IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMALGAMATED TRANSIT UNION, INTERNATIONAL, *et al.*, Plaintiffs, v. UNITED STATES DEPARTMENT OF LABOR, *et al.*, Defendants.	Case No. 1:25-cv-3872-RJL

MOTION FOR CONSOLIDATION BY PLAINTIFFS
AMALGAMATED TRANSIT UNION, INTERNATIONAL, *ET AL.*

NOW COME Plaintiffs Amalgamated Transit Union, International and eight of its affiliated California local unions, pursuant to Federal Rule of Civil Procedure 42(a) and Local Rule 40.5(d), and hereby move and request that this Court consolidate this case with the related, later-filed, case of *Amalgamated Transit Union International, et al. v. United States Department of Labor, et al.*, Case No. 1:25-cv-3876-APM, which is also currently pending before this Court, for the purpose of preserving judicial economy, convenience, and avoiding possible confusion and prejudice. This Motion is based on upon the attached memorandum of points and authorities, the pleadings and papers on file, and any argument the Court may permit at the time of a hearing.

Respectfully submitted,

Dated: November 19, 2025

/s/ Jacob Karabell

Jacob Karabell, D.C. Bar # 996066
Rachel S. Casper, D.C. Bar # 90017405
Bredhoff & Kaiser, P.L.L.C.
805 15th Street, N.W., Suite 1000
Washington, D.C. 20005
Telephone: (202) 842-2600
jkarabell@bredhoff.com
rcasper@bredhoff.com

Counsel for Plaintiffs in Case No. 1:25-cv-3872-RJL and Case No. 1:25-cv-3876-APM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMALGAMATED TRANSIT UNION, INTERNATIONAL, *et al.*,	)	
Plaintiffs,	)	
v.	)	Case No. 1:25-cv-03872-RJL
UNITED STATES DEPARTMENT OF LABOR, *et al.*,	)	
Defendants.	)	

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR CONSOLIDATION BY PLAINTIFFS AMALGAMATED TRANSIT UNION, INTERNATIONAL, *ET AL.*

INTRODUCTION

Plaintiffs Amalgamated Transit Union, International ("ATU") and eight of its affiliated California local unions submit this memorandum of law in support of their motion to consolidate this case (the "California Case") with the contemporaneously filed case of *Amalgamated Transit Union International, et al. v. United States Department of Labor, et al.*, Case No. 1:25-cv-03876-APM (the "Florida Case"), raising the same question of statutory interpretation as set forth in detail below.

In both the first-filed California Case and the Florida Case, ATU and other impacted Plaintiffs challenge under the Administrative Procedure Act ("APA") the legality of the Department of Labor ("DOL")'s recent interpretation of 49 U.S.C. § 5333(b)(2), a provision of the Urban Mass Transportation Act of 1964 commonly known as Section 13(c). *See generally Jackson Transit Auth. v. Local Div. 1285, ATU*, 457 U.S. 15, 16 n.1 (1982). Section 13(c) expressly conditions federal mass-transit financial assistance to state and local governments on the provision of certain employee protections—including, as relevant here, "the continuation of collective bargaining rights" for affected employees. *See* Section 13(c)(2) of UMTA, 49 U.S.C. § 5333(b)(2)(B).

Under the Obama and Biden Administrations, the DOL interpreted this express continuation-of-collective-bargaining-rights condition on federal funding to prohibit the disbursement of funds to a public transit agency if a state statute diminishes to any extent (Obama Administration DOL) or "significantly" diminishes (Biden Administration DOL) the pre-existing right of union-represented public-transit employees to negotiate over a mandatory subject of collective bargaining.

Based on these slightly different but analytically consistent interpretations—the former of which is the interpretation advanced by ATU and the other Plaintiffs in both cases—the Obama and Biden Administration DOLs concluded that Section 13(c)(2) precludes the distribution of federal grant funds to *California* transit agencies because of the effect that a California statute enacted in 2012 had on the pre-existing right of union-represented public-transit employees to bargain over the essential terms of defined-benefit pension plans, including but not limited to the required amount of employee contributions to such plans. In so concluding, the Obama and Biden Administration DOLs relied to varying degrees on *ATU v. Donovan*, 767 F.2d 939 (D.C. Cir. 1985)—a decision that, to this day, stands as the only federal appellate court decision discussing the intersection of state law and Section 13(c)(2).

Consistent with its interpretation of Section 13(c)(2) described above, the Biden Administration DOL also concluded that Section 13(c)(2) precludes the distribution of federal grant funds to *Florida* transit agencies because a Florida statute enacted in 2023 both (1) completely eliminates the pre-existing right of union-represented public-transit employees to bargain for a "dues check-off" provision under which a public employer will deduct union dues from the salaries of union members who authorize such deductions and remit the same to their local unions and (2) imposes a burdensome annual renewal-and-recertification application process on certified labor unions that can result in the abrogation of collective bargaining agreements. Here again, the Biden Administration DOL heavily relied on *ATU v. Donovan* to reach this conclusion.

In March 2025, however, the Trump Administration DOL "depart[ed]" from the agency's prior interpretation of Section 13(c)(2) and adopted what it has described as a more "flexible" interpretation of that statutory provision. Specifically, under that more "flexible" interpretation, federal funding is precluded by Section 13(c)(2) *only if*, in the DOL's estimation, a state statute

unduly "interfere[s] with the collective bargaining process" or "undermin[es] this collective bargaining system" *writ large*. California Compl. Ex. 1, Dkt. No. 1 (cleaned up). Recognizing the centrality of this Circuit's decision in *ATU v. Donovan* to the proper interpretation of Section 13(c)(2), the Trump Administration DOL sought to defend its more "flexible" interpretation of Section 13(c)(2) on the asserted ground that it "does not conflict" with the *ATU v. Donovan* court's interpretation. *Id.* at 25–26.[1]

Applying its more "flexible" interpretation, the DOL reversed its view that Section 13(c)(2) precludes the distribution of federal grant funds to *California* transit agencies (notwithstanding the state law that significantly diminishes the preexisting right of union-represented public-transit employees to bargain over the essential terms of defined-benefit pension plans), and it likewise reversed its view that Section 13(c)(2) precludes the distribution of federal grant funds to *Florida* transit agencies (notwithstanding the state law that eliminates the pre-existing right of union-represented transit employees to bargain for dues check-off provisions and imposes a burdensome recertification process on certified labor unions that threatens the abrogation of collective bargaining agreements). *See* Florida Compl. Ex. 3, Dkt. No. 1; Florida Compl. Ex. 8, Dkt. No. 1.

Both the California Case and the Florida Case, therefore, present a central and common question of law: What is the proper interpretation of Section 13(c)(2)?

Does that statutory provision, as ATU would have it, preclude the distribution of federal grant funds where a state statute diminishes by any extent (or at least "significantly" diminishes) the pre-existing right of union-represented public-transit employees to bargain over a mandatory subject of bargaining such as defined-benefit pension plans or employer dues check-off provisions? Or does that statutory provision, as the Trump Administration DOL would have it,

[1] Page numbers refer to the ECF page number listed at the top of the cited document.

preclude the distribution of federal grant funds only where, in the DOL's estimation, a state statute unduly impinges on the overall collective bargaining "process" or "system" considered as a single undifferentiated whole?

Because both cases will turn on this common legal question of statutory interpretation—which encompasses an application of this Circuit's decision in *ATU v. Donovan*—this Court should consolidate the California Case and the Florida Case under Federal Rule of Civil Procedure 42(a). The interests of judicial economy weigh particularly strongly in favor of consolidation here, as it would be wholly inefficient to have two judges in this District simultaneously reviewing the same statutory language and legislative-history materials to determine which party's interpretation of Section 13(c)(2) is correct, not to mention the potential risk of inconsistent rulings. The cases also involve the same lead parties and are at the same nascent stage of the litigation.

For these reasons, and as further set forth below, the Court should grant Plaintiffs' motion.

BACKGROUND

A. Statutory Background

In 1964, Congress enacted the Urban Mass Transportation Act or "UMTA," a federal Spending Clause statute. *See* Urban Mass Transportation Act of 1964, Pub. L. No. 88-365. At the time, private transit companies were facing significant financial distress. *See Jackson Transit*, 457 U.S. at 17. Accordingly, state and local governments were acquiring private transit companies at a growing rate. *See, e.g., Loc. Div. 589, ATU v. Massachusetts*, 666 F.2d 618, 628 (1st Cir. 1981). The UMTA "was designed in part to provide federal aid for local governments in acquiring failing private transit companies so that communities could continue to receive the benefits of mass transportation despite the collapse of the private operations." *Jackson Transit*, 457 U.S. at 17.

At the same time, because some states provided for a weaker regime of collective bargaining than the regime in the private sector, "Congress was aware that public ownership might

threaten existing collective-bargaining rights of unionized transit workers employed by private companies." *Id.* Congress thus included Section 13(c) to ensure that workers would not "lose their collective-bargaining rights when a private company was acquired by a local government." *Id.*

As relevant here, Section 13(c)—titled "Employee protective arrangements"—provides as follows:

> (1) As a condition of financial assistance under [UMTA], the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. …
>
> (2) Arrangements under this subsection *shall* include provisions that may be necessary for-
>
> (A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;
>
> (B) *the continuation of collective bargaining rights*;
>
> (C) the protection of individual employees against a worsening of their positions related to employment;
>
> (D) assurances of employment to employees of acquired public transportation systems;
>
> (E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and
>
> (F) paid training or retraining programs.

49 U.S.C. § 5333(b)(1), (2) (emphases added).

On its face, Section 13(c) contemplates that, in the normal course, public transit agencies applying for federal funding and the public transit unions that represent the agencies' employees for collective bargaining purposes will negotiate and consummate what are known as "13(c) agreements." *See generally Jackson Transit*, 457 U.S. at 18–29; *Loc. Div. 589, ATU*, 666 F.2d at 624–25 ("In applying this provision, the Department of Labor has encouraged transit authorities and unions to submit joint, agreed upon, assurances for review. These assurances are typically

referred to as § 13(c) agreements."). If the bargaining parties succeed in consummating a Section 13(c) agreement that satisfies each of the statute's employee-protective conditions, the DOL will issue a certification of compliance enabling the federal grant money to be disbursed. *Jackson Transit*, 457 U.S. at 18–19.

On occasions that have proven rare, however, a state legislature with plenary authority over the conduct of the public transit agencies operating within its borders has enacted a statute that, in the affected transit unions' view, denies those public transit agencies applying for federal funds the ability to provide the affected employees the full measure of protections to which they are entitled under Section 13(c), through a consensual Section 13(c) agreement or otherwise. In such a case, the affected unions have the right to object to the issuance of a DOL certification of compliance under procedures adopted by the agency. *See* 29 C.F.R. § 215.

B. PEPRA and the California Case

1. In 2012, the California Legislature enacted a statewide public employee pension reform statute (the Public Employees' Pension Reform Act, or "PEPRA"), which took effect on January 1, 2013. The statute "substantially revised the laws governing the pension plans of the state's public employees," including transit workers. *Alameda Cnty. Deputy Sheriff's Ass'n v. Alameda Cnty. Emps.' Ret. Ass'n*, 470 P.3d 85, 91 (Cal. 2020). For example, under PEPRA, all new public employees are required to pay half of the "normal costs" of any defined-benefit pension plan, Cal. Gov't Code § 7522.30—the type of retirement plan that was "the norm of American pension practice" when the UMTA was enacted in 1964, *see LaRue v. DeWolff, Boberg & Assoc., Inc.*, 552 U.S. 248, 255 (2008). Prior to PEPRA, there was no statutory requirement for employees to pay any portion of the costs of a defined-benefit pension plan, leaving that topic entirely up to collective bargaining for union-represented employees. *See also* California Compl. ¶¶ 14–18, Dkt.

No. 1 (discussing additional restrictions on collective bargaining rights for new and existing employees imposed by PEPRA).

The question of whether PEPRA's diminishment of the pre-existing right of California transit employees to bargain over defined-benefit pensions precludes the DOL from certifying compliance with Section 13(c)(2) has been the subject of a series of agency decisions and legal proceedings spanning more than a decade. Of particular relevance to the instant consolidation motion, upon PEPRA's enactment in 2012, ATU objected to the DOL's certification of two grant applications filed by (or on behalf of) two California transit agencies. After those objections were upheld by the Obama Administration DOL in a pair of letter determinations that heavily relied on this Circuit's decision in *ATU v. Donovan*, the State of California and the two rejected grant applicants filed a complaint in the United States District Court for the Eastern District of California against the DOL challenging the denial of certification. The California district court issued two summary judgment decisions ruling in favor of the plaintiffs and against DOL, though the court ultimately entered a permanent injunction only as to the two specific grant application plaintiffs (rather than an injunction applicable to all grant applications filed by California transit agencies). *See California v. DOL*, 76 F. Supp. 3d 1125 (E.D. Cal. 2014) & *California v. DOL*, Case No. 2:13-cv-02069, 2016 WL 4441221 (E.D. Cal. Aug. 22, 2016), *appeal dismissed*, 2018 WL 11449352 (9th Cir. Dec. 19, 2018).

Following these decisions by the California district court, the first Trump Administration DOL reversed the Obama Administration DOL's interpretation of Section 13(c)(2) and, on June 14, 2019, "concluded that PEPRA does not present a bar to certification under section 13(c)." California Compl. Ex. 4 at 55, Dkt. No. 1. In so concluding, the first Trump Administration DOL abandoned the agency's prior interpretation of Section 13(c)(2) under which a state statute

"preclude[s] certification in all circumstances where there may be diminishments in collective bargaining rights." *Id.* at 59. In its place, the first Trump Administration DOL adopted a "more lenient" and "flexible" competing interpretation under which the result in a situation like this one turns on the extent to which a state statute impacts the overall collective bargaining "process," or "system," considered as a single undifferentiated whole, rather than on whether the state statute impacts bargaining over an individual mandatory bargaining subject. *Id.* at 59–60. The agency opined that this "flexible" interpretation "does not conflict with the D.C. Circuit's opinion in *Donovan*." *Id.* Applying this "flexible" interpretation, the DOL found that PEPRA's impact on the overall public sector "collective bargaining system" in California was sufficiently "limited" as to satisfy Section 13(c)(2)'s continuation-of-collective-bargaining-rights condition on federal transit grants. *Id.* at 60–62.

After further litigation, there was another change of administration impacting this matter; and, on October 28, 2021, the Biden Administration DOL issued a letter determination in which the agency "return[ed]" to "its original superior position" and found "that PEPRA effectively precludes certification under Section 13(c) for those transit agencies subject to its reforms." California Compl. Ex. 1 at 30, Dkt. No. 1. In doing so, the DOL also returned to its original interpretation of Section 13(c)(2) (and its prior interpretation of *ATU v. Donovan*) under which a state that alters the status quo by enacting a statute diminishing a pre-existing right of public transit employees to bargain collectively over a mandatory subject of bargaining (such as defined-benefit pensions) has run afoul of Section 13(c)(2)'s continuation-of-collective-bargaining-rights condition on federal transit grants—albeit with the caveat that this diminishment of a mandatory subject of bargaining must be "material" and "significant" in order to preclude certification. *See id.* at 43. Applying this interpretation, the DOL explained that PEPRA precluded certification

because the statute "significantly interferes with transit employees' ability to bargain over pension rights, which is a mandatory subject of collective bargaining." *Id.* at 35.

California challenged the DOL's letter determination in the California district court, though the Ninth Circuit ultimately held that the state's challenge was not "prudentially ripe" for decision and instructed the district court to dismiss the case. *See ATU v. DOL*, Case Nos. 23-cv-15503 & 23-cv-15617, 2024 WL 3565264 (9th Cir. July 29, 2024).

2. In 2025, several California transit agencies not covered by the narrow permanent injunction issued by the California district court in 2016 submitted applications for federal transit grants. *See, e.g.*, California Compl. Ex. 5, Dkt. No. 1. ATU objected to the DOL's certifications of grants to each of the relevant transit agencies on the grounds that PEPRA's interference with the continuation of collective bargaining rights precluded the DOL from issuing certifications of compliance. *Id.*

On March 31, 2025, the second Trump Administration DOL issued a three-page letter determination on pending grant applications by three of those transit agencies. California Compl. Ex. 1, Dkt. No. 1. In a brief explanation for its change of position, the agency stated that it "no longer adheres to the" statutory interpretation expressed by the Biden Administration DOL in 2021 (and by the Obama Administration DOL previously), but "instead agrees with the views stated" by the prior Trump Administration DOL in 2019. *Id.* at 18. The DOL added that, in its view, the agency's 2021 statutory interpretation was "too rigid" and that the statute "grant[s] flexibility and discretion to the Department." *Id.* The DOL's letter incorporated by reference the first Trump Administration DOL's June 14, 2019 determination concluding that PEPRA did not run afoul of Section 13(c)(2)'s continuation-of-collective-bargaining-rights condition. *Id.*

3. On November 6, 2025, lead Plaintiff ATU and eight of its affiliated California local unions brought this lawsuit against the DOL and Secretary Chavez-DeRemer (the "California Case") challenging the foregoing letter determination and the resulting grant certifications. ATU and the other impacted Plaintiffs allege that the Trump Administration DOL acted contrary to law and in excess of its statutory authority, in violation of the APA, when it issued grant certifications to California transit agencies over ATU's PEPRA-based objections that Section 13(c)(2) precludes certification. California Compl. ¶¶ 41–43, Dkt. No. 1. Plaintiffs request that the Court issue a permanent injunction directing the DOL to revoke each of the certifications it has issued over ATU's PEPRA-based objections and enjoining the DOL from issuing any further certifications. *Id.* at 14–15.

C. SB 256 and the Florida Case

1. On May 9, 2023, the State of Florida enacted into law, effective in part on July 1, 2023 and otherwise effective on October 1, 2023, Senate Bill 256 ("SB 256"). SB 256, as further amended by Senate Bill 1746 in March 2024, made several significant changes to Florida public-sector employees and public-sector unions' collective bargaining rights.

One of those changes was a complete prohibition on provisions in collective bargaining agreements that require a public employer to "deduct[ ] and collect[ ]" union membership dues. *See* Fla. Stat. § 447.303(1). Prior to SB 256, Florida law permitted unions that represent public-sector employees, including transit employees, to bargain for the inclusion of such "dues check-off" provisions in their collective bargaining agreements. SB 256 also instituted a burdensome annual registration-and-renewal requirement for public-sector unions that, potentially, could result in the decertification of a union that has been certified to represent a unit of public employees (including transit employees). Decertification, in turn, would immediately render every provision

of the union's collective bargaining agreement null and void. *See* Florida Compl. ¶¶ 16–21, Dkt. No. 1 (further describing effect of SB 256's registration-and-renewal requirements).

2. Following SB 256's enactment but before the full statute went into effect, the Biden Administration DOL issued a determination that the aforementioned provisions of SB 256 would not permit the agency to certify grants to Florida transit agencies consistent with Section 13(c) absent a statutorily-provided-for "waiver" of those provisions by Florida's Public Employee Relations Commission ("PERC"). As relevant here, with respect to the statute's prohibition of dues check-off, the DOL concluded that this prohibition precluded certification under Section 13(c)(2) because it "removes a critical mandatory subject of collective bargaining." Florida Compl. Ex. 6 at 47, Dkt. No. 1. The DOL also concluded that the newly imposed annual registration-and-renewal requirement precluded certification under Section 13(c)(2) because it "impermissibly undermines the presumption of the continuing majority status of a certified or recognized union." *Id.* at 48. The DOL summarized by quoting *ATU v. Donovan*: While "the substantive provisions of collective bargaining agreements may change, [ ] section 13(c) requires that the changes be brought about through collective bargaining, not by state fiat." *Id.* (quoting *Donovan*, 767 F.2d at 953).

In response to this determination, certain Florida grant applicants petitioned PERC for a waiver of these provisions of SB 256 for transit employees. PERC ultimately granted waivers to the Florida transit agencies in order to allow the transit systems to receive federal grant funds. While PERC questioned the DOL's interpretation of Section 13(c)(2), it nonetheless granted waivers based on the "financial hardship" that Florida transit agencies otherwise would suffer "given DOL's refusal to certify various pending federal grants absent an extended waiver." Florida Compl. Ex. 2 at 25, Dkt. No. 1. The waivers, according to their terms, were conditional, as they

would "immediately expire upon any final decision of DOL or a court of competent jurisdiction declaring that the above-stated [SB 256 rights-diminishing] provisions do not violate the protections required by [Section 13(c)], or if Congress changes the effect of that law." *Id.* at 26. Following PERC's grant of waivers of SB 256's rights-diminishing provisions, the DOL certified the grants and thereby allowed federal funds to be disbursed to Florida transit agencies. The agency's certifications incorporated the PERC waivers into the parties' Section 13(c) protective arrangements.

On May 29, 2025, the DOL issued a letter announcing it had "reconsider[ed]" its prior determination that the dues check-off and registration-and-renewal provisions of SB 256 violated Section 13(c)(2)'s continuation-of-collective-bargaining-rights condition on federal grants. *See* Florida Compl. Ex. 3 at 29, Dkt. No. 1. In explaining its change of position, the agency closely tracked its March 31, 2025 letter rejecting ATU's objections to the certifications for California grants discussed above. *See supra* pp. 10–11. In particular, the agency reiterated its view that the Biden Administration DOL's interpretation of Section 13(c)(2) was "based on a flawed interpretation of Section 13(c) that too rigidly views the Department's authority and role under the statute." Florida Compl. Ex. 3 at 31, Dkt. No. 1. And in setting forth its more "flexibl[e]" interpretation of Section 13(c)(2), the agency relied extensively on the California district court's summary-judgment decisions in the PEPRA litigation, quoting those decisions four times in its three pages of analysis. *Id.* at 31, 33 (first quoting *California v. DOL*, 2016 WL 4441221 (E.D. Cal. Aug. 22, 2016), then quoting *California v. DOL*, 76 F. Supp. 3d 1125 (E.D. Cal. 2014)). The agency's decision also referenced what it characterized as the "thorough discussion of . . . Section 13(c)'s statutory text and legislative history" in the First Trump Administration DOL's June 14,

2019 determination certifying California grants over ATU's objections. Florida Compl. Ex. 3 at 31 n.2, Dkt. No. 1.

Based on this "flexible" reading of Section 13(c)(2), the agency concluded that Florida "transit employees' collective bargaining rights have continued for purposes of Section 13(c) notwithstanding SB 256's changes to the scope of bargaining over dues check-off." *Id.* at 32. The agency also applied its more "flexibl[e]" interpretation of Section 13(c)(2) to conclude that the registration-and-renewal provisions of SB 256 "also do not impermissibly impair collective bargaining rights or benefits." *Id.* According to the agency, the DOL's prior determinations to the contrary under the Obama and Biden Administrations "erred in 'relying on [*ATU v.*] *Donovan* reflexively, without properly distinguishing its factual context.'" *Id.* at 31 (quoting *California*, 76 F. Supp. 3d at 1143).

The DOL's reconsideration decision became effective on July 14, 2025, at which point the PERC waivers of SB 256's rights-diminishing provisions expired by their own terms.

Since July 14, 2025, ATU has objected to the certification of new transit grants to Florida transit agencies subject to SB 256. *See, e.g.*, Florida Compl. Ex. 9, Dkt. No. 1. The agency overruled ATU's objections on the basis of its May 29, 2025 reconsideration decision, incorporating that decision's "reasoning . . . as the basis for its determination in this matter." Florida Compl. Ex. 10 at 70, Dkt. No. 1; *see also id.* at 71 ("the Department . . . concluded that its prior determinations were issued under a more rigid reading of Section 13(c) (and the D.C. Circuit's holding in *Donovan*) than the statute or its legislative history supports"). DOL thereby issued new certifications of grants to Florida transit agencies despite the absence of any protection from SB 256. *See, e.g.*, Florida Compl. Ex. 10, Dkt. No. 1; Florida Compl. Ex. 11, Dkt. No. 1.

3. On November 6, 2025, the same day that the instant lawsuit was filed, ATU and eight of its affiliated Florida local unions brought a separate lawsuit against the DOL and Secretary Chavez-DeRemer (the Florida Case) challenging the foregoing reconsideration decision. ATU and the other impacted Plaintiffs allege that the Trump Administration DOL acted contrary to law and in excess of its statutory authority, in violation of the APA, when it issued transit grant certifications to Florida transit agencies notwithstanding Section 13(c)(2). Florida Compl. ¶¶ 40–42, Dkt. No. 1.[2] Plaintiffs request that the Court issue a permanent injunction vacating the DOL's May 29, 2025 reconsideration decision, directing the DOL to revoke each of the certifications it has issued over ATU's SB 256-based objections, and enjoining the DOL from issuing any further certifications.

ARGUMENT

Under Federal Rule of Civil Procedure 42(a), district courts have "broad discretionary authority to consolidate cases. Consolidation can help alleviate 'needless duplication of time, effort, and expense on the part of the parties and the Court.'" *Horn v. Raines*, 227 F.R.D. 1, 2 (D.D.C. 2005) (quoting *Millman v. Brinkley*, Case Nos. 1:03-cv-03831, 1:03-cv-03832, 1:03-cv-00058, 2004 WL 2284505, at *3 (N.D. Ga. Oct. 1, 2004)). A court has discretion to order consolidation when actions involving "a common question of law or fact" are pending before the court. Fed. R. Civ. P. 42(a). In exercising its broad discretion to consolidate cases, the district court "should consider both equity and judicial economy." *En Fuego Tobacco Shop LLC v. U.S. Food & Drug Admin.*, 356 F. Supp. 3d 1, 9–10 (D.D.C. 2019) (quoting *Devlin v. Transp. Commc'ns*

[2] The Florida Complaint also includes a separate count alleging that the Florida certifications do not comply with 49 U.S.C. § 5333(b)(2)(A), otherwise known as Section 13(c)(1), which pertains to the preservation of rights, privileges, and benefits under *existing* collective bargaining agreements. Florida Compl. ¶¶ 43–45, Dkt. No. 1.

Int'l Union, 175 F.3d 121, 130 (2d Cir. 1999)). "The consolidation of cases may increase judicial efficiency by eliminating the need for more than one judge to become familiar with the issues presented and by reducing the costs to the parties." *Smith v. Dist. of Columbia*, Case No. 01-209 (HHK), 2005 WL 8167537, at *2 (D.D.C. Sept. 29, 2005).

In deciding whether to grant a motion to consolidate, "district courts must weigh the risk of prejudice and confusion wrought by consolidation against the risk of inconsistent rulings on common factual and legal questions, the burden on the parties and the court, the length of time, and the relative expense of proceeding with separate lawsuits if they are not consolidated." *Nat'l Sec. Couns. v. CIA*, 322 F.R.D. 41, 43 (D.D.C. 2017). Importantly, the balance between those factors "will typically weigh in favor of consolidation" if the two cases "'present an identical question of law,' and 'consolidation would save time and effort.'" *Trs. of the IAM Nat'l Pension Fund v. Ohio Magnetics, Inc.*, Case No. 21-928 (RDM), 2021 WL 3036854, at *1 (D.D.C. July 16, 2021) (quoting *Hanson v. Dist. of Columbia*, 257 F.R.D. 19, 22 (D.D.C. 2009)). Moreover, "[a]ctions that are still in their nascent stages with an identical question of law" are particularly appropriate for consolidation. *ACLU v. WMATA*, Case No. 17-1598 (TSC), 2024 WL 4285894, at *3 (D.D.C. Sept. 25, 2024) (cleaned up).

These factors all weigh strongly in favor of consolidating the California Case and the Florida Case. Not only is there a common question of law between the two cases—*viz.*, whether Section 13(c)(2) precludes the disbursement of federal grant funds to a transit agency where a state statute diminishes a pre-existing right to negotiate over a mandatory subject of collective bargaining—but that question is highly likely to be dispositive in both cases. One need look no further than the Biden and Trump Administration DOL's Section 13(c)(2) determinations to confirm that conclusion. Under the Biden Administration, the DOL interpreted Section 13(c)(2) to

preclude certification where a state statute "significantly" diminishes the pre-existing right of union-represented public-sector employees to bargain over a mandatory subject; and on that basis, the agency *refused to certify* grants from both California and Florida transit agencies. *See supra* pp. 9–10, 12–13.[3] Under the Trump Administration DOL's recent pronouncements in both the California and Florida matters, however, certification is precluded only where, in the DOL's estimation, a state statute "interfere[s] with the collective bargaining process" or "undermin[es] this collective bargaining system" writ large; and on that basis, the agency *has certified* grants from both California and Florida transit agencies. *See supra* pp. 10–11, 13–14. It would be far more efficient and sensible to have a single judge resolve this dispositive question of statutory interpretation, which, *inter alia*, will require the Court to extensively review Section 13(c)'s illuminating legislative history. *See Donovan*, 767 F.2d at 946–49 (relying heavily on Section 13(c)'s legislative history throughout the Court's opinion); *see also Jackson Transit*, 457 U.S. at 24–28 (finding much of that same legislative history to be "conclusive" on the question of statutory interpretation presented there).

The remaining considerations likewise favor consolidation. The parties in both cases are ATU and its affected local unions, on the one hand, and DOL and its Secretary, on the other. *See Am. Postal Workers Union v. U.S. Postal Serv.*, 422 F. Supp. 2d 240, 245 (D.D.C. 2006) ("There is very little risk of prejudice or confusion if these cases are consolidated given that both cases involve the same parties and the same counsel."). The cases "are still in their nascent stages." *Hanson*, 257 F.R.D. at 22. Both cases can and should be resolved on dispositive motions without discovery. *See En Fuego Tobacco Shop LLC*, 356 F. Supp. 3d at 11 (because "both cases involve

[3] *A fortiori*, the same result follows under the Obama Administration DOL's interpretation of Section 13(c)(2)—embraced by ATU—under which any diminishment of the right to bargain over a mandatory subject precludes certification.

cross-motions for summary judgment largely on an administrative record . . . [t]here is no real gain or loss of efficiency by consolidating the matters"). And it is difficult to fathom what prejudice the DOL could suffer from having the legality of these two sets of certifications heard together, particularly given that the agency's recent Florida certification-related decisions repeatedly cite and incorporate the agency's California certification decisions (as well as the California district court's decisions addressing the interplay between Section 13(c)(2) and PEPRA) and explicitly recognize that this Circuit's decision in *ATU v. Donovan* is as central to the ultimate resolution of the Florida dispute as it is to the California dispute. *See supra* pp. 13–14.

To be sure, the California Case and the Florida Case are not identical: The cases ultimately require the application of Section 13(c)(2) to different rights-diminishing state statutes, and the Florida Case includes a separate claim contending that the agency's recent certification determinations also violate Section 13(c)(1), which precludes certification where a transit agency does not "preserv[e] rights, privileges, and benefits . . . under existing collective bargaining agreements." 49 U.S.C. § 5333(b)(2)(A); *see supra* note 2. But such differences pose no roadblock for consolidation, as decisions in this District have made clear.

Take, for example, *Trustees of IAM National Pension Fund v. Ohio Magnetics, Inc.*, Case No. 21-928 (RDM), 2021 WL 3036854 (D.D.C. July 16, 2021). There, a pension fund filed a lawsuit under the Employment Retirement Income Security Act (ERISA) seeking to modify or vacate an arbitration award on the grounds that the arbitrator misinterpreted a relevant provision of ERISA. *Id.* The same pension fund then filed a second lawsuit under ERISA, this time against a different employer seeking relief from another arbitrator's award because that arbitrator "made the same interpretative mistake in applying the same provisions of ERISA." *Id.* The two cases had several factual differences, including that the respective arbitrators made different findings about

the underlying circumstances that led to the alleged ERISA violation and there was a significant disparity in the amount in controversy. *Id.* at *3. Nonetheless, the Court granted the plaintiff's motion to consolidate the cases, finding it was "[m]ost significant[]" that the two cases "present an identical question of law"—meaning that "consolidation would save time and effort," it would "relieve the parties and the Court of the burden of duplicative pleadings and Court orders," and it would "reduce the risk of inconsistent rulings on common . . . legal questions." *Id.* at *3 (cleaned up). The "factual differences" were "not sufficient to justify the entirely separate proceedings that [the defendant] advocates." *Id.*

Likewise, in *Hanson v. District of Columbia*, this Court consolidated two separate lawsuits by different sets of plaintiffs challenging the District's gun control laws under the Second Amendment. 257 F.R.D. 19 (D.D.C. 2009). The *Hanson* court held that "both actions present an identical question of law, namely, the constitutionality of the District's adoption of the California Roster. Thus, consolidation would save time and effort for the court and for the defendants by resolving this issue in one proceeding rather than two." *Id.* at 22. The court granted the District's consolidation motion even though one of the cases challenged many more aspects of the District's laws than the other, explaining that "[t]he parties are fully able to brief—and the court is capable of rendering a well-reasoned judgment on—multiple issues within the context of one unified civil action." *Id.*

As in *IAM National Pension Fund* and *Hanson*, the California Case and the Florida Case "present an identical question of law," "[b]oth cases remain in their early stages," and "[n]either case has proceeded beyond the initial pleadings." *IAM Nat'l Pension Fund*, 2021 WL 3036854, at *2. And, the common question of law—whether Section 13(c)(2) permits the DOL to certify a

grant where a state statute has curtailed a mandatory subject of bargaining—is highly likely to be dispositive in both cases.

Indeed, the case for consolidation hardly could be any stronger here given that the parties in both the California Case and the Florida Case are at loggerheads over the proper reading of this Circuit's decision in *ATU v. Donovan*. Put simply, it would be wasteful for two judges to contemporaneously consider the meaning and import of a single D.C. Circuit decision that is central to both cases.

For these reasons, and because consolidation could not prejudice the DOL, this Court should grant Plaintiffs' motion and "eliminat[e] the need for more than one judge to become familiar with the issues presented." *Smith*, 2005 WL 8167537, at *2.

CONCLUSION

The Court should consolidate the instant case with the case of *Amalgamated Transit Union International, et al. v. United States Department of Labor, et al.*, Case No. 1:25-cv-03876-APM.

Respectfully submitted,

/s/ Jacob Karabell
Jacob Karabell, D.C. Bar # 996066
Rachel S. Casper, D.C. Bar # 90017405
Bredhoff & Kaiser, P.L.L.C.
805 15th Street, N.W., Suite 1000
Washington, D.C. 20005
Telephone: (202) 842-2600
jkarabell@bredhoff.com
rcasper@bredhoff.com

Counsel for Plaintiffs in Case No. 1:25-cv-03872-RJL *and Case No.* 1:25-cv-03876-APM

Dated: November 19, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMALGAMATED TRANSIT UNION, INTERNATIONAL, *et al.*,	)	
Plaintiffs,	)	
v.	)	Case No. 1:25-cv-3872-RJL
UNITED STATES DEPARTMENT OF LABOR, *et al.*,	)	
Defendants.	)	

[PROPOSED] ORDER

Upon the Motion to Consolidate, it is hereby:

ORDERED that Plaintiffs Amalgamated Transit Union, International and eight of its affiliated California local unions' motion is **GRANTED**, and that the case of *Amalgamated Transit Union International, et al. v. United States Department of Labor, et al.*, Case No. 1:25-cv-3876-APM, is consolidated with this case.

Dated:_____

_____
United States District Judge