web. <https://www.eisb.org/html/hspd0150.htm>

for any employer (or multiple employers simultaneously) that is covered by the plan.⁹

HOW CAN THIS MODEL BE APPLIED TO PORTABLE BENEFITS?

Is this model portable?

Somewhat. Multiemployer Plans are portable if a worker stays within the within the fund's participant employers (which often span a local industry, such as a local construction trade). Employees may carry pension and benefits with them between companies and, when reciprocity agreements exist, between plans. They can rely on accumulated benefits even if a former employer has gone out of business. This continuity of coverage can also exist during employment gaps. Pension credits typically cannot be transferred from one Multiemployer Plan to another unless reciprocity is negotiated. However, if that reciprocity is established, a worker may move among and between plans and carry their benefits with them.

Are contributions in this model pro-rated?

Yes. Contributions and benefits are typically prorated based on hours, earnings, or a combination of both. For example, an employer may contribute one dollar per employee hour worked to the plan; employees then receive those benefits proportionate to the number of hours worked or their overall earnings. The range of earnings for workers covered by Multiemployer Plans is typically narrow, so fixed contributions based on employee hours worked makes the most sense for those plans and eliminates the need to track earnings.

Does this model provide more universal access to benefits?

No. While multiemployer plans can facilitate greater access to benefits, this is only true for employees in unionized industries covered by a multiemployer plan. Under current law, multiemployer plans cannot be applied to independent workers. In order to provide more universal access to benefits, the model would need to be changed to accommodate non-unionized workers.

ADVANTAGES AND LIMITATIONS OF MULTIEMPLOYER PLANS

Multiemployer Plans are a model for Portable Benefits because they allow for pro-ra-

⁹ Stewart, Matthew. "Interview with Matthew Stewart, NEFB Employee." Personal interview. 24 Feb. 2016. "Hour Bank." Family Medical Care Plan. National Electrical Contractors Association, n.d. Web. <https://www.nebf.com/fmcp/planhighlights/hourbank/>



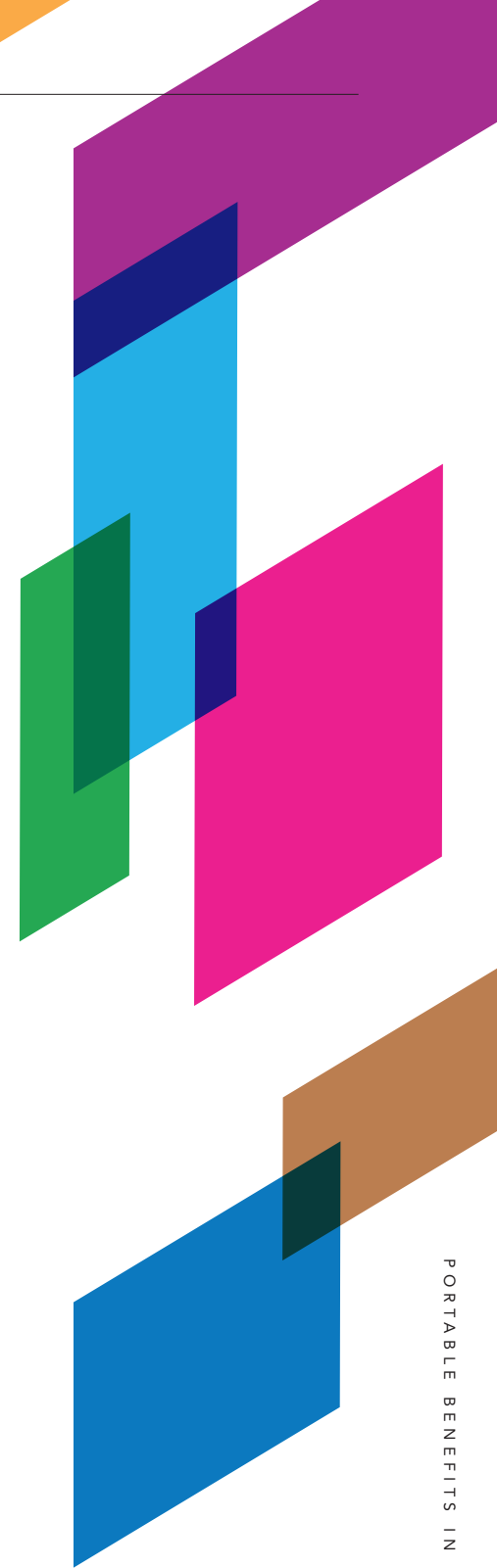
The primary limitation with Multiemployer Plans related to Portable Benefits is that they cannot be used to cover independent workers without an amendment to the TaftHartley Act, which governs Multiemployer Plans.

ta contributions from multiple employers, and they provide for portability within Multiemployer Plan employer participants. Further they provide access for employees of all different business types, industries, and most importantly, sizes. They are also a useful touchstone because they commonly serve non-traditional industries in which, because of irregular employment or seasonal work, few employees would otherwise be eligible for benefits (e.g., construction).

In addition, there is no maximum limit on the number of companies and employees that can be enrolled in these plans. While some Multiemployer Plans only cover an individual trade, others can include entire industries (e.g., CWA, Amalgamated Clothing Workers). Small employers can also pool resources in ways that are traditionally only available to those with larger employee bases. These economies of scale encourage participation and reduce costs. Pooling of participants through a Multiemployer Plan is particularly valuable in industries in which companies are often too small to justify or afford individual plans.

However, the primary limitation with Multiemployer Plans related to Portable Benefits is that they cannot be used to cover independent workers without an amendment to the Taft-Hartley Act, which governs Multiemployer Plans. Further, independent contractors cannot generally collectively organize under current labor law, which is a requirement of a Taft-Hartley plan. Policy changes allowing independent contractors to collectively organize could open up Multiemployer Plans beyond their current user base. Unfortunately, changes to the Taft-Hartley act or to extend the coverage of the National Labor Relations Act (NLRA) to independent contractors would need to occur at the federal level, which would be very difficult to achieve.

Hour banks are an aspect of Multiemployer Plans that are particularly helpful to ensure consistent benefits for people with fluctuating work hours, which is common for many contingent workers. However, as with Multiemployer Plans, the model would need to be adapted for independent contractors.



② Black Car Fund

THE BLACK CAR FUND was established in the State of New York to provide workers compensation insurance to “Black Car” (for-hire livery) drivers who are independent contractors and would otherwise not have access to traditional workers’ compensation insurance.¹⁰ Today the fund provides workers’ compensation coverage to more than 33,000 drivers affiliated with approximately 300 black car companies.

“This was a way for the industry to get together and take care of their drivers. If you’re a driver in NY working for a black car base, you’re covered,” said Jim Conigliaro Jr., Esq., General Counsel to the Machinist Union District 15 and member of the Board of Directors for the Black Car Fund.¹¹

Although the for-hire industry’s drivers are independent contractors, for the purposes of the state statute, affiliated drivers are the fund’s employees and therefore, are able to be afforded Workers’ Compensation coverage if injured while working. By the structure of the statute, the drivers are only employees of the fund for the purposes of workers compensation. The fund is not required to provide other common benefits related to employment, such as paying the employer-related contribution to Social Security and Medicaid. However, in theory, the statute could have been written to include a broader collection of benefits.

The fund derives its income from a 2.5% surcharge on every black car ride, paid by the passenger and collected by the affiliate’s member base and remitted to the fund. Conigliaro described that “owners liked it because it was clean across the board. Clients rates went up a bit, but it was everyone across the board. There is no competitive edge.”

Similar to the lawsuits currently facing many leading companies in the “on-demand” economy, prior to the Black Car Fund, there were regular legal battles over the employment classification of drivers. Conigliaro noted, “This seemed to solve a lot of issues around employment classification. There was a lot of litigation around workers comp.”

¹⁰ General references:

“History.” The Black Car Fund. The Black Car Fund, n.d. Web. <http://www.nybcf.org/>
New York (State). Executive Law.. Central Dispatch Facility, New York Black Car Operators’ Injury Compensation Fund, Inc. Art. 6-F. (S. 160cc- S. 160oo). 2016. New York Department of State. Web. <http://www.dos.ny.gov/licensing/lawbooks/C-DISPTC.pdf>

¹¹ Conigliaro, Jim, Jr., Esq. “Interview with Jim Conigliaro Jr., Esq.” Personal interview. 3 Mar. 2016.

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HOW CAN THIS MODEL BE APPLIED TO PORTABLE BENEFITS?

Is this model portable?

Somewhat. Access to workers compensation through the Black Car Fund is portable, but only within the for-hire driving industry. Initially the fund required that drivers could only be affiliated with one base, but rules have been recently updated to allow drivers to drive for multiple bases. If the Black Car Fund were to allow for coverage outside of the Black Car sector, this model would be truly portable.

Is this model pro-rated?

Yes. The coverage is provided for every ride given under a member base and is paid for by the 2.5% surcharge to the customer. There are no minimum requirements for eligibility, other than the driver must be affiliated with a member base.

Does this model provide more universal access to benefits?

Yes. The Black Car Fund provides access to workers compensation to drivers who otherwise would have struggled to secure it at an affordable rate due to their status as independent contractors. Further, as this is provided by statute, all black car drivers working for a base in New York are covered.

ADVANTAGES AND LIMITATIONS OF THE BLACK CAR FUND

Wilma Liebman, former Chairwoman of the National Labor Relations Board, hypothesizes that “when thinking about Portable Benefits, I think that the Black Car Fund could be about as useful of a model as any.” Indeed, the Black Car Fund is of great relevance to any conversation on Portable Benefits for a number of key reasons.¹²

Perhaps most relevant is that the contribution is required by state statute and is thus not construed as providing benefits to the worker, which is factor in employment classification. On-demand platforms have expressed significant concern around providing benefits to workers due to considerations related to employment classification, but the Black Car Fund illustrates that a legal mandate circumvents this problem.

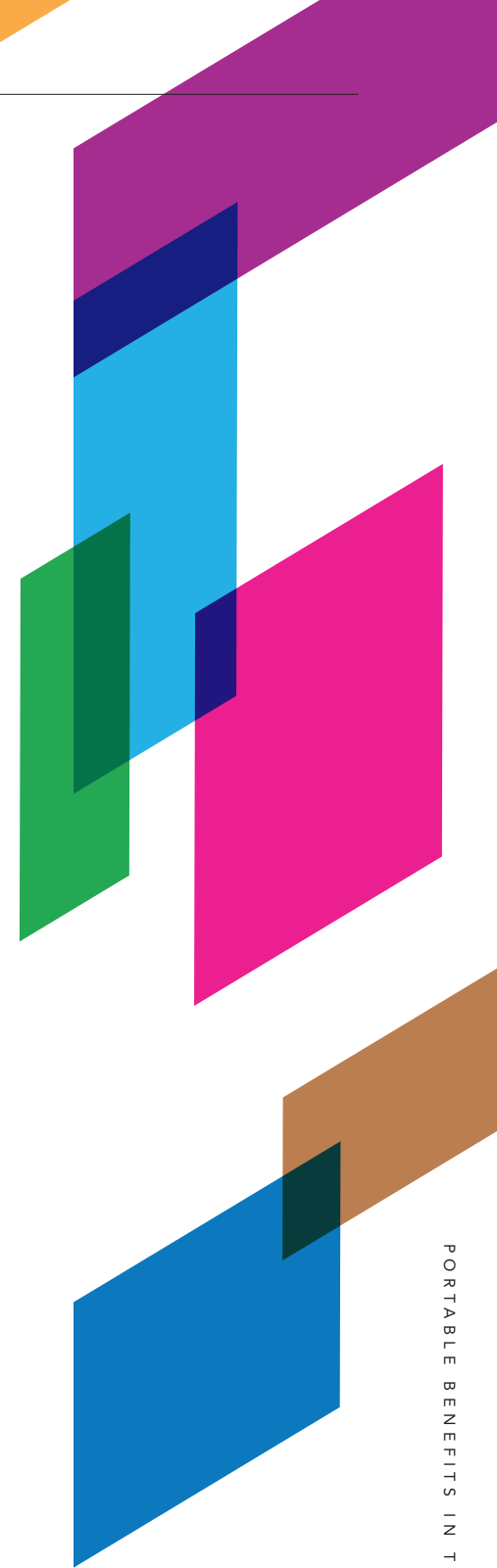
Further, the Black Car Fund is a rare model that provides critical protections to independent contractors who fall outside of the reach of many traditional benefits. As the fund acts as the employer for the purposes of providing workers’ compensation,

¹² Liebman, Wilma. “Interview with Wilma Liebman.” Personal interview. 29 Feb. 2016.

it provides a functional mechanism to deliver the benefit. As is discussed in the section below on group insurance, there are limitations to how independent contractors can be grouped together for the purposes of providing benefits. By qualifying as an employer, the Fund is able to access a broader selection of benefits compared to a group or association of independent contractors.

Lastly, it is an interesting funding option to have the customers provide the payment for the benefit. This allows for the provision of the benefit with limited impact on the business model for the bases.

The main limitations of the Black Car Fund are that it only applies to workers' compensation, and it is only available in one industry and in one state. However, there does not appear to be any limitation that would prevent the fund, or a similar fund, from expanding the mandate to include additional benefits, and it seems that this statute could be replicated in other geographies. Fortunately, this model can operate at the state or local level, meaning it would be far easier to implement than other models which require new or updated regulations at the federal level.



③ The Ghent System

THE GHENT SYSTEM IS A PUBLICLY SUBSIDIZED unemployment insurance system commonly administered by trade unions in Nordic countries. It operates in Denmark, Finland, Iceland, and Sweden, where participation is voluntary; Belgium operates a compulsory quasi-Ghent system that incorporates retirement benefits. Members are likely to join and remain members of unions as part of cost-benefit analysis of private gains associated with the price of unemployment insurance weighed against the risk of unemployment. Individualized benefits, not collective gains, motivate participation.

Funds are typically tied to economic sectors or professional groups within a trade, although national funds have recently been created to serve workers regardless of field. Membership fees comprise only a small portion of unemployment benefits as employees, employers, and the government (in the form of tax subsidies) contribute to the cost. The benefits are typically quite generous. Nordic countries are typically high-wage and this insurance replaces up to 90% of a person's former income depending on family composition. Those who choose not to participate via a union pay a lower fee and, if they become unemployed, received a lower-level basic benefit.

Unlike that of other Nordic countries, Belgium's system is based more on income protection than on past contributions and wages, and in exchange it offers longer-term benefits but at lower rates. In other Nordic countries, initial income replacement rates are high but drop steeply over time. Because of this tradeoff, the Belgian system allows for theoretically unlimited-duration income replacement, while other Nordic countries prevent profound income dips in the event of short-term job loss. The Belgian system also covers a broader set of situations, including career interruption and working time reduction. Belgium's system discriminates between manual and non-manual workers. Manual workers can receive a special benefit called "temporary unemployment" that compensates them when they're forced to reduce hours due to bad weather, technical failures, severe drops in demand, strikes, and other conditions beyond employer's control.

The Belgian system also covers a broader set of situations, including career interruption and working time reduction. For instance, under Belgium's system, manual workers can receive a special benefit called "temporary unemployment" that compensates them when they're forced to reduce hours due to bad weather, technical failures, severe drops in demand, strikes, and other conditions beyond employer's

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Tying unemployment insurance to union membership has driven the Nordic countries to the highest unionization rates in the world. In 2013, Denmark was 67% unionized, Finland 69%, Iceland 86%, and Sweden 68% (the United States had an 11% unionization rate during the same year, one of the lowest in the world).¹³

For example, the Swedish Ghent system consisted of 42 unemployment funds, covering nearly 80% of the labor force at its peak in 1990. Members were asked to pay low membership fees ranging from about \$1 to \$5 per month, in exchange for generous unemployment insurance that replaced 90% of lost income. The system is financed through taxes and employer contributions, which flow into a centralized Labor Market Fund before being distributed to the 42 individual unemployment funds.^{14 15}

The high union density in Nordic countries has been directly responsible for preventing the level of erosion of employee benefits and social welfare systems that the United States has experienced. In Norway, for instance, labor unions fought for and won significant protections for workers' pension plans in the face of recent government-led reforms. Labor unions have ensured that Norway's generous sick leave program hasn't been touched, and unions and employer organizations commonly work together with the government to develop measures that will improve wage and working conditions. As Norwegian labor researcher Kristine Nergaard notes, the Norwegian government "has in many ways been cautious not to provoke the labour unions unnecessarily regarding social policy matters."¹⁶

HOW CAN THIS MODEL BE APPLIED TO PORTABLE BENEFITS?

Is this model portable?

Yes. Benefits and fees are not tied to a specific job, but rather to the employment sector. A participant may continue membership when switching jobs.

Is this model pro-rated?

Yes. The majority of contributions come from government subsidies and a pay-

¹³ "Trade Union Density." OECD. Organisation for Economic Co-operation and Development, n.d. Web. https://stats.oecd.org/Index.aspx?DataSetCode=UN_DEN

¹⁴ Bandau, Frank. "Contested Welfare Institutions - The Conservative Attack on the Swedish Ghent System." 12th Annual ESPAnet Conference, Stream 20: Institutional Design and Reform - Consequences for Social Inequality, Oslo and Akerhus University of Applied Science, Oslo, 4th - 6th September 2014 (2014): n. pag. University of Bamberg. Web. https://www.uni-bamberg.de/fileadmin/uni/fakultaeten/sowi_professuren/internationale_politik/Zohlnhoefer/Mitarbeiter/Bandau_ESPAnet_Paper.pdf

¹⁵ "Sweden: Social Partners' Involvement in Unemployment Benefit Regimes." European Foundation for the Improvement of Living and Working Conditions. Eurofound, n.d. Web. <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/sweden/sweden-social-partners-involvement-in-unemployment-benefit-regimes>

¹⁶ Nergaard, Kristine. "Trade Unions in Norway: Coordinated Wage Bargaining and Workplace Level Co-determination." Bibliothek. Library of the Friedrich Ebert Foundation, Nov. 2014. Web. <http://library.fes.de/pdf-files/id-moe/11021.pdf>



One of the biggest advantages of the Ghent system for employers is that it allows more flexibility in the labor force, in exchange for workers receiving income security. This combination of policies is called 'flexicurity' in Denmark.

roll-based employer tax. The cost per participant is based on a combination of their income and the sector to which they belong. Plans require higher contributions for workers in high-unemployment sectors (e.g., musicians) than those in low-unemployment sectors (e.g., finance). Generally fees for workers to join the plan are low and tax-deductible.

Does this model provide more universal access to benefits?

Yes. Ghent systems provides universal access to unemployment insurance for all workers who meet the employment qualifications (for example, having worked at least 80 hours per month in Sweden), though Belgium is the only country that mandates participation. In some countries, such as Denmark, there are funds for self-employed workers.

ADVANTAGES AND LIMITATIONS

One of the biggest advantages of the Ghent system for employers is that it allows more flexibility in the labor force, in exchange for workers receiving income security. This combination of policies is called ‘flexicurity’ in Denmark. As Ghent expert Matthew Dimick said, “Union-determined and administered unemployment insurance is efficient and establishes a positive-sum trade-off between a form of security in the labor market and a flexible workplace.”¹⁷

Further, the Nordic Ghent system is highly applicable when considering how to design a portable benefits structure for independent workers in the United States. The Ghent system shows that it is possible for workers to achieve high levels of income security by combining 1) unemployment contributions from employers and government, 2) benefit administration by unions, and 3) membership dues from workers that strengthen union density. Union membership is extremely high under this system, which further drives high incomes and job protections for workers.

Independent workers can also sometimes be accommodated under this system if a fund is set up for them.

However, for this system to be applicable to American workers, adequate contribution levels would have to be maintained between the employer and the government. The Ghent system has eroded somewhat in recent years due to conservative governments requiring significantly larger worker contributions to the fund, which over time has decreased voluntary signups.

¹⁷ Dimick, Matthew. “Paths to Power: Labor Law, Union Density, and the Ghent System.” (2010): n. pag. Washington University Law Library, Web. <http://law.wustl.edu/centeris/documents/laboremplLaw/DimickPathstoPower1.pdf>



④ Group insurance


GROUP INSURANCE IS COVERAGE PROVIDED to members of an employer, association, or union.¹⁸ The coverage is not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with the particular organization or group. A full suite of benefits, including health insurance can be offered to an employer or union. While many types of benefits can be offered through an association, including disability, life, and supplemental insurance, major medical insurance generally cannot. For example, the AARP provides group life insurance to members, and the Owner-Operators Independent Drivers Association (OOIDA) offers a group short-term disability plan to its members.

In order for an association to offer insurance to its members, it must meet certain requirements that vary from state to state. In general, the association must have been in existence for at least two years, and must exist for purposes other than simply obtaining insurance. In addition, the group must hold regular meetings (at least annually), must collect dues, and the members must have voting privileges and representation on the governing board. Members are not obligated to purchase their association's insurance, and can choose to cancel coverage at any time. While most such associations are nonprofit organizations, there is no such requirement. In some cases, the insurance commissioner must verify that, among other things, the group policy would result in economies of scale in terms of price or administration. Premiums for the insurance coverage may be paid by the association, the member, or a combination.

Compared to issuing individual insurance plans, insurance carriers typically prefer group plans, which can make individual insurance coverage very expensive or completely unavailable. One reason insurance carriers prefer group plans is to avoid "adverse selection risk." This is the scenario when high risk individuals are more likely to purchase insurance, which can make the insurance very expensive or unprofitable for insurance carriers to provide. Offering coverage through a group of similar individuals and having high participation rates among the group can mitigate this risk.

Additionally, individual insurance policies can be cumbersome and expensive to administer. This is because payment must be collected by many individuals. In contrast, a single group policy is issued to the association (with members being issued a certificates of coverage) and the insurance carrier is remitted one premium for all members.

¹⁸ General references:
NAIC. Group Personal Lines Property and Casualty Insurance Model Act. Publication no. MDL-760. National Association of Insurance Commissioners, 1996. Web. <http://www.naic.org/store/free/MDL-760.pdf>



This situation ties the benefit to membership in a group or association, so the portability is related to the person's ability to remain a member of the association if they leave their job or industry.

Finally, group policies can also provide administrative efficiencies, which help to drive a lower cost. As opposed to needing to file the policy in all 50 states as is required for individual insurance policies, a group policy is filed in the state where the association is domiciled and the approval process is streamlined in many other states.

HOW CAN THIS MODEL BE APPLIED TO PORTABLE BENEFITS?

Is this model portable?

Somewhat. This situation ties the benefit to membership in a group or association, so the portability is related to the person's ability to remain a member of the association if they leave their job or industry. For example, if the person was a member of an association of realtors, they could likely change real estate firms, but not their industry, without giving up their benefits. However, if the association was more broad, perhaps an association of independent contractors, the person could move between industries without giving up their coverage.

Is this model pro-rated?

No. Although coverage may be paid for by the association, the participant must pay a sometimes-substantial fee to join and there are no contributions from employers or the government. This model is more relevant to the accessibility of the benefit as opposed to the source of the contribution.

Does this model provide more universal access to benefits?

Yes. The model allows for individuals to access coverage that may only be accessible or affordable to members of a group.

ADVANTAGES AND LIMITATIONS OF GROUP INSURANCE

The main advantages of the group insurance model are affordability and accessibility of benefits that are difficult for individuals to access independently. Dale Turvey, founder of the National Administration Company, a national program administrator that offers affinity group and association products and services throughout the United States, highlights the advantage of affordability, "for the customer to get the best deal, the association makes all the sense in the world."¹⁹

¹⁹ Turvey, Dale. "Interview with Dale Turvey." Personal interview. 13 Mar. 2016.



Although this model would work today to provide independent contractors access to certain benefits, such as disability insurance, its reach is limited in that it cannot include health insurance.

Although this model would work today to provide independent contractors access to certain benefits, such as disability insurance (as an alternative to workers compensation), its reach is limited in that it cannot include health insurance. However, the impact of this restriction is limited since all workers can access health insurance through the Affordable Care Act. Further, while a group plan may offer lower rates than individuals can find on the health care exchanges, the reduction in cost would often be less than if a person qualifies for a tax subsidy.

Joseph M. DiBella, Managing Director of Conner Strong & Buckelew, an insurance broker and benefits consultant, suggests that “there is an overwhelming need to modify ERISA (the federal law that governs health and retirement plans) which is a law that is more than 40 years old. In the same way that other aspects of our economy and economic framework must be modernized to keep pace with the changes happening, so too should the archaic laws that govern group health plans. The use of large health benefit plan pooling to synch with the gig-economy is long overdue and would provide a much needed platform to help provide more reasonably priced and efficiently delivered healthcare to the new workforce. Hopefully a byproduct of creating insurance outlets in other areas may be a stimulus to deal with medical coverage which is the biggest driver of cost.”²⁰



20 DiBella, Joseph M. “Interview with Joseph M. DiBella.” Personal interview. 13 Mar. 2016.

5 Secure Choice Retirement Plans

A NUMBER OF STATE AND FEDERAL RETIREMENT plans have recently been enacted, with many more in development, in an effort to increase private savings for retirement and reduce dependence on Social Security.²¹ Half of all households don't have a retirement account, and households near retirement age have average savings of only \$14,500. Social Security is not intended to be the sole source of retirement income as payments replace only about 40 percent of the average earner's pre-retirement income, while workers need 70 percent of their pre-retirement earnings to maintain a comfortable standard of living in retirement.²²

The increase in retirement insecurity is driven in part by the fact that today, employers rarely offer defined benefit pensions – which provide a fixed retirement benefit in perpetuity— as an employment benefit, instead opting to offer 401(k)-like plans. In contrast to defined-benefit plans, 401(k)-like plans require that workers assume the risk of outliving their savings. While these plans may receive a modest employer match, about half of part-time workers are not offered these plans by their employers, and although these workers can contribute to individual retirement accounts (IRAs), very few do.²³

Illinois has addressed an important element of this gap. Starting in 2017 the state will automatically enroll workers without a retirement account into a portable, state-run individual retirement plan called the Secure Choice Pension. All firms with more than 25 employees must enroll their workers into Secure Choice, unless they already offer a plan. “The data show that access to a plan that operates by payroll deduction

Half of all households don't have a retirement account, and households near retirement age have average savings of only \$14,500.

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<http://www.forbes.com/sites/laurashin/2015/04/09/the-retirement-crisis-why-68-of-americans-arent-saving-in-an-employer-sponsored-plan/#2749c6e019d8>

enormously changes participation from basically zero to over 50 percent,” says Illinois state Senator Daniel Biss, who was the proposal’s lead sponsor.²⁴

By default, 3% of an Illinois worker’s wages will be deposited into their pension via payroll deduction. Individuals can choose their investment plan and their contribution level (3% or more), and can opt out if they wish. All accounts are pooled together and professionally managed, ensuring that fees are low and investment performance is competitive.

An important aspect of this plan is that accounts follow workers from job to job. An employee simply provides a new employer with their plan information to make the change. A person with two jobs can give the same account number for a payroll deduction at each job. Self-employed workers may opt in and enroll in the Secure Choice Savings program.

However, due to ERISA restrictions employers cannot contribute to a worker’s plan. They can only deduct and forward an employee’s payroll deductions to the plan. Another significant limitation is that contributions cannot exceed \$5,500 per year for a worker under 50 years old, per IRS regulations.

Secure Choice plans of various kinds have been enacted in California, Oregon, and Illinois, and proposed in 12 other states. Other states including Washington and Massachusetts have created marketplaces to voluntarily connect employers with a small set of affordable plans for their employees. Self-employed workers can access vetted, reasonably priced plans in these state marketplaces.

One of the offerings in the marketplaces is the newly launched federal IRA plan, myRA, which has no fee or minimum starting balance and is backed by Treasury bonds. MyRA also guarantees that workers will not lose any of their contributions. The myRA plan is available to any individual of any employment status. But unlike 401(k) or pensions, employers cannot contribute to an individual’s myRA, and the lifetime contributions are capped at \$15,000.

HOW CAN THIS MODEL BE APPLIED TO PORTABLE BENEFITS?

Is this model portable?

Yes, Secure Choice pension accounts are completely portable and follow workers from job to job.

Is this model portable pro-rated?

No, companies cannot contribute to a worker’s plan, their only role is to deduct con-



An important aspect of this plan is that accounts follow workers from job to job. A person with two jobs can give the same account number for a payroll deduction at each job. Selfemployed workers may opt in and enroll in the Secure Choice Savings program.

²⁴ Barro, Josh. “Illinois Introduces Automatic Retirement Savings Program, a First for the Nation.” The New York Times. The New York Times, 05 Jan. 2015. Web. http://www.nytimes.com/2015/01/06/upshot/illinois-introduces-automatic-retirement-savings-program-a-first-for-the-nation.html?_r=0

tributions from the employee's paycheck and forward the funds to the investment plan. If they have multiple jobs, workers choose the amount they contribute at each job, up to the \$5,500 per year cap. The worker can also opt out altogether.

Does this model provide more universal access to benefits?

Yes, Secure Choice is available to all workers, including independent workers, and is designed to increase access to and participation in retirement savings accounts. Self-employed workers may opt in and enroll in the program as opposed to the program's opt-out provision for traditional W2 employees.

ADVANTAGES AND LIMITATIONS OF SECURE CHOICE

Secure Choice is an excellent example of a state-initiated portable benefits program. It expands access to retirement, ensuring that millions of people will have a modest private retirement fund in addition to Social Security. Importantly, it includes a mandate for participation, with an allowance for workers to opt-out. This is critical because if workers have to proactively opt-in rather than being enrolled upon hire, they are drastically less likely to enroll. Independent workers are able to access the retirement plans offered under Secure Choice by opting in. The government is also performing a necessary role in a portable benefits system by acting as a fiduciary agent, and setting a high bar by guaranteeing that workers will not lose their hard-earned money under the plan.

However, Secure Choice has one major flaw: employers cannot contribute to a worker's plan. Successful retirement systems for the middle class have always included an employer or government contribution, preferably both. Without those contributions, and combined with the \$5,500 cap on contributions required by federal law, workers will not be able to save the money necessary for a secure retirement through this program alone.

A better option would be a pooled multiemployer plan modeled after Taft-Hartley plans, which allow employers to contribute to workers' benefit accounts, and have no cap on lifetime contributions. However, there would need to be changes to the structure as the plans are only applicable to employees. While the aforementioned offerings are not perfect, they are an improvement for workers in an increasingly volatile economic and employment climate.



Conclusion

AFTER THE GREAT DEPRESSION, Americans made a collective decision to engender an unprecedented shared safety net that would carry us through generations of workers. In the 21st century, it is unfortunately no longer enough. We must implement a Portable Benefits system that supports the millions of Americans who can no longer benefit from 20th century methods today.

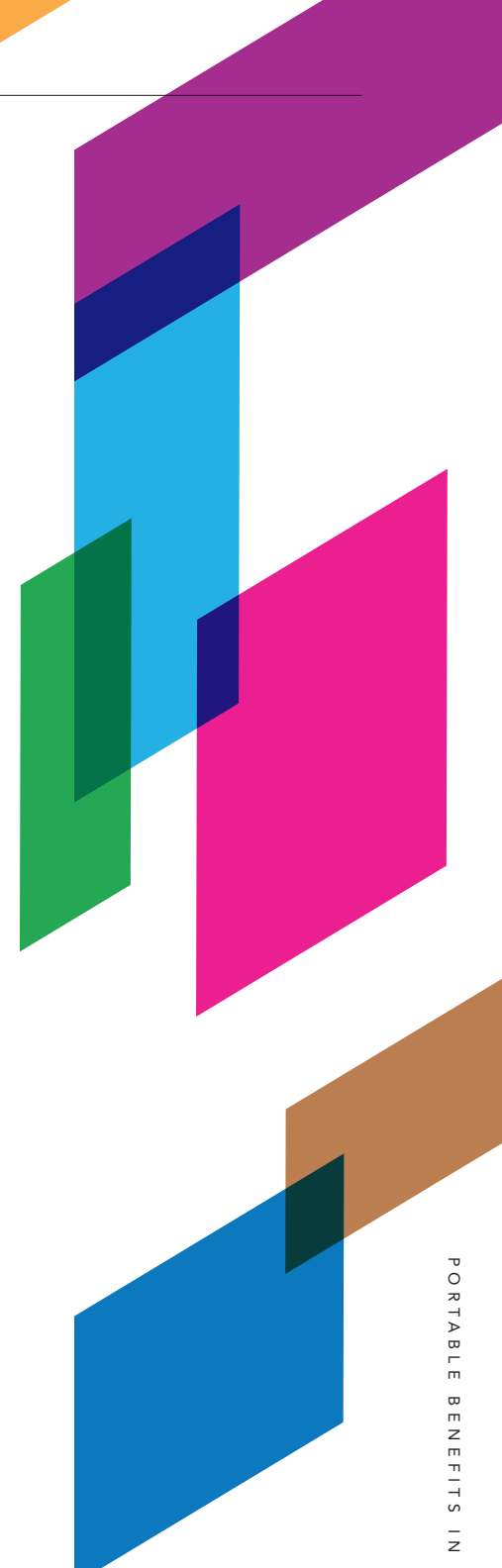
The models reviewed above can serve as a blueprint, and provide a number of tools we can utilize as we define a system of Portable Benefits. However, as summarized in the table below, none of the models we have explored can independently deliver a portable, pro-rated, and universal system of Portable Benefits to American workers. To create such a system, we either have to create new mechanisms, modify the existing models, or combine pieces of them.

	Portable	Pro-rated	Universal
Multiemployer Plans	Somewhat (within industry)	Yes	No
Black Car Fund	Somewhat (within industry)	Yes	Yes
Ghent System*	Yes	Yes	Yes
Group Insurance	Somewhat (depends on group)	No	Yes
SecureChoice	Yes	No	Yes

*Not available to American workers

Taft-Hartley plans are an interesting mechanism to deliver benefits to workers who work for multiple employers, but it is only applicable to unionized employees. Group insurance and Secure Choice are useful models to provide some benefits to independent contractors, but they are limited in their scope and the contribution of employers. The Ghent system is highly relevant to a future U.S. portable benefits plan, but it could only be similarly applied in employers and/or the government made significant contributions to the fund.

The most applicable models arise when considering several of the concepts above in combination. As the Black Car Fund makes drivers employees of the fund simply for the purposes of providing workers compensation, a “Black Car Fund Plus” model could expand the program to provide other benefits. As workers would now be em-



ployees of “Black Car Fund Plus,” more traditional employment-based models could become applicable, such as Taft Hartley plans or group health insurance plans.

We can also look for ways to provide benefits for independent workers without requiring them to be traditional W2 employees. The Secure Choice and group insurance models wouldn’t require large-scale conversion of non-traditional, self-employed or 1099 workers to traditional employee status. However, then we would need to provide for another mechanism for companies to contribute to the cost of benefits. This could be accomplished by a model similar to Black Car fund, or a new mechanism that would facilitate or require contribution, which would ease the employee misclassification concerns related to providing benefits to independent contractors.

While each of the foregoing models sets forth interesting tools to inform the potential structure of a Portable Benefits system, a rigorous legal and policy analysis must follow to determine the best way a shared safety net can support workers in the 21st century. We then must borrow the best of these models and innovate new frameworks. Although there are no easy answers, evolving our social safety net is an undertaking worthy of the effort as it will help to ensure the future prosperity of our economy and society. ●



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Shelby is a social entrepreneur who has dedicated his career to building and empowering p2p marketplaces. He is currently the CEO of peers.org, which aims to support sharing economy workers left vulnerable from the lack of a traditional employment infrastructure. Previously, Shelby was the founder and CEO of RelayRides, the world's first peer-to-peer carsharing marketplace, which now operates in over 2,500 US cities. He was an early employee at p2p microfinance lending platform Kiva.org. Shelby is intrigued by the power of connecting people online to positively impact the offline world, and believes strongly that the rapidly growing and evolving Collaborative Economy has the potential to be an incredibly positive force in our society and economy.

Shelby holds an MBA from Harvard Business School, and a BS in Biomedical Engineering from Northwestern University, where he attending on a swimming scholarship.



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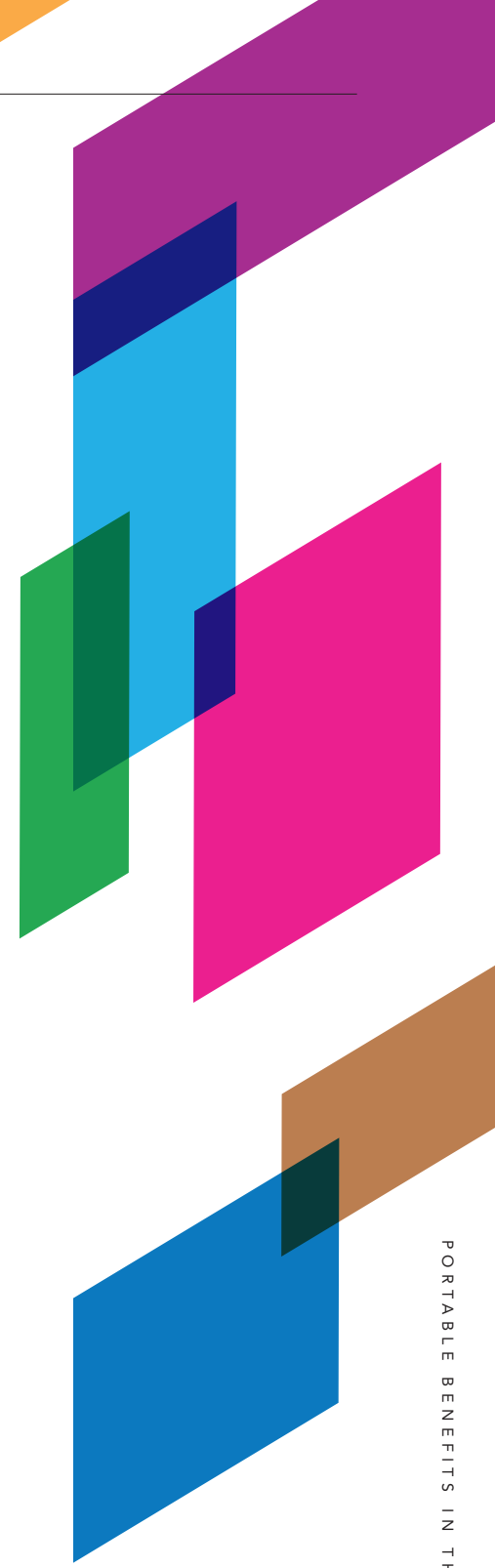




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