



## Immediate Federal Policy Priorities for the 117<sup>th</sup> Congress and Incoming Administration

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### **PENSION PROTECTION:**

All hard-working Americans should share in the American dream of living their golden years without fear of poverty. But some of the nation's largest multiemployer pension plans are on the verge of collapse and the economic crisis caused by the COVID-19 pandemic has further aggravated the problems these funds face. To make matters worse, the PBGC's multiemployer pension insurance program is currently projected to become insolvent in FY2026. We must protect multiemployer pensions by enacting the [\*Rehabilitation for Multiemployer Pensions Act\*](#) or the [\*Emergency Pension Plan Relief Act\*](#). Both of these bills protect the benefits that retirees have earned and do not cut their pension benefit. It is also critical that Congress pass corporate bankruptcy reform with retirement income security provisions, and that the incoming Administration rescind harmful Department of Labor (DOL) rules and executive orders that threaten the health of multiemployer pension plans, make it more difficult to save for retirement and favor corporations and financial institutions over working people.

### **LABOR STANDARDS AND THE RIGHT TO FORM A UNION:**

**Collective Bargaining:** Giving working people the freedom to form unions and bargain collectively is essential to rebuild our economy and the middle class. The COVID-19 pandemic has clearly shown us the power of collective worker action and a union contract. The Teamsters Union supports passage of the *Protecting the Right to Organize Act* and the *Public Service Freedom to Negotiate Act*, which give workers a fair, timely and direct path to form a union. With social distancing requirements impacting all aspects of work life, the Department of Labor should provide immediate guidance on holding union elections during the COVID-19 pandemic through remote electronic voting. The DOL should also expand transparency of the use of anti-union consultants by repromulgating the so-called "Persuader Rule."

**National Labor Relations Board:** The composition and leadership of the NLRB, NMB, and FLRA are critical to protect workers' rights to collectively bargain. Over the past 4 years, the NLRB has ignored its statutory mission. It has stripped workers of their protections under the law, restricted their ability to organize at their workplace, slowed down the union election process to give employers more time to campaign against the union, repealed rules holding employers accountable for their actions, and undermined workers' bargaining rights. We urge the nomination and appointment of individuals to the NLRB, NMB, and FLRA who have a demonstrated professional commitment to workers' rights.

**Misclassification:** Congress and all relevant federal agencies must prioritize a solution to the growing problem of worker misclassification through congressional and administrative action. We support codifying the so called "ABC" test for determining who is an employee and the application of all pertinent, federal employment, benefit and tax laws. Worker misclassification should be a violation of federal law. However, there is much that the Administration can do

independently of Congress. We urge the Department of Labor to immediately take the following actions:

- Reissue the Administrator’s Interpretation on independent contractor classification originally issued in July 2015.
- Suspend and rescind the Department of Labor’s final rule on independent contractors under the Fair Labor Standards Act (FLSA).
- Issue guidance to state unemployment insurance agencies, making clear that applying for Pandemic Unemployment Insurance (PUA) has no impact on other claims a worker may have regarding their misclassification.
- Use all available authorities and resources to comprehensively enforce existing laws and standards and hold employers accountable for intentional misclassification of their workforce.

**Joint Employer:** In 2020, the Department of Labor issued a rule redefining joint employment under the FLSA. The Teamsters urge the DOL to rescind the final rule on joint employer status under the Fair Labor Standards Act and ensure correct classification and accountability for businesses. We also urge the DOL to reissue the Administrator’s Interpretation 2016-01, issued in January 2016, which reviewed standards on joint employment under the FLSA and the Migrant and Seasonal Agricultural Worker Protection Act.

**Federal Workforce:** The rights and job security of unionized federal workers have been systematically dismantled over the past four years. We urge swift action to rescind the executive and regulatory attacks levied upon our federal workforce. **For further detail see:** [FWA Alliance Priorities Letter](#)

**Overtime:** A 2014 Executive Order and subsequent rulemaking increased the overtime income threshold from \$455/week to \$913/week and gave overtime pay to millions more workers. In 2019, the Department of Labor finalized a rule which reduced those expanded salary thresholds and limited the number of workers entitled to an increase. We urge the Department of Labor to promulgate a regulation to increase the overtime salary thresholds of the Fair Labor Standards Act and provide a formula for automatic annual updates in the future.

**Prevailing Wage and Project Labor Agreements:** With expiration of the Surface Transportation Bill and comprehensive public infrastructure investment proposals expected this year, it is essential that Congress and the Administration protect job quality and community wage standards by supporting the continued application of Davis-Bacon prevailing wage provisions to all varieties of federal construction financing. We also support the availability and application of project labor agreements to federally supported infrastructure projects. There is also much that the Administration can do independently of Congress to support these core labor standards. To begin with, we urge the Department of Labor to issue a Notice of Proposed Rulemaking and begin the comment period to amend 29 CFR 1.2(a)(1) to restore the Secretary's original definition of “prevailing wage” that had been in place for nearly 50 years before it was upended; reverse the 2006 Administrative Review Board decision in *Mistick Construction*; and state that variable rates under collective bargaining agreements shall be treated as a single rate.

**Workforce Development:** To fill 21<sup>st</sup> century jobs, workers need the skills employers seek. The Teamsters are at the forefront of worker training, such as our commercial driver’s license training program for those leaving the military--recognized by the Department of Defense as an outstanding program. But there is a need to boost vocational training for the U.S. population at

large. The Teamsters Union urges Congress and the Administration to pursue policies that increase access to high quality vocational training in order to provide options and opportunity for young adults entering the workforce. The Administration should immediately revoke Presidential Executive Order 13801, Expanding Apprenticeships in America. Upon revocation, the DOL should, through notice and comment, issue a new rule eliminating 29 CFR 29, part B (29 CFR 29.20-29.31).

## **WORKER HEALTH AND SAFETY:**

The majority of Teamster members are essential workers on the front lines of this pandemic crisis. Sadly, this past year has shown, that in the absence of enforceable federal standards, many employers will continue to put profits over worker safety. Congress and the Administration must take action to enact and enforce health and safety standards specific to the needs of all essential workers. Essential workers must also be provided high quality personal protection equipment (PPE), frequent testing for the COVID-19 coronavirus, and early access to a safe and effective vaccine. **Resources detailing the Teamsters Union's comprehensive priorities for past and upcoming COVID-19 pandemic stimulus legislation can be found here:**

<https://teamster.org/covid-19/covid-19-policy-updates/>.

***Emergency Temporary Standard:*** We urge the Occupational Health and Safety Administration (OSHA) to issue and fully enforce an emergency temporary standard (ETS) on COVID-19 that provides at least as much protection as the Virginia Occupational Safety and Health program's emergency temporary COVID-19 standard, the Cal/OSHA Aerosol Transmissible Diseases Standard, and the Cal/OSHA COVID-19 Emergency Temporary Standard. Any grants or funding to states and localities in jurisdictions without public sector OSHA coverage must require compliance with the OSHA ETS. Through the OSHA ETS, or as a national order, we must mandate employer reporting of individual COVID-19 cases within 24 hours to health departments/the Centers for Disease Control and Prevention, and outbreaks of two or more to OSHA.

***Personal Protective Equipment:*** The President must invoke the Defense Production Act (DPA) to ensure the domestic manufacture of an adequate supply of high quality personal protective equipment. As included in the HEROES Act (H.R. 6800), the President should immediately engage relevant stakeholders including labor unions to accurately assess the widespread need for PPE and other supplies for essential workers produced using the DPA, and the plan for meeting those needs.

***Enhancing OSHA's Enforcement Capabilities:*** The Labor Department should make full use of existing enforcement authorities to support COVID-19 prevention and response, fill all existing vacancies for enforcement-related personnel, double the number of OSHA inspectors, and direct any available discretionary funding to further enhance enforcement resources. The DOL should issue a memorandum of understanding (MOU) on OSHA coordination with the Department of Transportation (DOT) and on enforcement of OSHA standards on COVID-related protections in DOT-regulated industries where OSHA's enforcement jurisdiction is currently limited to specific standards. A similar MOU should be issued on OSHA-US Department of Agriculture (USDA) coordination and joint responsibility on worker safety in meat-processing facilities and associated occupations to address COVID-19 and other serious hazards in these industries.

***Ergonomic Hazards:*** The Department of Labor should update and expand OSHA’s strategy and initiatives to address ergonomic hazards in high-risk industries and add a separate column on the OSHA 300 log for employers to record work-related musculoskeletal disorders (MSDs).

***Excessive Heat:*** The DOL should immediately commence work on a standard to protect workers from excessive heat, consistent with Senators Harris and Brown’s past legislative proposal S. 4781, the Asuncion Valdivia Heat Illness and Fatality Prevention Act of 2020

## **TRANSPORTATION SAFETY AND INFRASTRUCTURE:**

Over 600,000 Teamsters start their workday by turning a key in a vehicle. Thousands of other Teamsters work in the transportation industry as railroad workers, building tradesmen, or across the aviation industry. Teamsters working in transportation are essential frontline workers who have kept our nation functioning throughout the COVID-19 pandemic and now transport the vaccine that will allow society to build back to normalcy. Congress and the Administration should fight any effort to further degrade working conditions across the transportation industry, and should actively work to strengthen wages and safety for the men and women who keep our nation running:

***Hours of Service:*** In May, the Federal Motor Carrier Safety Administration finalized a comprehensive rewrite of the hours of service regulations. Most concerning for Teamsters, this rule would extend the workday for short haul drivers by two hours a day and would extend how long all other drivers could work before being required to take a break. We urge the Administration to initiate a rulemaking to overturn these new regulations.

***Meal and Rest Break Laws:*** Having failed at efforts to enact broad, federal preemption of state level meal and rest break laws through Congress, the trucking industry petitioned the Federal Motor Carrier Safety Administration to preempt laws in individual states. These state laws give workers basic protections on the job like a paid lunch break and guaranteed rest breaks. Industry has sought, and FMCSA has granted, a petition to make drivers the only category of worker not eligible for these protections. The FMCSA should reverse its decision to preempt the CA and WA state meal and rest break laws and drop its defense of the preemption in court.

***Autonomous Vehicles:*** The deployment of autonomous vehicle (AV) technology will have a significant impact on our nation’s workforce and the safety of roads and highways. Policymakers have a major role to play in determining whether AV deployment will help or harm working people and whether the benefits from these technologies will be broadly shared. Congress and the Administration must ensure that workers and unions are full partners in the development and implementation of AV technology and policy. They must recognize the projected negative effects of a transition to AVs and take proactive steps to address them. We urge the Department of Transportation to begin this new administration by conducting a top-to-bottom review of all planned actions around autonomous vehicles. At a minimum, that must also be paired with the following changes:

- Revise guidance first established under DOT’s AV 3.0 roadmap that an Automated Driver System (ADS) shall be interpreted as a human driver under the Federal Motor Carrier Safety Regulations.
- Actively require disclosure of Commercial Motor Vehicle (CMV) testing and autonomous operations on public roads by private companies.

- Conduct operator fatigue studies and prepare a formal definition of “on-duty” time with regards to CMV operation.
- Change the voluntary nature of DOT’s regulatory approach to AVs to one that is compulsory.
- Conduct a detailed review of any upcoming proposed rulemakings around the integration of commercial autonomous vehicles onto public roadways.
- Finalize the congressionally mandated workforce impact study first mandated in the spring of 2017 that was never completed.

***Hair Drug Testing:*** In September, the Department of Health and Human Services (HHS) proposed guidelines for the use of hair samples as a method for drug testing federal employees and safety-sensitive employees in federally regulated industries, including commercial motor vehicle operators. Hair-testing is unreliable and inherently unfair. It can result in false positives because certain drugs can be absorbed into the hair from the environment. Variations in hair texture and even length can also impact results. The DOT should confirm that its position is to not mandate hair testing as a replacement for urinalysis in spite of HHS’s proposal.

***Teen Drivers Pilot Program:*** In 2019, the Federal Motor Carrier Safety Administration proposed a pilot program that would lower the commercial driver’s license restriction from 21 to 18. Congress had previously dictated that FMCSA approach this effort in a highly controlled manner using only veterans and other members of the military who had experience driving during their time in the service. That safeguard was an important step towards counter-acting the enormous safety risks inherent with having teenagers running tractor trailers across long distances and was fully ignored by the DOT. We urge the Department of Transportation to end this dangerous pilot program.

***“Pause” of the 14 Hour-Driving Window Pilot Program:*** FMCSA has announced its intention to create a pilot program to allow drivers to pause their 14-hour driving window by up to 3 hours per workday. This pilot program is misguided and will further erode the safety of motor carrier operations in this country. If enacted, this sort of rule change would be ripe for abuse by carriers and would greatly exacerbate fatigue across the industry. The Administration must immediately end this pilot program.

***Transportation Infrastructure:*** With expiration of surface transportation bill funding expected this fall, the federal government has an opportunity to revive the economy, invest in highway safety and infrastructure, and protect and employ thousands in good paying, union jobs. Increasing investment in our core transportation networks is essential to turning the economy around. It also presents an opportunity to address many of the dangerous anti-worker regulations issued by the Department of Transportation over the past 4 years and to enact proactive rules to protect drivers. We urge Congress and the Administration to identify a sustainable funding mechanism for a robust and long-term public investment in our nation’s transportation infrastructure.

#### Immediate Rail Industry Priorities

***Federal Railroad Administration:*** Appointees to the Federal Railroad Administration must provide vigorous oversight and enforcement of rail safety regulations. Agency actions regarding the safety of railroad workers on issues such as crew size, cross border issues and mandates contained in the Rail Safety Improvement Act of 2008 should be reviewed. Mandated actions that have gone unimplemented (e.g., risk reduction, fatigue management plans, technology

implementation plans) should have their regulatory actions completed per the law. These items are best addressed in the forum of the Rail Safety Advisory Committee, which needs to be reconstituted as it was prior to the expiration of the RSAC Charter in 2016. FRA should ensure Positive Train Control technology provides at least the same level of safety as the systems they replace.

***Railroad Unemployment Insurance Act:*** Congress must end the unfair sequestration of RUIA benefits contained in the Budget Control Act of 2011. All RUIA taxes are paid by railroads, and rail workers' sickness and unemployment benefits should not be reduced simply to help balance the federal budget.

***Surface Transportation Reauthorization:*** Railroad work should be performed by workers covered by the Railway Labor Act, the Railroad Retirement Act, and other standard railroad industry federal legislation.

### Immediate Airline Industry Priorities

***Foreign Repair Station Safety:*** Congress has repeatedly directed the Federal Aviation Administration (FAA) to issue drug and alcohol regulations for workers at foreign repair stations who perform safety-sensitive maintenance functions on U.S. commercial aircraft. This is a key part of ensuring that foreign repair stations are held to the same safety and security standards as domestic repair stations. This rule is now years overdue in spite of Congress repeatedly directing the FAA to finalize its work. We urge the Administration to immediately initiate a proposed rule on drug and alcohol testing at foreign repair stations and to expedite a final rule. This rulemaking is crucial for the safety of the flying public and the competitiveness of American workers.

***Cargo Pilot Fatigue:*** Congress and the Administration should recognize that fatigue affects all pilots the same way. The FAA must institute science-based fatigue rules for cargo operations that are on-par with passenger operations. The current rules, which were updated after the 2009 Colgan Air crash, did not apply to all-cargo airline operations. Congress should immediately pass the Safe Skies Act and the Administration should move forward with enacting their rest rules for cargo pilots.

***Flight Attendant Fatigue:*** The 2018 FAA Reauthorization Act directed the Administration to increase the minimum rest requirements for flight attendants across the country. Despite that clear direction from Congress, the FAA has chosen to drag its heels and not implement that change. This delay must end. An increase to a 10-hour rest period would provide flight attendants with time to conduct pre and post flight checks, travel to and from the airport, eat, and have time for adequate sleep. The FAA must implement a rule change increasing minimum rest requirements as well as requiring airlines to develop and implement a Fatigue Risk Management Plan for flight attendants.

### **TRADE:**

The Teamsters Union supports Congressional and Administrative action to establish a new trade policy framework for the country, one that creates and protects good jobs at home and supports equitable, sustainable and democratic development abroad. We urge full implementation and enforcement of the United States, Mexico, Canada, Trade Agreement (USMCA), especially with regard to cross-border trucking and labor rights and standards. The Teamsters Union has opposed efforts by past Administrations to renew trade promotion authority (aka "fast track). We urge the Biden Administration to announce quickly that it will not seek renewal of trade

promotion authority. We also encourage the Administration and Congress to strengthen Buy America/Buy American programs and Jones Act enforcement, address currency manipulation and misalignment, and to act boldly to engage and confront China.

### **HEALTH CARE:**

The Teamsters have always greatly valued and vigorously defended the benefits we have negotiated or provided to our members through our collectively bargained health plans, especially our Taft-Hartley health funds. Our Taft-Hartley plans have been stretched financially due to the costs for testing and treatment of COVID-19. They have incurred considerable cost providing extended coverage to our members when negotiated employer contributions have been halted due to temporary, significant job loss caused by the pandemic. The next iteration of stimulus legislation must include 100% federal subsidy for COBRA payments. Costs incurred due to vaccination and treatment of COVID-19 should also be covered at 100% in all current health plans with full reimbursement by the government until the pandemic is under control.

The Teamsters Union has long advocated for universal-quality health care coverage for all Americans. Achieving that goal through public and/or private health care expansion has promise, if we preserve a role for our bargained health plans under any new national system. As Congress and the Administration consider improvements to the Affordable Care Act and wholly new systems for providing fair, comprehensive and affordable health care services, it is essential that labor unions are engaged as full stakeholders in that process.

This should include addressing the high cost of prescription drugs by enhancing Medicare Part D, including Employer Group Waiver Plans. The Medicare Part D program should play a larger role in negotiating drug prices with “Big Pharma” and ensure that rebate revenue payments from the pharmaceutical industry are paid directly to benefit plans. These actions should benefit not only the Medicare Part D program but all private prescription drug benefit programs. Additionally, mental health and substance abuse benefits should be covered and administered like any other physical ailment under all health plans.

### **IMMIGRATION REFORM:**

The Teamsters’ Union believes that the most effective way to fully protect U.S. workers and end the unlawful exploitation of immigrant workers is for all workers – regardless of immigration status- to have full and complete access to the protection of labor, health and safety laws. The Teamsters’ Union urges Congress to pass comprehensive immigration reform legislation that protects all workers, holds employers accountable, and includes a rational and reasonable pathway to citizenship. Further, the Administration should immediately utilize all Federal agency resources to implement a humane and thoughtful system of immigration enforcement which prioritizes keeping families intact and fully considers the complex and sometimes painful circumstances surrounding each individual choice to seek U.S. residency and citizenship.