

Supplemental Response to Committee Inquires: ABC Test Analysis for ‘Empowering the Modern Worker’ Hearing

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Dear Members of the House Committee on Education and the Workforce:

Thank you for your inquiries regarding our study. I provide the following responses to address each of the questions.

a. Data and Methodological Transparency

In accordance with standard practice in the economics profession, all requested codes and data files will be made publicly available upon publication of the paper in a peer-reviewed journal.

b. State Selection and Methodological Framework

i. Control State Identification

The control states, selected based on their continued application of either the common law test (or right-to-control test) or the economic realities test across all relevant domains throughout the 1990–2024 study period, comprise the following fifteen jurisdictions: Alabama, Arizona, District of Columbia, Florida, Iowa, Kentucky, Michigan, Minnesota, Mississippi, Missouri, North Carolina, North Dakota, South Carolina, South Dakota, and Texas.

ii. Control State Selection Criteria

Our control state selection methodology was designed to identify jurisdictions that maintained consistent worker classification standards throughout the study period. Control states were required to demonstrate continuous application of the traditional common law (or right-to-control tests) or economic realities tests without implementing ABC test frameworks in any of the three primary domains of analysis (wage and hour laws, unemployment insurance, and workers' compensation) during the 1990–2024 timeframe.

iii. Treatment Variable Construction and Legal Change Documentation

ABC tests operate across three distinct legal domains: wage and hour laws, unemployment insurance (UI), and workers' compensation (WC). Given the differential impact of these applications—with wage and hour implementations imposing the most substantial costs, obligations and potential liabilities—we developed a hierarchical treatment identification protocol based on legal and economic significance.

Our methodology employed a sequential assessment framework, systematically reviewing each study state's legal environment within the 1990–2024 sample window. We first examined wage and hour law implementations, given their comprehensive scope and substantial compliance requirements. In the absence of wage and hour ABC adoption within the study period, we then assessed unemployment

insurance implementations. Finally, if neither wage and hour nor unemployment insurance ABC adoption occurred within the sample window, we evaluated workers' compensation law changes. This approach ensured each state received a single, empirically meaningful treatment date corresponding to the earliest applicable ABC test adoption within our analytical framework.

The specific legal changes and adoption of timing for each study state are detailed below:

Treatment States: Legal Changes and Adoption Timing

State	Year	Law Change
California	2020	Assembly Bill 5 (AB5) codified and modified the ABC test for all labor code domains, including wage and hour (Cal. Lab. Code § 2775 et seq.).
Hawaii	2006	Hawaii applies the ABC test for unemployment insurance with formal application outlined in the DLIR UI Claimant Handbook Rev 9/24 and Employer Handbook.
Illinois	2008	Case law cites Employee Classification Act effective in 2008 for Wage and Hour.
Maine	2012	Maine's HP0960 bill (see § 6 on page 8) explicitly includes ABC test language applicable to wage-and-hour classification, with legal counsel confirming ABC structure.
Massachusetts	2004	Massachusetts General Laws c. 149 § 148B imposes ABC test for wage and hour.
Nevada	2019	2019 Statutes of Nevada, Ch. 528 (SB 493, p. 3160) codified an Chapter 528 (Senate Bill 493) requires ABC test for workers compensation.
New Hampshire	2008	The 2008 Employee Classification Act was applied to wage and hour classification through case law referencing the Act's ABC framework.
New Jersey	1995	The ABC test has applied to wage and hour law since at least 1995, as documented in <i>Hargrove v. Sleepy's</i> (2015).
New Mexico	2005	New Mexico applied the ABC test to workers' compensation via N.M. Stat. Ann. § 60-13-3.1 (2005 N.M. Laws ch. 94, Act of April 4, 2005).

iv. & v. Severity Assessment Methodology

The question of implementation severity is addressed through an analysis of wage and hour ABC adoptions during the treatment period. This approach enables examination of differential effects across legal domains and provides an additional analytical framework for measuring treatment effects by isolating the most substantial applications. While not incorporated into our primary findings, our study includes this severity calibration as a robustness check to enhance the reliability of our results.

I trust this information addresses your inquiries. Should you require additional clarification on any aspect of our methodology or findings, I remain available to provide further detail.

Respectfully submitted,

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