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## HOUSE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY  
ON STRENGTHENING LABOR PROTECTIONS FOR GIG WORKERS IN THE  
STATE.

1           WHEREAS, in 2017, the United States Bureau of Labor  
2 Statistics stated that about ten percent of the national  
3 workforce, or more than fifteen million people, worked in some  
4 manner as an independent contractor, also known as a gig worker;  
5 and

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7           WHEREAS, the Pew Research Center found that sixteen percent  
8 of Americans were earning money from online gig work in 2021  
9 during the coronavirus disease pandemic in positions like  
10 ridesharing drivers, delivery service employees, or home  
11 cleaners; and

12  
13           WHEREAS, a professor of labor and employment relations at  
14 Pennsylvania State University, told TIME Magazine that "most  
15 employment and labor laws were written half a century to a  
16 century ago and didn't anticipate the rise of the gig economy";  
17 and

18  
19           WHEREAS, in the fall of 2022, the United States Department  
20 of Labor published a proposal to rescind a prior rule that  
21 lowered the bar for classifying employees as contractors and  
22 require employers to consider whether an employee's work is an  
23 integral part of their business and direct employers to use the  
24 totality of criteria historically used to determine whether a  
25 worker is a truly independent contractor under the following  
26 criteria:

- 27  
28           (1) The extent to which the services rendered are an  
29           integral part of the principal's business;  
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31           (2) The permanency of the relationship;  
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- 1           (3) The amount of the alleged contractor's investment in
- 2           facilities and equipment;
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- 4           (4) The nature and degree of control by the principal;
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- 6           (5) The alleged contractor's opportunities for profit and
- 7           loss;
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- 9           (6) The amount of initiative, judgment, or foresight in
- 10           open market competition with others required for the
- 11           success of the claimed independent contractor; and
- 12
- 13           (7) The degree of independent business organization and
- 14           operation; and
- 15

16           WHEREAS, in 2019, California adopted Assembly Bill No. 5,  
 17 which protects workers from misclassification as independent  
 18 contractors, or gig workers, by applying the "ABC" tests used by  
 19 courts to determine employee status; and

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21           WHEREAS, under the California law, workers can only be  
 22 classified as independent contractors, or gig workers, if they  
 23 are free from control and direction by the hiring company;  
 24 perform work outside the usual course of business of the hiring  
 25 entity; and are independently established by trade, occupation,  
 26 or business; and

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28           WHEREAS, when millions of workers are misclassified,  
 29 companies avoid paying their share of social security, Medicare,  
 30 and unemployment taxes, as well as state workers' compensation  
 31 insurance; and

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33           WHEREAS, gig workers are attractive to employers because  
 34 gig workers are excluded from the right to collectively bargain,  
 35 which the United Nations has declared to be a fundamental human  
 36 right for all workers; now, therefore,

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38           BE IT RESOLVED by the House of Representatives of the  
 39 Thirty-second Legislature of the State of Hawaii, Regular  
 40 Session of 2023, that the Legislative Reference Bureau is  
 41 requested to conduct a study on what steps the State can take to  
 42 strengthen labor protections for gig workers; and



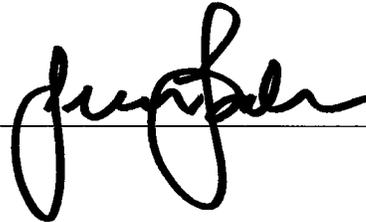
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BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to consider the provisions of Assembly Bill No. 5, 2019, from California; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature, no later than twenty days prior to the convening of the Regular Session of 2024; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor, Lieutenant Governor, Director of Labor and Industrial Relations, and Director of the Legislative Reference Bureau.

OFFERED BY:



MAR - 8 2023

