Testimony of

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SB 904 An Act Concerning the Labor Department's Executive Director

SB 905 An Act Regarding Neural Arbitrator Selection Committee Requirements at the State Board of Mediation and Arbitration

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Good morning Senator Kushner, Representative Porter and the hardworking members of the Labor & Public Employees Committee. My name is Sal Luciano, and I am proud to serve as the President of the Connecticut AFL-CIO, a federation of hundreds of local unions representing more than 220,000 members in the private sector, public sector, and building trades. Our members live and work in every city and town in our state and reflect the diversity that makes Connecticut great. Thank you for the opportunity to testify today on a number of bills important to Connecticut's working families.

SB 904 An Act Concerning the Labor Department's Executive Director - OPPOSE

The Department of Labor already has two deputy commissioners but suggests that the creation of another management position is necessary to retain knowledge of state and federal unemployment insurance programs and other Department functions. We respectfully disagree. There are a number of career professionals at the Department who collectively possess more institutional knowledge than any one person could. What the Department really needs is a significant investment in hiring frontline staff who can process unemployment benefits, investigate wage theft claims wage laws, enforce workplace health and safety standards and perform other core Department functions.

Rather than hiring enough staff to administer the intake and application processes related to Pandemic Unemployment Assistance (PUA), the Department entered into a no-bid agreement with Maximus Corporation to privatize the work. The no-bid contract **siphoned taxpayer dollars to benefit an out-of-state corporation when Connecticut residents need jobs. In-house employees, who are accountable to taxpayers, would have been a much better option. At a time of crisis like the pandemic,** the state should be investing in its own people instead of boosting the profits of a billion-dollar corporation.

Sadly, the agency also entered into an agreement with a temporary services agency (Robert Half) to administer overpayments of PUA benefits. The Department of Labor needs staff to execute core functions. It does not need another layer of management.

We urge the Committee to reject this bill.

SB 905 An Act Regarding Neural Arbitrator Selection Committee Requirements at the State Board of Mediation and Arbitration - OPPOSE

The Neutral Arbitrator Selection Committee plays a critical role in ensuring that employees and employers have faith and confidence in the services provided by the State Board of Mediation and Arbitration. Neutral arbitration of grievances or negotiation disputes is essential to preserving the sanctity of collective bargaining and maintaining respectful labor-management relationships. The Committee, made up of equal labor and management representatives, must appoint a panel of at least 20 neutral arbitrators by unanimous vote who will conduct these proceedings.

Employees and employers alike are entitled to seek an arbitrator that mirrors the diversity of its workforce. To that end, the pool of arbitrators must look like the employers and workers of Connecticut. There must be gender and racial diversity.

SB 905 requires that members of the Neutral Arbitrator Selection Committee be state residents, ensuring that the members have a vested interest in the work that they do on behalf of the state. We support that change.

We oppose the language that replaces a unanimous vote with a majority of 7 out of 10 votes when replacing a neutral arbitrator. The Department of Labor suggests that such a change will eliminate issues of personal animus from decisions to terminate an arbitrator. We are concerned that moving from a unanimous vote to a majority vote would make it harder to diversify the pool of arbitrators. Recent actions suggest that sometimes a single opposing vote has caused the Committee to be more deliberate and intentional in its actions. Requiring a unanimous vote requires all representatives to engage in meaningful, substantive discussions and work towards consensus.

We urge the Committee to reject this bill.

SB 906 An Act Concerning Non-Compete Agreements - SUPPORT

Non-compete agreements are contracts between workers and firms that delay employees' ability to work for competing businesses. Employers use these agreements for a variety of reasons, including protecting trade secrets or reducing costs associated with turnover. Non-compete agreements were traditionally more common in professional or managerial jobs with higher rates of pay and greater levels of responsibility, but today these agreements are becoming common in entry-level and low-wage jobs, even in the service, restaurant and hospitality industries.

The growing use of non-compete agreements is another way employers are rigging the system. By eliminating a worker's right to move to a better paying position, they artificially suppress wages, which in turn reduces overall economic growth.

SB 906 prohibits the use of non-compete agreements for employees who earn less than three times the minimum wage or an independent contractor who earns less than five times the minimum wage. We are optimistic that this language protects the lowest wage workers but wonder if the wage levels are still too low to provide protection for professional employees who have no managerial responsibilities. We are encouraged that the Attorney General will have authority to enforce this prohibition.

We urge the Committee to support this bill.

SB 908 An Act Concerning the Right of a Public Employee to Join or Support a Union - SUPPORT

Unions raise wages and labor standards across the economy, improving the lives of all workers (union and nonunion). Unions, through collective bargaining, provide workers with a voice on the job and the freedom to make a decent living, support their families and have a secure, dignified retirement. In the public sector, collective bargaining also helps create a fairer economy. Teachers can negotiate smaller class sizes; nurses may bargain safer nurse-patient staffing ratios and first responders are able to negotiate improved health and safety protocols. These things benefit society at large.

Wealthy individuals and corporations profit greatly from an economy that only benefits the privileged and the powerful. They seek to ensure that they get richer while working people struggle to get ahead. For decades, they have tried to undermine workers' rights and their ability to collectively bargain. They have worked to advance so-called "right to work" laws designed to disempower unions by making it harder for workers to organize and build solidarity.

So-called "right to work" laws further tilt the balance of power in favor of corporations because they allow workers who decide not to be a part of a union to fully benefit from union representation—including higher wages, benefits, training, safety and protection from unfair discipline—without having to pay for it.

Janus v. AFSCME Council 31 challenged public-sector unions' ability to collect fees for the services they provide. The U.S. Supreme Court had heard two other cases previously on this issue—but neither produced the plaintiffs' desired result. It is only funding from corporate-funded foundations that these cases can repeatedly make it to the U.S. Supreme Court. In the end, the decision upended over 40 years of precedent affirming the constitutionality of fair share fees. It made all public employees "right to work."

Until it is overturned, the *Janus* decision will further embolden the right-wing and corporate elites in their efforts to thwart the aspirations of millions of working people standing together for a better life. It's worth noting for the record that Connecticut's public sector union membership has held steady since the *Janus* decision in June 2018. Many had hoped the decision would translate into a mass union exodus, especially as conservative Koch-funded organizations like The Yankee Institute actively pursue workers to drop their union membership. But eighteen months on, less than one percent of members have left their unions.[i] That's because they understand their voices and are stronger when they stick together. No court decision can ever take that away from them.

SB 908 protects the rights of public employees in the post-Janus era by requiring public employers to:

- Provide access to orientations for new public employee hires, to allow the union to inform workers of their rights, benefits, duties and responsibilities. It also gives the union an opportunity to explain the representation and benefits provided to employees.
- Provide up-to-date bargaining unit lists with worksite locations and contact information, so that the union can appropriately communicate and service the members it represents.
- Clarifying the authorization process for employee payroll deductions and recognizing that the financial relationship exists between the employee and the union, not the employer.
- Maintain access to employee representation by allowing unions to meet with their members during the workday to investigate and discuss grievances, workplace complaints and other workplace issues; and
- Refrain from deterring or discouraging public employees from becoming or remaining members of a union.

We urge the Committee to protect public employees' rights by supporting HB 908.

SB 942 An Act Concerning the On-Time Payment of Wages - SUPPORT

Allied Community Resources acts as a fiscal intermediary for the state's self-directed programs. It has a $6 million contract with the Department of Social Services to process payroll to more than 6,800 personal care attendants and other home care workers. These are essential workers have worked throughout the pandemic to devotedly serve their clients. They perform important essential functions but are paid little more than minimum wage and depend on the timely payment of their wages each week. More often than not, their paychecks are late or incorrect.

In 2019, Allied admitted to making more than 6,000 timesheet errors. In just the second half of 2020, the company processed nearly 5,000 timesheets *after* the scheduled payday. This is unacceptable treatment of essential workers and falls short of what they and taxpayers deserve.

SB 942 requires fiscal intermediaries like Allied to provide reasonable and timely notice to employees about any changes or delay in processing payments of their earned wages. It also creates a financial penalty for failure to comply with those requirements. Hopefully, that will create a financial incentive for Allied, and other fiscal intermediaries, to meet the terms of their contract and treat workers with the dignity and respect they deserve.

We urge the Committee to support this bill.

SB 943 An Act Concerning Wage Education and Enforcement Relating to Domestic Workers - Support

Domestic workers perform important functions in households across the state. They care for children, run errands, clean, cook, shop, and may also care for older or disabled household members. Domestic workers enable their employers – especially women – to go to work and support their families. Their work supports households and in turn, the overall economy. Yet, their wages are often low because they are excluded from state minimum wage protection.

The National Labor Relations Act (NLRA) of 1935 forbids employers from firing a worker for joining, organizing, or supporting a labor union. Domestic workers, most of whom were African American at the time, were exempted from the NLRA. That exemption remains today. Domestic workers were also excluded from the minimum wage and overtime pay protections afforded to workers in the Fair Labor Standards Act (FLSA) of 1938. States have the ability to close gaps left by the NLRA and FLSA. SB 943 begins this process.

By requiring employers of domestic workers to clearly enumerate the terms and conditions of employment and require the Department of Labor to establish a program to educate domestic workers and their employers on state laws and regulations related to domestic work, SB 943 begins the important process of transparency and distribution of information. Workers must know their rights in order to know if they are being violated. This bill would empower domestic workers and help them develop a relationship with advocates who seek to protect their rights.

This bill could be strengthened by definitively requiring that domestic workers be paid at least the minimum wage. Failure to pay workers in domestic service less than the state minimum wage clearly diminishes the work performed by these employees. Domestic workers are largely undervalued. Their work is not considered to be as important as work performed within the confines of traditional employment. Furthermore, their duties are perceived as “woman’s work,” making them vulnerable to gender-based pay discrimination.

It’s time that we update the statute to recognize the contributions domestic workers make to our society.

We urge the Committee to support this bill.

HB 6120 An Act Establishing a Connecticut Center for Worker Ownership - SUPPORT

This bill would create a statewide Connecticut Center for Worker Ownership to educate and help business owners convert existing businesses, or start new businesses, in the form of an employee stock ownership plan (ESOP) or cooperative (COOP) business model. Both of these models center on the fact that the workers have an ownership stake in the businesses where they work.

The Center could potentially address a number of economic and labor issues. Workers would have more control over their workplaces and enjoy a greater share of the wealth they produce by being co-owners. Businesses that convert to one of these models will be much more likely to stay in our state, as the local workers will also be the owners of the companies.

We urge the Committee to support this bill.

HB 6475 An Act Concerning Forced Arbitration Agreements - SUPPORT

Today, workers' private right to enforce employment laws is increasingly hampered by pre-dispute arbitration provisions in job applications, employee handbooks, and contracts. Pre-dispute arbitration provisions can mandate that all employment disputes be addressed in individual arbitration, sometimes with an arbitrator who is chosen by the employer.

In recent years, more than 56 percent of the non-union, private sector workforce in the United States has lost the right seek justice on wage theft and workplace discrimination, as a result of forced arbitration clauses. Two-thirds of low-wage workers in the United States are now covered by forced arbitration clauses.

HB 6475 allows state agencies that currently bear enormous responsibilities to enforce employment laws, including the state Department of Labor, to outsource the risk and cost of litigation to the counsel hired by whistleblowers, while retaining the ability to oversee the case. The bill allows state actors to intervene, have an opportunity to vet whistleblower's counsel before an action is brought, and approve any settlements reached on behalf of the State. Through this mechanism, the public can act as a "force multiplier" for under-resourced state agencies, collecting penalties to deter violations and building a culture of compliance.

Under the current draft of HB 6475, 50% of civil penalties collected in public enforcement actions would go toward state agencies responsible for the enforcement of laws violated by defendant employers. HB 6475 would generate an estimated $4.1 million a year in revenue for the state of Connecticut, money that would go in large part to strengthening the resources of state agencies to enforce the rights of Connecticut working people.

We urge the Committee to support this bill.

HB 6536 An Act Requiring Adequate Equipment and Reimbursement for Employees Working From Home – SUPPORT

Prior to the Trump Tax Cuts and Jobs Act, employees who worked at home could get a federal tax deduction. Employees who are working at home now due to the coronavirus pandemic don't get a tax deduction for those costs. In some states, including California, Illinois, Iowa, Pennsylvania, Montana and New Hampshire, employers are required to reimburse employees for necessary job expenses.

Since last March, workers forced to do their jobs remotely have incurred additional expenses related to Internet usage, phone service and increased electric, gas and other utility costs. In addition, some may have had to make investments in computer hardware or essential office furniture in order to their jobs. They may also had to purchase software and online subscriptions, such as video conferencing services.

Executives likely have company credit cards and expense accounts to pay for these added costs, while the majority of employees must pay for work-related expenses with their own money before they can request a reimbursement. Currently, there is no legal requirement that employers provide those reimbursements. The only modest protection Connecticut workers have is from the federal Fair Labor Standards Act, which prohibits employers from requiring employees from paying for job-related expenses if doing so would cause the employee's wage rate to fall below the minimum wage or overtime compensation rate.

We urge the Committee to support this bill.

HB 6537 An Act Concerning Expansion of Paid Sick Days and Domestic Worker Coverage - SUPPORT

In 2011, Connecticut became the first state to require certain employers to provide paid sick days; however, the law only applies to employers with 50 or more employees in certain service occupations. It does not cover employees of employers with fewer than 50 employees, federal employees, certain employees of manufacturers and nonprofit organizations, and temporary and day laborers.

Covered workers are only eligible to use accrued paid sick time after they have worked 680 hours, which is inaccessible to part time workers or those with multiple jobs. Further, workers can only use paid sick time to care for a child up to the age of 18 or a spouse, defined as husband or wife. The law does not include time to care for extended or chosen families and leaves out workers who care for loved ones outside of the traditional "nuclear" family.

HB 6357 removes the employer size threshold and job classification list outlined in existing law and requires all employers, regardless of size or industry, to provide up to 40 hours of paid sick time to their employees per year. It also eliminates the waiting period for an employee to use their accrued paid sick days and they can use paid sick days to care for a spouse, child of any age, grandparent, grandchild, parent, sibling, and any individual related to the employee by blood or affinity who is the equivalent of family.

During the COVID-19 pandemic, access to paid sick leave has been more critical than ever. Paid sick days are critical to essential workers, the majority of whom are women and people of color and are least likely to have access to paid sick days right now as they continue to work on the frontlines of the crisis. Being able to use sick time to quarantine after an exposure or to recover from the virus has been an essential part of reducing transmission.

HB 6537 allows sick time to be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency and provides an additional 80 hours of paid sick time for COVID-19 related purposes so long as there is a federal tax credit.

There has never been a more important time to make sure everyone has access to paid sick days. We urge the Committee to support this bill.

Thank you for the opportunity to provide testimony today.

[i] https://www.ctpost.com/business/article/Dan-Haar-State-workers-loyal-to-unions-despite-13266461.php