

# 2023-2024 State & Local Policy Agenda

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## Executive Summary

In the current uncertain economic environment, U.S. workers face serious threats, from eroding wages and unfair firings to union busting and entrenched occupational segregation based on race and gender. In response, workers are organizing and fighting back. Workers are demanding new policies to strengthen their power, raise labor standards, and crack down on abuses. With the very real prospect of federal gridlock, the best opportunities to advance a pro-worker, pro-equity agenda will likely be at the state and local level. This agenda outlines a range of policy responses that state and local governments are now taking to protect workers. These best practices from across the country provide a roadmap for how legislatures, governors, mayors, and city councils can promote a good jobs economy in the coming years.

### **1. Empower workers to organize unions, collectively bargain, and protect their rights in the workplace.**

The unequal power between workers and employers has hurt working families for decades. Increasing the power of workers is essential to create an economy that works for all.

- a. Restore worker bargaining power by extending full collective bargaining rights to all workers. Enact state policies protecting union rights and requiring employers to collectively bargain with workers who form unions in public-sector, agricultural, or domestic occupations that otherwise lack coverage under federal labor laws due to longstanding racist exclusions. Repeal existing state bans or constraints on public-sector collective bargaining or strikes;
- b. Repeal “right-to-work” laws designed to weaken unions;
- c. Ensure all workers have access to unemployment insurance while on strike;
- d. Adopt “temp worker bill of rights” laws to give contracted workers employed by temp and staffing agencies the right to refuse assignments as strike breakers.
- e. Establish sectoral standards boards with authority to bring employers, workers, and community stakeholders together to set wages and working conditions in essential jobs and sectors with poor working conditions.
- f. Leverage state contracting and purchasing power to increase worker power on projects and services funded with public dollars.

### **2. Make effective federal and state pandemic policies permanent.**

Important policy responses to the economic impact of the pandemic made the COVID downturn both shorter-lived and less painful for working families than the Great Recession. Many of these measures were temporary but have proven their usefulness and should be made permanent at the state level.

- a. Permanently expand unemployment insurance for all workers—including app-based workers, self-employed persons, part-time workers, and undocumented workers;
- b. Rebuild unemployment insurance trust funds through progressive employer payroll taxes that shift the burden of financing these vital systems away from small employers and ensure adequate benefits of sufficient duration for workers during the next economic crisis and beyond;
- c. Permanently expand paid sick leave and paid family and medical leave;
- d. Permanently expand anti-retaliation protections to ensure that worker whistleblowers can speak up about dangerous working conditions and other mistreatment; and
- e. Enact state-level fully refundable child tax credits.

### **3. Raise wages and improve job quality to help workers and families thrive.**

Bad jobs are a policy choice. Policymakers have tools available to ensure high quality jobs in every state.

- a. As the highest inflation in 40 years erodes paychecks and squeezes families, states and cities need to raise the minimum wage well beyond \$15, establish automatic annual adjustments so that wages keep up with the cost of living, close sexist and racist labor law exemptions that exclude many workers from the protection of the minimum wage, and restore access to overtime pay, including for farmworkers, education workers, and others who have long been excluded from this basic protection;
- b. Fight wage theft and enforce minimum wage laws, overtime laws, and other labor standards and protections. Support co-enforcement models at the local level;
- c. Ensure all workers have full labor and employment rights, including rights to organize and bargain, by preventing employers from mislabeling workers as “independent contractors.” Adopt clear and strong legal definitions (e.g., the “ABC test”) for determining employee status. Strengthen state enforcement and penalties for employers who illegally misclassify workers;
- d. Protect contracted temp and staffing workers in our fissured economy by adopting temp and staffing agency worker protection laws and issuing clear guidance stating that the businesses that control their work are “joint employers” and thus responsible for their working conditions;
- e. Fight forced arbitration requirements and other coercive waivers in employment contracts that prevent workers from enforcing their rights by adopting “qui tam” laws (which give workers or organizations the ability to bring enforcement actions on behalf of the state). Ban noncompete agreements, no-poaching requirements, independent contractor waivers (purporting to waive an individual’s employment status), and COVID-19 liability waivers;

- f. Protect workers from abusive workloads and intrusive workplace monitoring and surveillance practices that are causing sky-high worker injury rates, worsening workplace inequities, and magnifying power imbalances between workers and employers;
  - g. As dangerous heat, fires, flooding, and storms become more frequent, guarantee workers the right to refuse to work under such dangerous conditions or during declared emergencies. Adopt OSHA heat standards and other protections against workplace climate hazards;
  - h. End arbitrary and retaliatory firings with “just cause” employment protections, replacing the “at-will” system that gives employers inordinate control over workers’ livelihoods. As part of these policies, guarantee all workers severance pay and regulate the growing use of electronic monitoring in the workplace and its use in employee discipline and discharge;
  - i. Repeal abusive state preemption laws that prohibit cities and counties from enacting additional worker protections like higher minimum wages, rent control, and fair scheduling ordinances;
  - j. Protect immigrant workers from exploitation by prohibiting retaliation against immigrants who report wage theft and other abuses, preventing employer abuses of the employment verification process, and expanding access to drivers and professional licenses; and
  - k. Provide public investment to increase wages and improve working conditions for workers in all sectors of the care economy, including residential long-term care facility workers, child care workers, and home healthcare workers.
4. **Promote equitable access to jobs for Black and Hispanic workers, who are hit hardest by occupational segregation, high unemployment, mass incarceration, and negative effects of COVID-19.**

Race-blind policies do not exist. Policymakers need to actively tackle structural racism in every part of society.

- a. Promote access to good jobs for Black, brown, and low-income communities by adopting targeted local hiring policies and strong labor standards for publicly funded infrastructure and green economy projects;
- b. Fight racial and gender discrimination and occupational segregation with stronger civil rights protections and data gathering;
- c. Promote fair hiring for people with arrest or conviction records by adopting fair chance hiring and clean slate reforms (which prevent early disclosure of records in the hiring process and expunge records after a certain period), removing occupational licensing barriers, and ending unfair fees and fines imposed by the criminal justice system for traffic and other violations that trap workers in endless cycles of debt; and

d. Introduce policies to reduce racial disparities in wealth, including Baby Bonds.

**5. Ensure states and cities have the resources they need to rebuild and sustain high-quality public services.**

The pandemic crisis is behind us, but that does not mean that most communities are better off. Schools, hospitals, transit systems, and other public services remain severely weakened by the pandemic's impact—and in most places, a return to the pre-pandemic status quo is insufficient. We must build a rejuvenated public sector that meets the needs of every community. State policymakers can also do their part to make investments that support green jobs and address climate impacts.

- a. Restore the public-sector workforce by increasing compensation for public-sector jobs, especially in public education, and supporting collective bargaining;
- b. Address the shortage of teachers and other education staff by fully funding primary and secondary education and raising wages; and,
- c. Crack down on wasteful corporate giveaways by granting taxpayer-funded incentives only to businesses and development projects that produce specific, negotiated community benefits such as affordable housing and family-sustaining jobs for local residents.

# Recommendations

## 1. Empower workers to organize unions, collectively bargain, and protect their rights in the workplace.

Unequal power between workers and employers has hurt working families for decades. Three years of COVID-19 and an uneven recovery have reaffirmed how important it is [for workers to have a voice on the job](#). [More than 70%](#) of U.S. workers now approve of labor unions: Ensuring that more workers have a viable path to unionization is an essential element of an [economy and democracy that works for all](#). When workers are organized and united, they can ensure their rights are respected, bargain on equal terms with employers over wages and working conditions, and gain the collective power necessary to reverse longstanding inequities at work and in the economy.

- a. **Extend full organizing and collective bargaining rights to all workers. Enact state policies protecting union rights and requiring employers to collectively bargain with workers who form unions in public-sector, agricultural, or domestic occupations that otherwise lack protection under federal labor laws due to longstanding racist and sexist exclusions. Repeal existing state bans or constraints on public-sector collective bargaining or strikes.**

State and local policymakers play a significant role in directly regulating collective bargaining for millions of public-sector, agricultural, and domestic workers who are excluded from coverage under federal labor law by century-old racist occupational carveouts in the National Labor Relations Act. [Federal labor law reform is urgently needed](#), but until Congress enacts necessary change, states must take the lead on ensuring all workers have a protected right to form a union and collectively bargain. State policymakers should prioritize measures to empower workers to organize and form unions. States like [Illinois offer a model for others to follow](#): In Illinois, all workers' collective bargaining rights are now constitutionally guaranteed, and restrictions on collective bargaining rights are constitutionally prohibited.

Public-sector workers from teachers to medical first responders deliver vital services that sustain our communities, but in many states these workers struggle to afford the basics. Collective bargaining is the most effective strategy for improving job quality and narrowing public-sector pay gaps in state agencies, [local government](#), and [public education](#). Because women and Black workers are more likely to be employed in the public sector, ensuring that public employees can organize and bargain collectively is key to [reducing racial and gender pay gaps](#).

In [states that ban public-sector bargaining or lack comprehensive collective bargaining laws](#), policymakers should move swiftly to enact them. Governors and legislatures should also use their powers to restore workers' rights in states where a decade of extreme anti-union legislation has weakened formerly strong public-sector bargaining laws, resulting in

[suppressed wages and eroded job quality](#). [Colorado](#), [Maryland](#), [New Mexico](#), [Nevada](#), and [Virginia](#) have taken recent steps to establish, expand, or strengthen collective bargaining rights for some public-sector workers. These trends signal positive momentum in the right direction, though there is still much left to do across the country.

[Agricultural workers](#), [domestic workers](#), older individuals, and those with disabilities are some of the lowest-paid essential workers in our economy. Disproportionately immigrant, Black, brown, and women, agricultural and domestic workers face high poverty rates and grueling and dangerous working conditions. Agricultural and domestic workers have joined together for decades to raise workplace concerns and demand better working conditions. More states should follow the lead of [California](#), which adopted its state Agricultural Relations Act over 40 years ago and expanded it in 2022; [New York](#), which extended collective bargaining rights and other labor protections to farmworkers in 2019; and [Colorado](#), which extended collective bargaining rights and other protections to farmworkers in 2021. More states should join those that have created frameworks to [enable collective bargaining for home health or child care workers](#), and states that have taken the important first step to extend some employment protections by adopting [“Domestic Workers’ Bills of Rights”](#) legislation should take the next step to ensure that all domestic workers have collective bargaining rights as well.

**b. Repeal “right-to-work” laws designed to weaken unions.**

So-called right-to-work (RTW) laws on the books in 27 states limit workers’ collective bargaining rights by prohibiting unions and employers from negotiating [union security agreements](#) into union contracts. Such laws are intended to diminish workers’ collective power by making it harder for workers to form, join, and sustain unions. As a result, states with RTW laws generally have [lower unionization rates](#) than non-RTW states, [resulting in lower wages](#) and fewer benefits. All workers experience a wage disadvantage in states where RTW laws are in place—data show that these disparities are especially pronounced for [women and workers of color](#). States should repeal RTW laws currently on the books and [follow Illinois’ lead](#) in permanently prohibiting such constraints on collective bargaining.

**c. Ensure that all workers have access to unemployment insurance while on strike.**

The pandemic has served as a reminder that workers must often rely on collective action to protect themselves from unsafe working conditions, in some cases by [exercising the right to strike](#). Workers who walk off the job because of unsafe working conditions that employers fail to address should not be disqualified from receiving unemployment benefits. States should be required to consider a worker’s refusal to perform unsafe work as [“good cause” for not working](#), making the worker eligible for unemployment insurance. Because strikes can be effective and necessary [to force action on safety and health](#) or other basic workplace improvements, states should follow the lead of [New York](#) and [New Jersey](#) allowing striking workers to receive unemployment insurance. ([Connecticut](#) and [Maine](#) have proposed similar legislation.)

**d. Adopt a temp and staffing worker “bill of rights” to protect workers from being forced to serve as strike-breakers.**

When their workers go on strike, it is [common for employers to seek to hire strike-breaking replacements through temp or staffing agencies](#). Temp and staffing agencies often force workers to take such assignments, retaliating against any that attempt to decline. As discussed in more detail below, some states have adopted temp and staffing worker “bill of rights” legislation to provide long overdue protections for these frequently exploited employees. [Illinois recently amended its law to protect such workers from being forced to serve as strike-breakers](#). Under the new legislation, they are guaranteed a right to refuse such assignments and are protected from retaliation for doing so. More states should protect temp and staffing workers in the same way.

**e. Establish sectoral standards boards with the authority to bring employers, workers, and community stakeholders together to set wages and working conditions in essential jobs and sectors with poor working conditions.**

Frontline workers in many industries face low pay and dangerous conditions yet often lack viable pathways to improve conditions or hold employers accountable. This is especially true in sectors characterized by numerous small employers or extensive “fissuring,” where businesses use layers of contractors, franchisees, worker misclassification, and temporary staffing agencies to avoid standard employment responsibilities and create significant obstacles to traditional paths to unionization. States and cities can fill this gap and bring employers, workers, and public stakeholders together to improve conditions by creating [sectoral standards boards](#) for problem industries.

In 2022, California passed [the FAST Recovery Act](#), establishing a sectoral standards board for the fast food industry—a sector where low pay and poor working conditions have long been the norm. Under amended legislation approved in 2023, [the board is empowered to raise the fast food minimum wage to \\$20 an hour and adjust it each year in the future](#). Minnesota followed in 2023 with [similar legislation aimed at transforming the nursing home industry](#). Similar proposals are pending in New York for the [nail salon industry](#) and in Illinois for [child care jobs](#).

Several states and cities have long had similar structures known as “[wage boards](#)” in place. In recent years, New York has reinvigorated its use of wage boards to [raise wages for fast-food workers](#) and determine [overtime pay standards for farmworkers](#); and Seattle has established a standards board to set [wages and benefits for domestic workers](#).

As workers and employers struggle with conditions including excessive work-pace demands and the growing use of technologies for surveillance and algorithmic management, sectoral standards boards can provide a means of negotiating industry-tailored policy solutions. Such boards typically have processes for appointing representatives of workers, employers, and public stakeholders. Representatives are then empowered to investigate conditions and



develop recommendations for industry standards, which, if approved by the state or city agency overseeing the process, become legally enforceable.

More states and cities should adopt this promising approach by creating sectoral standards boards—starting with problem industries where abusive work conditions are receiving public attention, such as [e-commerce warehousing](#), [e-commerce delivery](#), and [domestic work](#). Such boards should be vested with broad powers to develop workplace standards on issues including minimum wages, overtime pay, work pace, paid leave, scheduling, training standards, portable benefit contribution rates, and the use of technology in the workplace. However, these standards should always exceed general state minimum labor standards, and boards should not be authorized to weaken or exclude workers from state protections.

**f. Leverage state contracting, purchasing, and licensing policies to increase worker power on projects that are funded with public dollars.**

States significantly shape worker power and job quality in their capacities as employers and through their contracting and purchasing policies. States should leverage their vast economic footprints to empower workers and ensure that significant public investments generate transformative and widely-shared economic benefits including quality public goods and services, good jobs, progress toward climate goals, and equitable opportunities for Black, brown, and women workers. At present, state and local governments have unprecedented opportunities to leverage major federal investments from the American Rescue Plan Act (ARPA), Bipartisan Infrastructure Law (BIL), Inflation Reduction Act (IRA), and CHIPS Act to create good jobs and a high-road economy of the future.

Now is the time for states and localities to pass or strengthen [prevailing wage laws](#), which are key to ensuring that publicly funded projects provide workers' with wages and benefits that are equivalent to local industry standards (rather than allowing public bidding processes to incentivize driving down wages). States and localities must also expand the use of policy tools like [labor peace agreements](#), [project labor agreements](#), and [community benefits agreements](#).

These agreements are tested models for guaranteeing the quality and timeliness of contracted work while ensuring that public investments produce good jobs and tangible benefits for community residents. States should adopt these and other available [model policies](#) to ensure that strong labor standards are instituted and that engagement with labor and community stakeholders guides the implementation of major federal infrastructure investments flowing to and through states to private contractors from the [BIL](#) and the [IRA](#), including for [expansion of broadband](#). On federally funded highway and transit construction, states should work with community and labor partners to craft [local and targeted hiring policies](#) that will ensure that major projects generate career training pathways and good union construction jobs for the communities that need them most.

At a minimum, states should ensure that the companies they do business with do not [violate employment and labor laws](#). Research shows that [contractors that violate workplace laws often also break other laws](#) or otherwise fail to perform publicly funded work in a timely and responsible manner. States should require that companies seeking state contracts disclose all recent federal, state, and local employment and labor law violations, ranging from wage and hour and workers' compensation violations to health and safety and worker organizing violations. Next, states should discourage agencies from awarding contracts to vendors with significant or repeated violations. To improve the contractor selection process, lawmakers should pass [responsible contracting policies](#) and [best-value contracting policies](#). Responsible contracting policies require contractors and subcontractors that want to bid on a project to meet specific job access requirements and job quality standards.

Finally, states should encourage localities to use the full range of available policy tools in contracting decisions, such as [responsible bidding ordinances](#), prevailing wage standards, project labor agreements, and more. Where existing state laws prohibit or [preempt](#) local standard-setting, states should remove these restrictions and allow local governments to innovate and maximize the impact of incentives available in many current federal funding opportunities for policies that strengthen labor standards and empower workers.

## **2. Make effective federal and state pandemic policies permanent.**

The data is unequivocal: [The measures taken to help workers and families during the pandemic kept millions out of poverty and helped us avoid a prolonged recession](#). Unfortunately, federal and state policymakers have let nearly all of these measures lapse. This is unfortunate — what worked during the height of the pandemic works without the backdrop of health and economic crisis. The government's response to the pandemic largely consisted of policies that have long been identified as good for workers, their families, and their communities. State policymakers should make them permanent.

### **a. Permanently expand unemployment insurance for all workers—including undocumented workers, app-based workers, self-employed persons, and part-time workers.**

**Create an excluded workers' relief fund for workers who have been shut out of the unemployment insurance (UI) system.** Millions of workers, disproportionately Black and brown, are out of work but entirely shut out of our UI system. This includes undocumented immigrant workers, formerly incarcerated people, people who recently reentered the workforce, caregivers, students, and others. This inhumane exclusion causes extreme hardship for millions of workers and families and hurts state economies. It undermined efforts to control the pandemic as sick unemployed workers struggled to support their families. Immigrant communities and groups of other excluded workers have organized [across the](#)

[country](#) to urge states to establish excluded workers' relief funds to provide long-overdue assistance. In a number of states, they won [one-time programs during the pandemic to provide such support to workers shut out of the unemployment insurance system. In 2022, workers in Colorado won the nation's first permanent excluded workers support program](#), financed by an unemployment insurance surcharge. [California passed similar legislation in 2022](#), which unfortunately was vetoed by Governor Gavin Newsom. The accelerating climate crisis is putting immigrant workers and families even more at risk as they often bear the brunt of severe weather impacts yet are currently denied protection under the federal disaster UI program. States should act swiftly to extend to excluded workers the type of strong, inclusive, and responsive social insurance system that all of us need and deserve—funded by progressive taxes on high earners and corporations.

**Reform UI programs to ensure adequate benefits during any future recession.** Although Black workers had some of the highest unemployment rates during the pandemic, they were [among the least likely](#) to receive unemployment benefits. For workers to survive future recessions, it is crucial that states make long-overdue reforms to UI program benefits and eligibility rules to ensure adequate support for jobless workers, regardless of what Congress does. This is particularly important for [Black](#), Indigenous, and [Hispanic](#) workers who are disproportionately underpaid, unemployed, and exposed to unsafe working conditions.

States should implement key UI reforms to promote access and benefits for all workers, particularly workers of color, including: (1) [providing at least 26 weeks of benefits](#); (2) [raising benefits levels to replace at least 60–70% of income](#) for most workers; (3) [creating a dependent allowance for](#) workers supporting loved ones; (4) [adopting an “alternate base period” option for calculating earnings](#) to ensure coverage for underpaid and intermittent workers; (5) [raising the “earnings disregard”](#) to ensure that workers whose hours have been cut to part time or who can only find part-time work can receive UI benefits; (6) eliminating “waiting weeks” to allow laid-off workers to receive UI benefits immediately; (7) eliminating occupational exclusions from benefits such as those for agricultural and seasonal workers; (8) [increasing the taxable wage base](#) (the portion of worker earnings on which UI taxes are paid) to stabilize funding of the UI system and make it fairer by ensuring that higher-wage workers and industries pay their fair shares (see discussion below); and (9) adopting an optional trigger (a measure of economic distress like the unemployment rate) that, when exceeded, quickly turns on the Extended Benefits program and sustains additional weeks of benefits until economic conditions improve.

**Reform UI program implementation to expand access.** In addition to making statutory changes to UI program eligibility and financing, states should update UI system implementation rules and systems to ensure that benefits are equitably and effectively delivered. Key reforms, most of which can be made by agency administrative actions, include:

- (1) Issuing misclassification guidance or regulations (see Section 3(c) below) clarifying that app-based workers are included in the definition of an “employee.”
- (2) Clarifying and expanding rules for when workers have [“good cause” to quit a job](#) and still receive UI so that benefits are not denied to workers who leave jobs because they: experience unsafe working conditions; are at elevated risk of contracting COVID-19 or other contagious diseases because they are older, have health conditions, or have household members in those categories; have caregiving responsibilities; move too far away from the workplace to reasonably commute in order to accompany a spouse whose job relocated; need to escape domestic violence; are experiencing harassment in the workplace; or are subject to erratic scheduling at work.
- (3) Similarly clarifying the [definition of “suitable work”](#) to allow workers to still receive UI if they decline to return to their old positions, decline to accept new positions that offer substantially lower pay than their previous job, or decline to accept new positions that present an unreasonable health and safety risk.
- (4) [Modernizing UI IT systems based on feedback from workers who frequently experience difficulty accessing current systems](#), including Black, Hispanic, Indigenous, and immigrant workers, as well as non-English-speaking workers and people with disabilities.
- (5) Reviewing policies to improve system performance if state UI reciprocity rates are below average.
- (6) Reviewing and reporting on [access to benefits for Black, Hispanic, Indigenous, and immigrant workers](#), as well as non-English-speaking workers, workers with disabilities, and workers in other demographic groups and, [where reciprocity rates are particularly low](#), working with affected communities and the U.S. Department of Labor to increase access.
- (7) Updating [work-search rules](#) to ensure that the rules are reasonable and recognize that many activities constitute job-search activities.
- (8) Eliminating wasteful drug testing requirements.
- (9) Ensuring that the types of misconduct that trigger UI ineligibility are narrowly defined.
- (10) Ensuring that workers are [not unfairly forced to pay back long-spent UI benefits](#).
- (11) Updating “program integrity” rules to ensure that triggers of audits include erroneous grants of benefits, as well as erroneous denials and delays in benefits to eligible people who need benefits. [Erroneous denials](#) doubled between 2008 and 2017 while many workers have

been falsely flagged for fraud; importantly, such flags do not even catch the most common form of fraud by international fraud rings.

**Adopt work sharing.** Every state should adopt and publicize [work sharing](#)—also known as Short-Time Compensation (STC): a key bipartisan and employer-supported strategy for avoiding layoffs. Work sharing provides employers faced with a temporary decline in business demand with an alternative to layoffs. Instead of laying off a portion of the workforce to cut costs, an employer may reduce the hours and wages of all employees or a particular group of employees, who then become eligible for prorated UI benefits to supplement their paychecks. Conversely, as businesses begin to expand after periods of contraction, they can bring back their entire staff at reduced hours. Because work sharing is voluntary, employers can make decisions about participation in the program based on their unique circumstances. The many states that have not yet adopted this important UI program should do so immediately. The states that have adopted it should actively promote it to increase employer participation.

**b. Rebuild unemployment insurance trust funds through progressive employer payroll taxes that shift the burden of financing these vital systems away from small employers and ensure adequate benefits of sufficient duration for workers during the next economic crisis and beyond.**

Under the current UI system financing model, the costs associated with increasing UI benefits are not borne by state budgets, but rather by UI trust funds. In the short term, if necessary, these UI trust funds can use low-interest federal loans to cover costs and be repaid with moderate UI tax-rate adjustments. Thus, strengthening UI benefits is one of the few modes of fiscal stimulus that states can implement during a recession without immediately needing to raise revenue.

Many states have dealt with shortfalls in their UI trust funds by putting American Rescue Plan Act (ARPA) dollars into them. This is a short-sighted and ineffective use of ARPA funds. UI trust funds are designed to be self-correcting. To the extent that they are not, it is because [most states](#) do not set their taxable wage base for UI payroll taxes at a level sufficient to sustain their UI trust funds, even during periods of low unemployment. Thirty-six states have their taxable wage bases set below \$25,000—meaning employers pay UI taxes on the first \$25,000 of an employee’s earnings at most. Setting the UI tax base at the same level as Social Security’s limit—\$147,000 in 2022—is the best way to ensure the solvency of every state’s UI system. Short of that, states should [set the taxable wage base to at least 100% of average wages](#) as Hawaii and Idaho do.

**c. Permanently expand paid sick leave and paid family and medical leave.**

The U.S. [lags far behind the rest of the world in](#) ensuring the basic protections of earned paid sick days and paid family leave, which protect public health and help workers balance the demands of work and family life. The COVID-19 pandemic highlighted the need for these protections as workers’ inability to take time off when feeling sick [affected the community](#)

[transmission of communicable diseases](#). Further, the expansion of irregular and unpredictable work schedules, fueled by new scheduling technology, continues to cause serious hardship for working families.

Governors and legislatures should follow the lead of the states and cities that are already guaranteeing paid sick days and paid family leave and adopting fair workweek/fair scheduling legislation.

**Guarantee paid sick days.** Emergency federal legislation enacted in the spring of 2020 granted job-protected paid sick time to [an estimated 87 million workers](#) if they or someone in their household were exposed to the coronavirus or if a child’s school or care facility was closed due to coronavirus exposure. This legislation, however, did not cover all workers, and it only applied in cases of COVID-19-related illness. Without a universal federal paid sick leave law to protect them, more than 34 million private-sector workers in this country [don’t have a single paid sick day](#). If these workers take needed time off, they risk their families’ economic security, but when they go to work sick, they jeopardize the public’s health. Governors and legislatures should join the [13 states and dozens of cities](#) that have already adopted paid sick time laws to ensure that all workers have access to this most basic of protections.

**Establish paid family leave insurance programs.** Sixty percent of the U.S. workforce [lacks access to paid family leave](#) to take time off from work after the birth or adoption of a child or to deal with a serious illness in the family. As a result, millions of workers either cannot take the time they need or must take it with no pay—and with no guarantee that their employer will hold their job for them until they return. In response, more and more states are [establishing paid family leave insurance programs](#) to provide workers with a share of their wages when they need time off to care for a family member with a serious health condition, bond with a new child, or deal with their own serious medical issue. Governors and legislatures should follow the lead of these states and adopt paid family leave for their residents.

**d. Permanently expand anti-retaliation protections to ensure that worker whistleblowers can speak up about dangerous working conditions and other mistreatment.**

Even before the pandemic, Black, Indigenous, Hispanic, and immigrant workers worked in the most dangerous jobs, suffering higher fatality rates than other workers. The deadly impacts of this segregated workforce were further compounded during the pandemic—only 19.7% of Black workers and 16.2% of Hispanic workers [worked in occupations that allowed them to telework](#). With their lives at stake, workers have been using their collective power to demand health and safety protections, whether by walking off the job, fighting through their union, or providing support to one another. There are a wide range of other actions to safeguard worker health and safety during the pandemic and beyond that all states can and should take.

**Shield worker whistleblowers with stronger protections against retaliation.** To protect the public from contagious diseases of all kinds, we must control the spread of disease in workplaces. But unless workers feel safe sounding the alarm when employers are endangering them or the public, such protections are hard to enforce, putting all of us at risk. For example, during the pandemic [one in five Black workers surveyed said they feared retaliation in their workplaces](#) for reporting COVID-19 risks. A [survey of retaliation laws in the 50 states](#) shows that the vast majority of state laws do not adequately protect workers from retaliation for speaking up. As a result, employers ranging from [Amazon](#) to major hospitals have been punishing workers who complain about risks at work or who notify coworkers or the public about dangers. In many cases, workers of color are leading the fight against their employers' dangerous actions, as has been the case at [Amazon](#) and at poultry plants across the country.

States should support workers' calls to bolster public health and safety and [strengthen their whistleblower anti-retaliation laws](#) by: (1) extending protections to cover when workers file a formal complaint and when they notify fellow employees or the public of workplace hazards; (2) incorporating private rights of action (i.e., allowing workers to take employers to court when they violate their workers' rights); (3) providing [injunctive relief](#) and the right to strong monetary damages for workers who suffer retaliation (in addition to lost pay); (4) ensuring that workers who prevail in their retaliation cases can recover attorneys' fees and costs so that they can realistically find an attorney to represent them; (5) affording workers the right to choose whether to bring a retaliation complaint to a government agency or go directly to court; and (6) granting authority for the government to impose additional fines.

A more comprehensive approach would also include creating "qui tam" public enforcement laws (discussed below) that give unions, worker centers, and other representative organizations the ability to bring enforcement actions in the name of the state—shifting the burden of enforcement away from workers who frequently face retaliation when they sue on their own behalf and supplementing limited public enforcement capacity. Finally, to ensure that any protections against retaliation can be effectively enforced, states and cities should take the additional step of adopting a "just cause" standard for termination so that employers cannot use arbitrary reasons to mask retaliatory firings (see discussion of just cause employment below).

**Strengthen workers' compensation programs.** Workers' compensation provides a crucial source of health care coverage and income support for sick and injured workers and is available regardless of immigration status. Governors and legislatures should clarify and expand workers' compensation coverage by adopting a presumption that a COVID-19 diagnosis is work-related and should include other contagious diseases that can be spread through workplaces that do not have effective safety precautions. [State workers' compensation laws should also be strengthened](#) with protections against retaliation, expanded coverage to include agricultural and [domestic workers](#) (whose exclusion disproportionately impacts workers of color), prohibitions against drug testing where there is no nexus between the work-

related injury and drug impairment, and broader coverage for work-related illnesses such as musculoskeletal disorders.

**e. Enact state-level, fully-refundable child tax credits.**

Data demonstrate that the expanded, fully-refundable Child Tax Credit (CTC) in effect for much of 2021 contributed to [a profound reduction in poverty](#) for children and families.

Unfortunately, the federal government did not renew the CTC when it lapsed in 2021. States should not wait for federal action to restore the CTC—they should act now.

### **3. Raise wages and improve job quality to help workers and families thrive.**

Good jobs that pay family-sustaining wages and are safe to work at are the bedrock of an economy that works for everyone. While the federal government has passed laws like the Fair Labor Standards Act (FLSA), federal laws generally set only a baseline. States can and should go beyond what federal laws provide and enact workplace rights and protections that promote good jobs for all.

**a. As the highest inflation in 40 years erodes paychecks and squeezes families, states and cities need to raise the minimum wage well beyond \$15, eliminate sexist and racist exemptions that exclude many workers, establish automatic annual adjustments so that wages keep pace with the cost of living, and restore overtime pay, including for farmworkers and others long excluded from this basic protection.**

Rising inequality and [stagnant wage growth](#) have been defining features of the U.S. economy for decades. Since 2000, wages for the typical U.S. worker have grown only 10.5%, compared with wage growth of more than 20% for workers at the top of the pay scale. When wage data are disaggregated by race and gender, we see persistent wage gaps—the results of historical and discriminatory labor exclusions for women and workers of color. At the median, Black and Hispanic workers are paid just 75% of the typical white worker’s wages, and women are paid only 85% of men’s wages. To support workers who have struggled to get by on inadequate and stagnant paychecks since long before the pandemic hit, states and cities should adopt policies that foster strong, broad-based wage growth.

**Help families with the skyrocketing cost of living by raising the minimum wage beyond \$15 an hour and eliminating discriminatory exemptions.** At the federal level and in 20 states, the minimum wage has been [stuck at a paltry \\$7.25 since 2009](#), leaving [tens of millions of U.S. workers](#)—including many celebrated as [“essential workers”](#)—struggling to make ends meet. Even worse, the subminimum wage for tipped workers has been stuck at \$2.13 since 1993, and some farmworkers and domestic workers are still deprived of any federal minimum wage protections whatsoever. These antiquated, racist exemptions to federal labor law were designed to exclude jobs that were predominantly held by workers of color.



States and cities cannot wait for Washington to act. States representing more than half of the U.S. workforce have already raised their minimum wages to \$15 an hour or more—including [Florida](#) and [Nebraska](#) where, when the legislature didn't act, voters went to the polls to raise the wage to \$15.

But with the highest inflation in forty years eroding paychecks, workers today need far more than \$15 to afford the basics and are pushing states to raise wages higher. Many cities now have minimum wages well above \$15, including [Denver at more than \\$18 as of 2024](#), and [Seattle area cities over \\$19 as of 2024](#). Hawaii is raising its wage to \$18 by 2028. California, [Washington State](#), and [downstate New York's](#) minimum wages will all be \$16 or higher as of 2024. California has also raised wages for [fast food workers to \\$20](#), and [healthcare workers to \\$25](#), and in 2024 [California voters will decide whether to raise the wage to \\$18 by 2025](#). Other states and cities should follow their lead and raise their minimum wages significantly beyond \$15.

**Restore overtime pay and extend it to excluded agricultural workers.** Previously, if workers were asked to put in extra hours on the job, they received overtime pay in return—regardless of whether they were salaried or hourly workers. But the share of salaried workers guaranteed overtime pay when they exceed 40 hours a week [plummeted from almost 63% in 1975 to less than 7% in 2016](#). This happened because the salary threshold under which workers are guaranteed overtime pay when they put in long hours wasn't meaningfully updated for decades.

While the U.S. Department of Labor under President Obama proposed a long overdue raise in the federal overtime threshold, the Trump administration replaced it with a much weaker rule that set the salary threshold at \$35,568. The Biden Department of Labor has now proposed [restoring the threshold to \\$55,068](#) and adjusting it every three years so that it does not fall behind again, which would [restore stronger protections for 3.6 million workers](#).

However, federal rulemaking is slow and uncertain – and baseless legal challenges by corporate interests could delay or even block part or all of the new rule. That's why it's important that states adopt their own strong overtime protections.

Governors and legislatures have already acted to restore more reasonable overtime salary thresholds for workers in their states—for example, as of 2024, \$66,560 in [California](#), \$69,624 in [Washington](#), \$58,500 to \$62,400 in [New York](#), and \$55,000 in [Colorado](#). Moreover, in many states governors can expand overtime pay on their own through their state labor agencies without need for action by the legislature.

More states should follow these states' examples by protecting workers in their states with a strong overtime threshold. States should also follow California's lead by replacing the confusing and easily manipulated "duties test" with a clearer standard requiring that

employees must be “[primarily engaged](#)” in exempt activities—meaning that a majority of employees’ work hours must be spent performing exempt duties—in order for them to be overtime exempt.

States must also end the unfair exclusion of agricultural workers—and, in many states, domestic workers—from state minimum wage and overtime protections. States must guarantee these workers the same rights to overtime pay when they work more than 40 hours in a week that most other workers have enjoyed since the New Deal. [California](#), [Washington](#), [Oregon](#), and [New York](#) have all recently extended 40-hour overtime protection to agricultural workers. More states should follow their lead.

**b. Fight wage theft, enforce minimum wage laws, overtime laws, and other labor standards and protections, and support co-enforcement models at the local level.**

For minimum wages and other employment standards to be effective, workers must see that their rights are enforced. Yet wage laws are routinely violated [at great cost to workers](#), particularly those in lower-paying industries. The high rates of violations are the result of many factors. Enforcement is primarily complaint-driven, relying on individual workers to come forward and assert violations. But retaliation, limited remedies, and insufficient incentives for private attorneys to take workers’ cases all discourage workers from coming forward. Workers’ reluctance is compounded by the insufficient damages and penalties issued to law-breaking employers and [woefully under-resourced public enforcement agencies](#). States and cities can and should crack down on wage theft and other violations by removing these obstacles and ensuring that workers receive the pay that they earn.

**Amend wage theft laws to provide workers with stronger enforcement tools to ensure that they receive the protections to which they are entitled.** To promote compliance with bedrock wage laws, states must punish violators with monetary and other penalties that adequately compensate the workers who have been harmed and deter employers from violating the law in the future. [Strategies to achieve compliance](#) include: compensating workers with robust liquidated damages equal to unpaid wages plus two times the amount of unpaid wages (so that the employer penalty exceeds the value of owed unpaid wages); increasing civil fines for law-breaking employers; taking business licenses away from repeat violators; allowing workers to recover attorneys’ fees and costs in litigation; lengthening the time limits within which workers must file their claims so that workers can recover all wages owed; and pausing deadlines.

**Strengthen public labor standards enforcement with more investigators, proactive enforcement, public disclosure of enforcement actions, and surety bonds for problematic employers and industries.** Public enforcement agencies are often the foremost access point for workers seeking to recover unpaid wages. But agencies generally have limited resources and must use those resources strategically, with an eye toward incentivizing greater compliance. In addition to increasing capacity and funding for investigators and staff, agencies should

develop [strategic enforcement programs](#), including initiating investigations (even absent a worker complaint) in targeted high-violation industries. Agencies should engage in proactive enforcement, which includes going after full unpaid wages, damages, interest, and penalties allowed under the law; treating individual complaints as representative of the entire workplace so that other workers who fear coming forward can benefit from the agency's action; and seeking injunctive relief (including monitoring) in high priority cases. Agencies should also consider requiring certain employers in high-violation, subcontracted, or typically undercapitalized industries to post a wage bond to cover potential unpaid wage claims. These wage bonds would help ensure that employers have sufficient capital to responsibly engage in business and that workers who are deprived of pay have an adequate pool of money against which to claim their wages.

**Support co-enforcement strategies at the state and local levels.** Many state and local governments help enforce wage theft and other labor standards laws through [partnerships with worker centers and other community organizations](#). These organizations can be especially helpful in outreach to high-poverty communities and can use their preexisting relationships with communities to educate workers on their rights and encourage them to pursue wage theft claims. States should pursue co-enforcement strategies, including contracts and subgrants to worker centers and community organizations, to increase worker protections and build trust with low-wage workers.

**Adopt fair workweek laws.** There is growing recognition that unpredictable, unstable, and often insufficient work hours [are a key problem for many U.S. workers](#), particularly those in [low-wage industries](#). Volatile hours lead to volatile incomes and also [add to the strain that working families face](#) as they try to plan for child care or juggle schedules to take classes, hold down second jobs, or pursue other career opportunities. The problem has been exacerbated by new technology that enables retail and fast-food employers to adopt [just-in-time scheduling](#).

In response, states and cities are [starting to adopt fair workweek laws](#) that provide workers with greater stability, predictability, and flexibility in their work schedules. In many cases, the laws also require employers to give part-time staff opportunities to increase their work hours before adding new staff. Governors and legislatures should follow these jurisdictions and push for fair workweek legislation to protect workers in their states.

- c. **Ensure all workers have full labor and employment rights by preventing employers from mislabeling workers as “independent contractors.” Adopt clear and strong legal definitions (e.g., the “ABC test”) for determining employee status and strengthen state enforcement and penalties for employers who illegally misclassify workers.**

For decades, corporations have characterized workers as “self-employed” to shift economic risk onto workers while maximizing revenue for investors and CEOs. In the past, sectors such as home care, trucking, and delivery used these tactics. Today, the giant corporations that dominate the platform economy (sometimes called the “on-demand” or “gig” economy) are

among those most aggressively working to [shed responsibility for the workers](#) whose underpaid labor drives their exorbitant corporate profits. By attempting to deprive their disproportionately Black and brown workforces of unemployment insurance coverage, minimum wage and overtime protections, and anti-discrimination and health and safety protections, these companies are leaving communities impoverished and vulnerable and [costing taxpayers billions in lost tax revenue](#).

As the platform economy matures, the public is gaining a clearer understanding of the poor quality of these jobs, and [workers are organizing to demand accountability and protections](#). States and cities are responding by clarifying that these workers are employees covered by our nation's baseline employment protections and by promoting innovative solutions to improve wages and benefits for workers in sectors where work is dispatched both on- and off-platform, such as in transportation and domestic work. At the same time, the multibillion-dollar platform corporations are lobbying aggressively to try to exempt themselves from responsibility for the well-being of their workers. Governors and legislatures should adopt the following best practices to protect this growing workforce while they fight efforts to carve out exemptions from protection for platform economy workers.

**Fight employment-protection carve-out bills.** For the past several years, platform companies have been pushing "[marketplace platform bills](#)" to carve their workforces out of basic protections such as the minimum wage, unemployment insurance, and workers' compensation. The claim that it is excessive or burdensome for these multibillion-dollar tech giants to provide the same basic employment protections that all other employers must provide is outrageous and should be rejected everywhere.

**Strengthen public enforcement against misclassification.** Instead of carving platform workers out of basic protections, state labor departments and attorneys general should increase enforcement of existing employment laws. Platform companies should be required to properly classify their workers as employees and guarantee them basic protections such as unemployment insurance and the minimum wage. In states such as [New York](#), [New Jersey](#), and [Pennsylvania](#), state labor departments or courts have ruled that platform ride service and delivery drivers are employees entitled to state unemployment insurance. These rulings finally deliver this crucial benefit to a large workforce hard hit by the pandemic and require the platform economy giants to start paying their fair share of UI taxes.

State attorneys general in California and Massachusetts [have been leading enforcement actions](#) against large platform corporations that misclassify their workforces, including Uber and Lyft. City and district attorneys have also brought enforcement actions against [Instacart](#) and [DoorDash](#). Depending on the resolution of these ongoing enforcement actions, attorneys general in other states and cities should explore bringing similar enforcement measures against employers that misclassify their workers, even in states without an "ABC" test (see below).

**Issue clear guidance on misclassification of independent contractors.** As part of cracking down on misclassification of platform workers and other mislabeled independent contractors, state labor departments can and should issue new regulations or guidance tightening up independent contractor definitions. A model for doing so is guidance that the Obama Labor Department issued in 2015 on [independent contractor misclassification](#) under the Fair Labor Standards Act. While the Trump administration withdrew it, the [Biden Labor Department has reintroduced guidance similar to the Obama standard](#). It interprets the scope of coverage under the FLSA broadly, as that statute intended. State labor agencies should protect workers in their states by adopting guidance or regulations similar to the Biden independent contractor guidance. New state guidance narrowing the circumstances under which workers can be classified as independent contractors would help agency personnel, businesses, and workers in interpreting coverage of state employment laws such as wage and hour, anti-discrimination, unemployment insurance, and workers' compensation.

**Adopt "ABC" tests via legislation.** The most effective way to fight misclassification of platform and other workers is by adopting a clear test for defining employees that is less easily manipulated: the simple ["ABC" test](#). This test has been used for years for unemployment insurance determinations in more than half of the states. And states such as Massachusetts and New Jersey have adopted it for many or most of their employment laws. California did the same, although the California law's application to platform-based delivery and transportation corporations was rolled back after giant platform corporations spent a record \$224 million to pass Proposition 22 stripping platform workers of those protections. However, [the constitutionality of Proposition 22 has been challenged in court, and will be settled by the California Supreme Court](#) in 2024. Other states should amend their laws by adding the simple ABC test to clarify that all basic employment protections, such as minimum wage, overtime pay, unemployment insurance, and workers' compensation apply broadly to most workers.

**Adopt platform worker minimum labor standards.** An alternative strategy for protecting platform workers is minimum labor standards legislation that mandate minimum benefits for such workers regardless of whether they qualify as employees. Using this approach, [New York](#) has set minimum pay standards for [ride-hail drivers](#) and [app-based delivery workers](#), and Seattle has established a single pay standard for [both categories of app-based workers](#). More cities and states should follow their lead.

**Empower public task forces to aggressively pursue independent contractor misclassification.** Over the last decade, more than half of states have established task forces focused on independent contractor misclassification. States should empower these task forces with a broad mandate and extensive participation by state agencies with jurisdiction over employment and tax laws, and should [adopt best practices to ensure robust enforcement](#).

**Boost employee misclassification penalties.** States should amend their wage laws by increasing misclassification penalties to adequately deter lawbreaking. In 2020, [New Jersey](#) and [Virginia](#) passed laws that created new penalties for willful misclassification of up to \$1,000 and \$5,000 per misclassified employee, respectively. [New Jersey](#) also requires that employers post notices about employee classification in the workplace. Further, a [New Jersey](#) law allows the state to issue a stop-work order to any employer violating a state wage, benefit, or tax law. [Virginia](#) also passed a bill that creates a private cause of action for any individual to bring a civil action for damages against their employer for misclassification. Other states should follow their lead.

- d. **Protect contracted temp and staffing workers in our fissured economy by adopting temp and staffing agency worker protection laws and issuing clear guidance stating that the businesses that control their work are “joint employers” and thus responsible for their working conditions.**

Today, much of the workforce of major corporations is employed indirectly through temp and staffing agencies and other contract firms. Such contract work is associated with [low wages, few benefits, poor job security, workplace injury and deaths, and an inability to exercise workplace rights and seek redress from businesses](#). For example, full-time temporary staffing workers earn about 40% less than their counterparts in standard work arrangements and are less likely to have benefits like health insurance. Further, employees who work for major companies indirectly, through unreliable contractors, are left wondering who their employer is. This method of operating businesses through complicated networks of subcontractors and other arrangements to cut costs and generating “murkiness about who bears responsibility for work conditions” is known as *fissuring* (as described by David Weil in his book [The Fissured Workplace](#)). The spread of fissured workplaces is especially hard on Black workers, immigrant workers, and other workers of color, who are disproportionately placed in some of the most unsafe, poorly paid positions by discriminatory employers and institutionalized practices and structures in the temp and staffing sector. States can and should respond to these manifestations of institutional and structural racism with [policy solutions that hold the companies creating fissured workplaces accountable for how their workers are treated](#).

**Issue clear guidance on “joint employment” responsibilities.** As with independent contractors (discussed above), state labor departments can protect subcontracted workers by issuing new regulations or guidance. Under existing state employment laws, companies that use contracted workforces to staff their operations can already be held responsible as “joint employers” for how those employees are paid and treated and held liable when workers’ rights are violated. State labor agencies should clarify and tighten up joint employer standards, using the [joint employer guidance](#) that the Obama Labor Department issued in 2016 under the Fair Labor Standards Act as a model. While the Trump administration withdrew the Obama guidance and [replaced it with an anti-worker substitute](#), the Biden administration rescinded that in 2021.

**Adopt a temp and staffing agency workers' "bill of rights."** [New Jersey](#) and [Illinois](#) have adopted [temporary worker bill of rights legislation](#) to provide long overdue protections for [these frequently exploited employees](#). These laws ensure that temp and staffing agencies report demographic information about the workers they hire; never charge workers for background checks, drug tests, or credit checks; notify temp workers about the types of equipment, protective clothing, and training needed to perform the job; and provide transportation back from a job site if transportation was provided to the job site. Even more significantly, they require that temp and staffing agency workers receive wages and benefits comparable to those received by direct employees at the companies that employ them—a key reform. The Illinois law also [forbids agencies from forcing workers to accept assignments as strike-breakers](#), and requires employers to place their temporary workers into permanent positions when they become open. Other states should follow New Jersey and Illinois' leads in adopting these crucial protections.

**Make host companies responsible for labor violations by contractors.** In 2014, California tackled mistreatment of workers by dubious labor contractors, passing [new protections making host companies jointly responsible](#) when their contractors fail to comply with minimum wage, health and safety, and workers' compensation laws. Other states should replicate this best practice for cracking down on wage theft in our fissured economy.

- e. **Fight forced arbitration requirements and other coercive waivers that prevent workers from enforcing their rights by adopting "qui tam" laws (giving workers or organizations the ability to bring enforcement actions on behalf of the state). Ban noncompete agreements, no-poaching requirements, independent contractor waivers (purporting to waive an individual's employment status), and COVID-19 liability waivers.**

Corporations that mistreat their employees are increasingly using forced arbitration requirements and other coercive waivers of worker protections to mask wrongdoing and block working people from enforcing their rights before judges and juries. [More than 60 million U.S. workers](#) are required to arbitrate any claims that their legal employment rights have been violated in secret proceedings before private arbitrators who are not accountable to the public. Employers typically include forced arbitration requirements in the boilerplate language of a worker's employment agreement, which workers have little if any power to negotiate. Women, Black workers, and workers in low-wage jobs are disproportionately impacted. An estimated one-fourth of workers in low-wage jobs who are covered by forced arbitration requirements [face wage theft](#) yet are denied any effective means of recovering their unpaid wages. This employer-dominated process—where companion class-action waivers mean workers are barred from joining together to seek relief as a group and settlements are secret—makes it effectively impossible for most workers to enforce their rights and allows years of abusive treatment to remain hidden. It is estimated that forced arbitration requirements [enable employers to steal \\$9.2 billion in wages each year](#).

Other types of coercive waivers imposed by employers—including noncompete agreements and nondisclosure agreements (NDAs)—similarly pressure workers to give up their employment law protections to keep their jobs. While ending some of these practices will ultimately require congressional action, states can begin the process of restoring workers’ ability to enforce their employment law rights.

**Adopt whistleblower or “qui tam” enforcement laws.** States should restore the ability of workers and members of the public to go before judges and juries to fight wage theft, racial and sexual harassment and discrimination, and other workplace violations on behalf of the state. States can restore this ability by adopting whistleblower or “qui tam” enforcement laws, as [California has done with its Private Attorneys General Act \(PAGA\)](#). These laws enable workers or representative organizations (such as unions and worker centers) to bring enforcement actions for violations of state employment laws without their state’s labor department. By allowing unions and worker centers to bring enforcement actions, these laws can shield individual workers from retaliation. Such laws provide a way to supplement limited public enforcement resources—and in the process, they generate millions of dollars in new revenue that state agencies can use to hire more staff. Importantly, qui tam enforcement actions can be brought even when workers are covered by forced arbitration agreements.

States and cities should incorporate qui tam enforcement into all new employment laws, as Colorado did when it authorized qui tam enforcement under [its new state law, which protects whistleblowers](#) who report health and safety violations from retaliation. States should also pass comprehensive laws authorizing qui tam enforcement under all state employment laws. California has already passed such a law, and [New York](#), Oregon, Washington, Maine, Connecticut, and other states have proposed similar legislation.

**Amend state arbitration statutes.** States should also amend state arbitration statutes to clarify that they do not apply to any forced arbitration requirements in employment, and that class action waivers violate state public policy when the Federal Arbitration Act does not apply. This would ensure that workers who are not subject to the Federal Arbitration Act—especially transportation workers engaged in interstate commerce, including many gig economy drivers—are not forced into arbitration under state law. States should also consider adding: penalties for an employer’s failure to pay the fees required to start an arbitration (as enacted in [California’s SB 707](#)); arbitration provider data disclosure requirements; and amendments to generally applicable contract rules that would improve workers’ ability to challenge the enforcement of particularly unfair arbitration provisions under state contract law.

**Ban noncompete and no-poaching policies.** States should fight other coercive waivers of workplace rights, including the [noncompete and no-poaching requirements](#) that affect a wide swath of workers. These increasingly common practices—under which workers can’t seek employment with competitors—are receiving [growing criticism](#) as unfair and unnecessary limits on job mobility that contribute to stagnant wages across our economy. California,



Oklahoma, and North Dakota have long prohibited noncompete requirements; in recent years, [at least eight](#) more states have banned or significantly limited them. The remaining states should prohibit noncompete and no-poaching requirements and include a private right of action to facilitate the enforcement of such prohibitions.

**Limit nondisclosure agreements and ban independent contractor and COVID-19 liability waivers.** States should also limit or ban other abusive waivers that employers force on workers. First, states should limit employers' power to impose nondisclosure agreements (NDAs), which prevent workers from speaking out about discrimination, harassment, wage theft, and other abuses in the workplace. Second, states should amend state law to clarify that so-called independent contractor waivers that purport to waive an individual's employment status are invalid. Third, states should ban "COVID-19 liability waivers" — a new form of coercive waiver that purports to reject an employer's responsibility for protecting workers from the spread of COVID-19.

**f. Protect workers from abusive workloads and intrusive workplace monitoring and surveillance practices that cause sky-high worker injury rates, worsen workplace inequities, and heighten power imbalances between workers and employers.**

The growth of intrusive workplace monitoring and surveillance practices is wreaking havoc on workers' lives. Fueled by new technologies, these practices are [spreading across our economy](#), creating an environment of fear in the workplace, and encouraging inhumane work pace practices that endanger workers. States and cities should step in to protect workers from these abuses.

**Protect warehouse workers from dangerous workloads.** E-commerce warehousing is one industry where abusive workloads and electronic monitoring are receiving public attention. At companies like Amazon, draconian work pace standards and electronic monitoring are resulting in [worker injury rates substantially higher than industry and private-sector averages](#). In response, four states — [California](#), [New York](#), [Washington](#), and [Minnesota](#) — have enacted new legislation to protect warehouse workers against workloads that interfere with worker health and safety, or that make it difficult for workers to take mandated rest and bathroom breaks. These important new laws will require employers to disclose information about quotas, protect workers from retaliation, and some give workers the right to obtain comparative data from their workplaces to help ensure they are not being singled out unfairly. [Connecticut](#) is proposing similar protections, and other states should do the same.

**Establish worker rights related to data, electronic monitoring, and algorithmic management.** Today, workers across the economy are increasingly subjected to employer data collection, intrusive workplace [monitoring](#) and [surveillance](#), and unaccountable [algorithmic decision-making](#) and scoring. As a result, more workers are being hired, managed, evaluated, disciplined, and fired through processes that involve [little human input](#) and can worsen existing inequities based on race, gender, or other factors. New forms of technological control

also: create information asymmetries; [magnify the power differential between employers and workers](#); [intensify productivity demands](#); [make jobs more precarious](#); and [interfere with workers' right to organize](#). Over time, this power asymmetry can [reduce wages](#) in entire industry sectors. States and cities should adopt new workplace data and algorithmic accountability standards to protect workers, including on-demand platform workers and independent contractors, from these abuses. Policies should strictly regulate the use of intrusive surveillance, data collection, electronic monitoring, and algorithmic management for employment decisions such as hiring, termination, and discipline. Policies should also establish guardrails in the form of robust transparency, accountability, and redress mechanisms. Before they deploy data-driven technologies, employers must validate and disclose new technologies to workers, and workers must have the right to review and challenge the use of these tools in employment decisions. Finally, government agencies will need strong regulatory and enforcement powers, including auditing, given the rapidly changing and untested nature of many of these technologies. Some of these protections against abusive electronic monitoring have been [proposed as part of the New York City Secure Jobs Act](#)—new legislation that seeks to curb unfair firings in the city (see discussion of just cause employment below). States and cities should adopt similar protections to curb abuse of these rapidly spreading technologies.

- g. As dangerous heat, fires, flooding, and storms become more frequent and severe, guarantee workers the right to refuse to work under such dangerous conditions or during declared emergencies and adopt state OSHA heat standards and other protections against workplace climate hazards.**

**Protect workers from dangerous heat.** As our climate warms, heat exposure is one of the most serious health and safety threats workers face—whether they are working outdoors on farms or construction sites, or indoors in warehouses or production plants. Indoor and outdoor workers in [Oregon](#) are protected against heat, while [Washington](#) State implemented a new outdoor standard this summer and is considering similar protections for indoor [workers](#). In California, protections for [indoor work](#) are being drafted while [outdoor workers](#) have had heat protections for some years. In [Colorado](#) agricultural workers have protection, and in [Minnesota](#) indoor workers have protections against both excessive heat and cold. Additionally, [Washington State](#) has proposed rules to join their counterparts in [Oregon](#) in having protections against dangerous wildfire smoke exposure. Without a federal heat protection standard, more states must adopt strong and inclusive standards that will protect all workers from the potentially lethal effects of heat stress and other environmental disasters on the job.

**Strengthen workers' right to refuse to work under dangerous conditions.** As the climate crisis leads to more frequent floods, fires, heat waves, and other emergencies, a growing problem workers face is employers that force them to stay on the job rather than allowing them to flee to safety—with [predictably tragic consequences that have cost workers their lives](#).

In response, workers in [Miami](#) and more recently [in California have fought for and won “right to refuse” laws to protect workers from being fired or punished for refusing to stay and work under such conditions](#). Worker groups in [Oregon](#) recently won a strengthened right to refuse dangerous work under any circumstance, including climate change disasters. Other states and cities should build on these precedents by adopting broad policies protecting workers who refuse to work under dangerous conditions—whether during emergencies or other times—from employer retaliation.

- h. End arbitrary and retaliatory firings with “just cause” employment protections and replace the “at-will” system that gives employers inordinate control over workers’ livelihoods. As part of these policies, guarantee all workers severance pay and regulate the growing use of electronic monitoring in the workplace and its role in employee discipline and discharge.**
- The U.S. is unique among industrialized nations in that employees can be fired abruptly—without notice, a chance to address employment problems, or even a stated reason—and left with bills due and no paycheck or severance pay. This hallmark of our system of employment law, known as at-will employment, wreaks havoc on the lives of U.S. workers and their families when the paycheck they depend on is there one day and gone the next. The at-will relationship underlies the large and enduring power imbalance between U.S. workers and their employers. At-will employment grants employers inordinate control over workers’ livelihoods, undermines workers’ bargaining power, and perpetuates longstanding racial and gender inequities in the workplace. Workers deserve to feel confident that if they do their jobs well, they will continue to receive their paychecks without fear of arbitrary or unfair terminations. The disruption and destabilization of unfair firings are [felt most acutely by Black and Hispanic workers](#), who are more likely than white workers to face an extended period of unemployment after losing a job and who, on average, have lower household savings and less family wealth to fall back on while out of work.

At-will employment also makes it difficult to enforce our laws banning discrimination in the workplace and retaliation against whistleblowers because employers legally can give almost any reason—or no reason at all—for a firing. Without broad protections from arbitrary firings, workers face greater difficulty when they speak up on the job and organize for their own well-being at work.

For the first time in decades, there is a growing grassroots movement powered by workers—including many Black and immigrant workers—organizing to replace at-will employment with just cause protections. In 2019, [parking lot workers in Philadelphia](#) won passage of a new law establishing just cause protections for that industry. In 2021, [fast food workers in New York](#) did the same. And [journalists at many leading publications](#) have successfully fought for and won just cause employment protections under union collective bargaining agreements. Worker groups in [New York](#) are now seeking to expand their law to more industries, and workers in [Illinois](#) are campaigning for a state-level just cause law. Cities and states should follow their lead in adopting just cause employment standards, starting with lower-paying

industries where abusive treatment is widespread and workers are organizing to demand change. When contracting work out to private-sector companies, public agencies should require that those private employers adopt just cause termination policies to ensure that protections against all types of discrimination are upheld; workers can exercise their right to organize; and whistleblowers feel safe reporting malfeasance or poor contract performance.

**i. Repeal abusive state preemption laws that prohibit cities and counties from enacting additional worker protections like higher minimum wages, rent control, and fair scheduling ordinances.**

Even in states that have adopted robust worker protections statewide, one size often does not fit all. Local government is best positioned to address local needs and conditions, including costs of living, which vary across states and regions. Local governments also play an important role in innovating new policy responses, which, if successful, can be scaled up statewide. Local governments, [many with Black and brown leadership](#), are often better positioned to elevate and address the needs of communities of color. States should support local authority to address community needs, especially workers' needs, by rejecting "preemption" laws—state actions that block local ordinances from taking effect or that dismantle local ordinances. Such preemption laws have [racist effects](#) and [cause the greatest harm](#) to Black and brown workers and their families. State lawmakers should block attempts by their peers to legislate limits on local power, repeal existing laws that preempt local authority, and modernize state systems of home rule to empower communities to meet local needs.

**Block new attempts to preempt local pro-worker policies and repeal existing limits on local policymaking.** State legislatures across the country have increasingly [abused their authority](#) to preempt local policies in recent years—deploying preemption in ways that have had [extensive, harmful consequences for communities of color and women](#), including by [halting billions of dollars in badly needed wage increases](#). An online preemption [tracker](#) shows the status of state preemption across various labor and employment issues. State and local officials must block any new attempts to preempt local authority around pro-worker policies and support efforts to repeal existing preemption laws that stand in the way of pro-worker policies. For example, in 2019, Colorado's legislature became the [first legislature to repeal](#) an existing minimum wage preemption statute, paving the way for Denver's minimum wage ordinance. Other states should follow Colorado's lead, [as Michigan is now proposing](#).

**Strengthen local home rule and other local authority to ensure that local governments can respond adequately to local needs.** The current system of state-local relations in which most states can preempt localities with minimal limits [has failed](#) workers, communities of color, and women in countless places. In addition to preemption, in most states, systems of local government authority were adopted in the mid-20th century when our cities faced very different challenges; the National League of Cities has recommended key [Principles of Home Rule for the 21st Century to adapt local government to serve current community needs](#). States

should adopt these recommendations to modernize their systems of home rule and empower local governments to meet local needs and build a more just future.

**Fight local efforts to adopt punitive worker measures (e.g., “right-to-work” or anti-immigrant policies).** While pushing back against new forms of preemption and making structural reforms that can better support local authority, state legislators must also be ready to counter abuses of either state or local power that harm workers. In particular, states and localities should fight efforts to adopt local [right-to-work laws](#) or [anti-immigrant policies](#). Anti-immigrant policies that encourage [state and local cooperation with federal immigration enforcement](#) would make immigrant workers vulnerable to abuse and endanger communities by undermining trust in government and law enforcement.

**j. Protect immigrant workers from exploitation by prohibiting retaliation against immigrants who report wage theft and other abuses, preventing employer abuses of the employment verification process, and expanding access to driver’s and professional licenses.**

Immigrant workers are a critical part of our communities, making up more than [17% of the U.S. labor force](#) and working in [six million essential jobs](#) on the front lines of the pandemic. Still, immigrant workers face arbitrary exclusions from important benefits (including unemployment insurance) and employer abuses (including unacceptably dangerous conditions in industries such as [agriculture and meat processing](#)). Immigrant workers have long faced wage theft at higher rates than other groups, and they are [especially vulnerable](#) to employer retaliation. State and local governments can and must implement policies to better protect immigrant workers and ensure that immigrant workers can participate fully in organizing and in investigations of employer misconduct.

**Protect all workers from retaliation, regardless of immigration status.** A [2009 study](#) of wage theft in New York found that foreign-born Hispanic workers experienced minimum wage violations more often than workers in any other racial or ethnic group – and at twice the rate of their U.S.-born counterparts. While all workers who assert their rights risk being fired, blacklisted, harassed, and more, immigrant workers also risk retaliation that can lead to detention and deportation. The current anti-immigrant climate has resulted in [more reports](#) of immigration-based retaliation, underscoring the urgency of state and local efforts to guarantee immigrant workers’ protection under employment and labor laws. Most state laws protecting workers from wage theft [fail to include](#) the necessary penalties and meaningful remedies to deter retaliation and compensate workers. To protect immigrants, these retaliation laws and other worker protections must go further by expressly prohibiting immigration-based retaliation and ensuring that all workers, including undocumented immigrants, can recover meaningful damages and penalties. [California’s approach](#) offers examples for how to expressly focus on anti-immigrant retaliation.

**Ensure that immigrant workers can assert their rights in administrative and judicial processes by limiting discovery into immigration status.** Although almost all labor and

employment laws apply to all workers regardless of their immigration statuses, unscrupulous employers often try to prevent immigrant workers from enforcing their rights by seeking irrelevant and intimidating discovery into their immigration statuses during litigation. Courts across the country have recognized the extreme chilling effect that this type of discovery has on immigrant workers and the harm that it causes the broader public by preventing the effective enforcement of workplace laws. States can and should bar discovery into workers' immigration statuses except when it is truly necessary to ensure compliance with federal law's narrow prohibition on awarding certain remedies to undocumented workers. California's [Senate Bill 1818](#), codified in various parts of California state law, and a recent precedent-setting [California appellate decision](#) interpreting SB 1818 offer examples on how to protect immigrant workers effectively.

**Prevent employer abuse of the employment verification process.** Federal law requires that employers verify that employees are authorized to work in the U.S. at the time of hire. Laws and regulations also outline the narrow and specific circumstances under which employers are required to reverify their employees, as well as when reverification is not required (for example, during a labor dispute). However, employers commonly use the employment verification process to retaliate against and threaten workers—for example, by demanding more documents than are required or by reverifying workers when federal law does not require it. This practice, known as “[document abuse](#),” frequently occurs when workers speak up about working conditions or engage in protected activities like union organizing. Employers should know that taking such actions could violate federal law, and states can pass laws that require that employers provide notice to their employees when a work site enforcement action is taking place. States should inform employers of their [rights](#) and responsibilities with respect to federal employee verification requirements so that they do not abuse the verification process to retaliate and discriminate against immigrant employees.

**Prohibit state and local police forces from engaging in immigration enforcement.**

Immigration enforcement is entirely the responsibility of the federal government, and state and local governments are not required to assist in those efforts or expend resources on them. While the federal government has dramatically increased detentions and deportations with the assistance of state and local governments—and attempted to coerce and incentivize cooperation—state and local leaders have the power to reject federal efforts to co-opt local resources in this way, and they should do so. To support immigrant communities and protect immigrant workers' rights, state and local officials should look to the expertise and experiences of sanctuary cities and states and pro-immigrant movements for important policy solutions. States and cities should prohibit their law enforcement agencies from detaining or transferring individuals to federal immigration authorities without a judicial warrant (i.e., based solely on a detainer or administrative warrant from U.S. Immigration and Customs Enforcement). State and local leaders can also prohibit joint operations between the Department of Homeland Security and local law enforcement, protect data concerning individuals in local jails from federal immigration authorities, prohibit local law enforcement

from inquiring about immigration status when interviewing complainants or witnesses, and issue municipal IDs to all residents regardless of status. [The Center for Popular Democracy](#), [National Immigration Law Center](#), and [Immigrant Legal Resource Center](#) have published resources on how to protect immigrant workers.

**Allow undocumented individuals to obtain driver's licenses.** Ensuring that all residents, including undocumented individuals, can obtain a state driver's license brings about [numerous benefits](#), including increased road safety, reduced insurance premiums, and increased state revenue. This policy also promotes public safety and the enforcement of state and local laws, including workplace standards, by ensuring that undocumented immigrants can cooperate with law enforcement without fear of exposing their immigration status. At least [19 states and the District of Columbia](#) have enacted laws allowing undocumented immigrants to obtain driver's licenses. The remaining states should do the same.

**Allow access to professional licenses, regardless of immigration status.** [Several states](#) have passed laws that permit residents to [obtain professional](#) and [occupational licenses](#) regardless of immigration status or to obtain licenses to work in specific occupations (for example, as an attorney). Immigrants with employment authorization obtained through temporary programs such as the Deferred Action for Childhood Arrivals (DACA) program are sometimes [not permitted](#) to obtain state licenses. Passing laws that allow all workers to contribute economically using the skills they have gained through their educations—often obtained at state universities—is an easy way to boost economic growth through a more inclusive economy.

**Ensure prompt provision of Statements of Interest (SOI) and/or certifications of U and T visas for eligible workers.** Through a [new, centralized process](#), the U.S. Department of Homeland Security (DHS) can grant immigrant workers temporary protection from deportation (known as labor-based deferred action) and work authorization based on a pending labor dispute. State and local, as well as federal, labor agencies play a key role in this process because to apply for labor-based deferred action, a worker must first obtain a letter known as a Statement of Interest from a labor agency. An SOI explains the labor agency's labor enforcement interest in the dispute and asks DHS to grant deferred action protections to workers. Some state labor agencies have issued guidance on their SOI processes to help workers and advocates navigate it (see, for example, the [California Labor Commissioner](#), [New York State Department of Labor](#), and [Illinois Department of Human Rights](#)). More state and local labor agencies should do the same.

Similarly, [U visas](#) and [T visas](#) allow immigrants who have survived certain crimes and/or trafficking to obtain lawful immigration status and work authorization if they assist law enforcement in holding lawbreakers (including employers) accountable. Unlike deferred action protections, U and T visas are pathways to permanent lawful status. However, one of the major obstacles for immigrants seeking these visas has been the lack of clear standards and

practices for state and local enforcement agencies, which play a key role in certifying to the federal government that a particular survivor is assisting them and therefore should be granted a U or T visa. In response, [some states have passed laws](#) that help immigrants navigate this process by, for example, establishing clear procedures for making certification requests for U and T visas, mandating that enforcement agencies certify requests made by eligible applicants, setting maximum time limits, and reimbursing local agencies for the cost of helping applicants. More states should do the same.

**Train government staff on how to handle immigration enforcement situations.** In recent years, immigration enforcement activities have taken place at locations that were formerly regarded as off-limits, including at state government sites such as [courthouses](#). Staff at these locations are unlikely to be familiar with their rights and responsibilities in the face of an immigration enforcement action. To assist them, states should publish guidance on appropriate actions to take; for example, state guidance should explain the difference between a judicial warrant and an administrative warrant and what each requires under the law. States should also publish and require agencies to adopt [model policies](#) to ensure that the proper protocols are followed by staff working in places like courts, public hospitals, K–12 schools, labor standards enforcement agencies, libraries, and shelters.

**k. Provide public investment to increase wages and improve working conditions for workers in all sectors of the care economy, including for residential long-term care facility workers, daycare workers, and home healthcare workers.**

The U.S. is facing a care crisis. States are struggling to provide adequate access to quality affordable home care and child care services for seniors, people with disabilities, and working families. Chronic underinvestment in the home care and child care workforces, which are some of the lowest paid in our economy, is a big part of the problem. This underinvestment results in high poverty rates and workforce instability among these vital caregivers, who are disproportionately [women of color and immigrants](#). These workers have been organizing and demanding better wages and working conditions. States and cities should meet their demands with new approaches that expand access to these vital services for all families while investing in and truly valuing this work.

**Expand affordable child care and invest in quality early care and education (ECE) jobs.** In 2020, voters in Oregon’s Multnomah County approved a [program to provide universal free preschool for all three- and four-year-olds](#) in the county while significantly improving pay for early care and education workers. Funded by a progressive income surtax paid by high earners, the new program will create 12,000 new early care slots and 2,300 new early care jobs. The program will also [raise pay for lead early care teachers](#) to the level of kindergarten teachers and for assistant teachers to about \$20 an hour. Other cities and states should replicate this promising model for addressing both the child care affordability crisis and the crisis of poverty wages among these essential teacher caregivers.



**Expand, enforce, and adequately fund minimum wage, overtime, and paid sick days protections for caregivers.** States finance and regulate a large swath of the home care workforce through state Medicaid long-term care programs. States should ensure that these vital caregivers receive an adequate minimum wage, overtime pay coverage, and paid sick days protections, along with other important benefits.

First, states should ensure that their Medicaid home care programs are implementing — and adequately budgeting for — state labor laws and the Obama Labor Department’s 2015 “companionship” rule. The Obama rule answered decades of worker advocacy for basic labor protections by finally [extending federal minimum wage and overtime protections](#) to home care workers. States should follow California’s lead in taking this first step — the state budgeted extra funding for its consumer-directed, Medicaid-funded home care program to account for overtime and travel time between consumers. States must also [ensure that consumers have access to quality and adequate home care services](#) that allow them to remain at home and within their communities.

Second, states should guarantee strong minimum wages for Medicaid home care workers. Governors can implement this guarantee by taking executive action and [negotiating funding for wage increases as part of the state budget](#), as former Massachusetts Governor Charlie Baker did. But to address the serious and growing care worker shortage as the population ages, states should raise caregiver wages well above the minimum wage. New York has taken the first step by setting [a home care minimum wage of at least \\$3 above the state’s \\$15 minimum wage](#), and the [Fair Pay for Home Care Campaign](#) is calling for raising home care wages further to 150% of the state minimum wage.

Third, states should extend strong minimum wages to workers in the state’s [subsidized family child care](#) provider program as Massachusetts did as part of a 2018 minimum wage package. Last, states should ensure that their state laws cover home care, child care, and other domestic workers and include robust enforcement mechanisms to uphold workers’ rights.

#### **4. Promote equitable access to jobs for Black and Hispanic workers, who are the hardest hit by occupational segregation, high unemployment, and mass incarceration.**

Although employment has recovered from the depths of the COVID-19 downturn, racial gaps in employment remain as large as ever. Racial gaps in wages and wealth remain large as well. These racial gaps are the result of policy choices, and different policy choices will be needed to alleviate them.

- a. Promote targeted local hiring in Black and brown communities to fill good jobs in public service and on publicly funded projects.**

[Targeted local hiring](#) of workers in low-income communities has long been a key strategy for providing opportunity for Black and Hispanic workers in the building trades. But in the past, federal legal roadblocks from the Reagan era have blocked such policies on federally funded construction projects. Fortunately, after worker and community organizing, the Infrastructure Investment and Jobs Act (IIJA) repealed these limits and [incentivized state and local governments to use locally- and economically-targeted hiring](#) to promote inclusion on infrastructure projects funded under the new law. States and cities receiving IIJA funds should use this new authority to require targeted hiring — [following the successful examples of Seattle and Los Angeles](#).

To be successful, [such programs](#) should also include prevailing and living wage standards to ensure that the new jobs are good jobs and funding to recruit, screen, train, and refer workers to jobs offered through partnerships with community-based organizations, unions, or apprenticeship and pre-apprenticeship programs. Apprenticeship and related training programs are key pipelines for jobs in construction and the health sector, where a range of high-growth, well-paid occupations require less than two years of training. Equally important are systems for monitoring and tracking specific goals, solving problems, and ensuring compliance (using frequent, publicly reported data and proactive investigations and enforcement).

Cities should also encourage [publicly linked “anchor institutions” like universities or hospitals](#) to enter into similar partnerships to fill health sector and service jobs. Further, cities should [follow Los Angeles’s lead by establishing targeted hiring programs for city jobs](#) — historically, city jobs have been a crucial source of secure employment for Black workers. A related priority strategy for states and cities is to enter recruiting partnerships with Historically Black Colleges and Universities (HBCUs) and Hispanic Serving Institutions (HSIs).

**b. Fight racial and gender discrimination and occupational segregation with stronger civil rights protections and data gathering.**

Our country’s anti-discrimination laws are key tools for fighting racial and gender discrimination and harassment and occupational segregation. These protections and state and local systems for enforcing them must be updated to make them effective tools for breaking down barriers.

**Strengthen civil rights enforcement.** State human rights agencies are a critical line of defense in the fight against discrimination on the job. But many have seen their budgets and staffing levels slashed or frozen at inadequate levels, resulting in long case backlogs and little capacity to engage in strategic enforcement. States and cities should rebuild their human rights agencies by restoring adequate staffing and budgets in order to conduct strategic, targeted enforcement against discrimination in hiring, promotions, and pay, as well as workplace harassment. This rebuilding should include deepening partnerships with community-based organizations. To bolster enforcement of civil rights laws, states should also ensure that

localities are neither preempted from expanding protections beyond what the state law may provide nor prevented from enforcing local anti-discrimination laws consistent with the state protections.

**Fight unequal pay with stronger civil rights protections, bans on salary history questions, and requirements that job announcements include salary ranges.** Women, Black, and Latinx workers continue to receive lower wages than white men with similar levels of training or education. States and cities should take action to close these unfair wage gaps. First, states and cities should [strengthen their equal pay laws](#) to require equal pay for “substantially similar” or “comparable” work and to prohibit unequal pay based not just on gender but also race and ethnicity, LGBTQ status, and other protected statuses, as growing numbers of states are doing. Second, they should prohibit [employers from basing employee pay in part on salary history](#) because the practice perpetuates unequal pay for women and workers of color. [Twenty-two states and another twenty-two cities have instituted such bans](#). Third, states and cities should [require compensation levels or ranges](#), as well as a description of benefits, in all job postings. Colorado and New York have taken this step, which is critical to narrowing gender and racial pay gaps: Research shows that when women and workers of color are asked their pay expectations in salary negotiations for a new job, they sell themselves short, but when they receive information about the pay for the position, the pay gap narrows.

**Ban employers from asking about credit history.** Consideration of credit history in employment decisions has a similar unfair impact on underpaid workers, especially Black and brown workers: Because of household income and savings inequality, Black and brown workers frequently have high debt levels and poorer credit ratings. States should follow the lead of places like [New York City, which banned employers from using credit scores in most employment decisions](#).

**Require employers to report data on occupational segregation and pay equity.** Access to data is crucial to combat unequal pay and occupational segregation. States and cities should empower government enforcement agencies to fight unequal pay and occupational segregation, as California has done, by requiring companies to submit detailed racial and gender data on occupational segregation and pay inequality to enforcement agencies. Such data should be aggregated, published, and used by government agencies for targeted enforcement.

- c. **Promote fair hiring for people with arrest or conviction records by adopting fair chance hiring and clean slate reforms (which prevent early disclosure of records in the hiring process and expunge records after a certain period); removing occupational licensing barriers; and ending unfair fees and fines imposed by the criminal legal system for traffic and other violations that trap workers in endless cycles of debt.**

Roughly one in three adults in the U.S. has an arrest or conviction record that can show up on a routine background check for employment, undermining the job prospects of the 70 million

men and women who have been caught up in the criminal legal system. This legacy of mass incarceration is especially devastating for the employment prospects of Black workers with a record, who are [40% less likely than white applicants](#) with a record to receive a positive response from a prospective employer. States and cities should adopt policies to dismantle the employment obstacles posed by arrest or conviction records.

**Adopt fair chance hiring.** Disclosure of an arrest or conviction record early in the job application process often means promising candidates can't even get through the door. Thirty-six states, including Georgia, Kentucky, Louisiana, North Carolina, Tennessee, and Virginia, have adopted ["ban the box" policies to open up job opportunities in state and local government](#) for people with arrest or conviction records and have set an example for private-sector employers. Fourteen states and more than a dozen major cities across the U.S. also [extend "ban the box" protections to private-sector employment](#). Governors in states that haven't added these protections should start by issuing executive orders to adopt this reform for all state hiring. State legislatures should extend this best practice to the private sector, as more and more states and cities are doing.

**Remove occupational licensing barriers for people with records.** Onerous criminal background check restrictions [block people with a record from working in many occupations](#) that require a state license or certification. [About 25% of U.S. jobs require such a credential](#), and state licensing agencies often deny applications from workers with a record. With broad bipartisan support, [legislatures in over a dozen states](#) have started removing unfair exclusions for people with records from their occupational licensing laws. In 2018, for example, the governors of Michigan, New Mexico, and Pennsylvania took executive action to direct licensing boards or other state entities to address unnecessary restrictions that limit qualified people from fairly competing for jobs in their chosen professions. Governors and legislatures should follow this lead with executive action and legislation to remove unnecessary licensing obstacles to employment for people with records.

**Adopt a clean slate policy for people with records.** Even a minor criminal record can create barriers to employment, housing, and education as employers, landlords, and colleges use background checks to screen out applicants with a criminal record. While many states allow people to petition to have certain records expunged or sealed, only a tiny fraction of people eligible get the relief to which they are entitled because they can't navigate the complex court petition process or afford to pay a lawyer or court fees. Many individuals are not even aware of the option. State legislatures should [adopt "clean slate" policies](#) that provide for automatic record clearing after someone remains conviction-free for a designated period. Research demonstrates that people who don't reoffend within four to seven years are no more likely than the general population to commit a new offense. Pennsylvania enacted clean slate legislation in 2018, Utah in 2019, and Michigan in 2020, and several other states have [taken steps toward adopting a clean slate policy](#). A [majority of voters](#)—across party, racial, gender, and education lines—support the policy.

**End mandatory fines and fees and the use of driver’s license suspensions as a collections tool.** Since the 2014 uprising in Ferguson, Missouri, following Michael Brown’s murder by police, advocates and legislators have increasingly recognized that traffic and criminal justice financial penalties (including fines, fees, court costs, restitutions, and forfeitures) are an [unjust municipal revenue source](#). These court-imposed financial obligations are widespread and disproportionately extracted from Black and brown communities targeted by the criminal legal system. They trap workers in endless cycles of debt and jail through open warrants for failures to pay, predatory debt collection practices, and [debilitating driver’s license suspensions](#). For example, [one in seven adults in New Orleans has a municipal warrant out for their arrest](#). States and municipalities should eliminate mandatory and minimum financial penalties and ensure that courts conduct meaningful hearings to determine a defendant’s ability to pay prior to imposing any penalties. These assessments should exempt persons with incomes less than 200% of the federal poverty level from financial penalties and limit penalties to no more than 10% of the defendant's income. States should also end the ineffective and harmful use of license suspensions as a debt collection tool and take steps to significantly reduce traffic-related mandatory fines.

**d. Introduce policies to reduce racial disparities in wealth, including Baby Bonds.**

While the median household incomes of Black and Hispanic households lag far behind white households, looking at income alone understates the problem. Racial wealth gaps remain large and there is no reason to believe that they will narrow any time soon without action. Poverty rates for Black and Hispanic households and for Black and Hispanic working-age adults are [twice as high](#) as those of white households and adults. Wealth is largely maintained through intergenerational transfers from parents to children, [meaning that, without policy intervention](#), wealth gaps will remain.

State policymakers should enact policies to support [wealth-poor populations](#). Universal asset-building programs like [Baby Bonds](#) and Guaranteed Retirement Accounts would help shift the balance, especially if these programs are targeted to disproportionately benefit those with low wealth.

Policymakers may be tempted to make such wealth-building policies dependent upon behavior like St. Paul, Minnesota’s [program](#) to provide initial funds to a college savings program for children born in the city. However, racial wealth gaps will not be alleviated by education or individual behavior choices. Direct, unconditional support for wealth-building that is blind to life choices or behaviors is necessary to shift the balance.

**5. Ensure states and cities have the resources they need to rebuild and sustain high-quality public services.**

A return to pre-pandemic levels of public services is not remotely sufficient. The COVID-19 pandemic revealed how close public services are to the breaking point, and only unprecedented levels of federal investment kept them afloat. With that federal funding disappearing, states need to take responsibility for rebuilding the public sector so that it can serve everyone's needs.

**a. Restore the public-sector workforce by increasing compensation for public-sector jobs, especially public education jobs, and supporting collective bargaining.**

Slashing state and local government budgets threatens vital public services as well as the strength of the economy and public-sector jobs—historically, an important source of secure employment for [women](#) and [Black workers](#). Austerity delayed the recovery from the Great Recession by [more than four years](#) and needlessly kept unemployment high and wages stagnant. States and cities must avoid repeating this harmful cycle with new state and local revenues raised through progressive taxation of the affluent and corporations.

**Raise revenue through progressive taxation.** State and local governments should rely on progressive taxation, rather than budget cuts, to balance their budgets. Most states and localities have tax structures that [worsen economic inequality](#) and [racial injustice](#). Rather than relying on regressive taxes—like sales taxes—that place a higher burden on lower-income residents, states and localities should focus on raising revenue from those who have been fairly unscathed by the pandemic: [the affluent](#) and corporations. To start, states should raise the tax rates for [top earners](#) and the [extremely wealthy](#). While the current fiscal crisis makes progressive taxation particularly urgent, it should also be seen as a long-term policy solution for raising revenue and promoting equality.

**b. Address the shortage of teachers and other education staff by fully funding primary and secondary education and raising wages.**

The [drop in education funding](#) after the Great Recession was greatest in high-poverty districts, and federal funds do not come close to offsetting the funding disparities caused by relying on local property tax revenues. The shortfall in funding for education has had predictable effects. The teacher pay penalty [hit a new high in 2021](#), and, not surprisingly, public schools are experiencing [shortages in staffing](#) at all levels.

Raising the wages of K–12 school employees is a necessary step to attract and retain staff. Federal funds from the Elementary and Secondary School Emergency Relief Funds (ESSER III) in the American Rescue Plan Act can help in the short and medium terms. However, in the long run states need to commit greater funding to schools on an ongoing basis and enact policies that reduce the current reliance upon local property taxes.

- c. **Crack down on wasteful corporate giveaways by directing taxpayer-funded incentives only to those businesses and development projects that produce specific, negotiated community benefits such as affordable housing and family-sustaining jobs for communities.**

Each year, states spend [tens of billions of dollars on economic development subsidies](#) designed to lure businesses—and, theoretically, jobs—to their states. Often, governments overspend on development deals, starving communities of critical public services. The pandemic-induced budget distress and record levels of unemployment made it more critical than ever for states to ensure that economic development is equitable, transparent, and accountable to communities. States must avoid [using taxpayer dollars to subsidize big corporations \(e.g., Amazon or Google facilities\)](#) and instead direct critical resources toward improving public health, [investing in schools](#), maintaining affordable housing, [supporting retirement security](#), and funding other public services that support family-sustaining jobs.

**Report tax revenue lost to corporate tax breaks by adopting a unified economic development budget.** As a first step toward ending wasteful tax giveaways, states should require that state agencies and cities [report tax revenue lost to corporate tax breaks](#) by adopting [Unified Economic Development Budget \(UEDB\)](#) requirements. States should also disclose the [state](#) and [local](#) incentives that are awarded to specific companies and track whether the companies produced the promised jobs. Such disclosures support transparency and provide the information that community members and policy advocates need to hold elected officials and corporations accountable for their commitments. In 2015, the Governmental Accounting Standards Board (GASB) issued [Statement 77 on Tax Abatement Disclosures](#), which requires that most localities (including school districts) and states disclose the amount of tax revenue they lose annually to economic development tax-abatement programs. Governors should propose legislation or direct the state auditor, comptroller, or treasurer to improve compliance with Statement 77 and [put the new disclosures online](#). UEDBs compile every kind of state spending for economic development, including tax expenditures, program and agency appropriations, grants, loans, and workforce development spending. Company-specific disclosure is on the rise across the country, and states like [North Carolina](#), [Illinois](#), and [Iowa](#) are leading the way on disclosing subsidies provided to companies. But many states lag, including [South Carolina](#), Idaho, and Alabama, to name a few.

**Promote community benefit agreements.** [Community benefit agreements \(CBAs\)](#) are legally binding agreements between developers and community organizations that define the community benefits that the developer promises to provide, such as targeted local hiring and job quality standards, affordable housing, and environmental justice measures. Local policymakers should: insist on [strong community benefits](#) as conditions of government support for economic development projects; encourage negotiations between developers and community coalitions; and set minimum standards for local hiring, job quality, affordable housing, and other features that development projects must meet. Community benefit agreements can also promote transparency and accountability in development deals by

requiring public disclosure of jobs created and wages paid, establishing robust mechanisms for monitoring and enforcement of the terms of the agreement, and including “[clawback provisions](#)” that allow the government to recapture incentives if the developer fails to meet its obligations. Job quality standards attached to incentive programs ensure that companies create good jobs. These job-related requirements should include livable wages, health care benefits, long-term and direct employment, and local hiring. Clawbacks attached to those requirements ensure that companies do not receive—or must repay—subsidies when the jobs created do not comply with the standards.

**End taxpayer subsidies for large corporations.** State and local governments should stop subsidizing large companies that have made huge profits during the pandemic, especially [tech giants](#) like Google and Facebook and large [retailers](#) like Walmart, Target, and [Amazon](#). States should end or significantly limit the “vendor discount,” an antiquated [program](#) that allows retailers to keep a share of sales taxes. Currently, [Illinois](#), [Colorado](#), and [Missouri](#) each lose over \$100 million annually to these vendor discount programs. If states do make use of economic development subsidies, they should [target incentives to retain and support existing, locally-owned businesses](#) instead of focusing on branch plants and headquarters from outside the state, as these locally-owned businesses [are typically more important](#) to the health of local economies. States and localities should also institute a cap on the amount of public assistance large companies can receive per job created and overall per year.