



Testimony of

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Labor & Public Employees Committee
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SB 999 An Act Concerning a Just Transition to Climate-Protective Energy Production and Community Investment

SB 1000 An Act Concerning Transportation Network Company Drivers

SB 1002 An Act Concerning Labor Issues Related to COVID-19, Personal Protective Equipment and Other Staffing Matters

HB 6595 An Act Concerning Labor Issues Related to COVID-19, Personal Protective Equipment and Other Staffing Matters

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 999 An Act Concerning a Just Transition to Climate-Protective Energy Production and Community Investment - SUPPORT

As Connecticut continues its pursuit of a Zero Carbon Future, we must be careful to balance those efforts with policies that address communities most greatly affected by climate change and the need to create good paying jobs. SB 999 creates a process by which environmental, labor and community needs are met in this process.

This bill includes a number of key labor protections, including prevailing wage requirements, standard wage requirements, project labor agreements, robust apprenticeship and pre-apprenticeship training programs, and responsible contractor requirements. These policies, in use in Connecticut and throughout the country, are shown to be effective at protecting capital investments and the proprietary interests of investors. They help ensure that adequate numbers of skilled craft personnel are deployed to projects in a timely manner and that the most highly qualified contractors will be attracted to such projects. They also protect the wage rates of local communities, promote adherence to required licensing and technical certifications, and maintain labor peace on projects to avoid disruptions and protect project delivery.

By including Project Labor Agreements (PLAs) as a requirement for "assisted projects," this bill funds pre-apprenticeship and apprenticeship programs that target disadvantaged communities for job training opportunities. These on-the-job programs create construction careers that last long after the project has been completed. Connecticut can incentivize the development of clean energy, while building the workforce and investing in underserved communities at the same time. Creating a supply of properly trained and qualified skilled craft personnel helps to protect state investments in the renewable energy sector.

Responsible contractor provisions help ensure that contractors and subcontractors selected for these projects are reputable, qualified firms that have sufficient resources and capabilities needed to perform the work

successfully. We should not use state dollars to reward contractors who have been debarred in other states for wage theft, licensing or other violations.

SB 999 is similar to proposed legislation in New York existing requirements in New Jersey. We urge the Committee to support this bill.

SB 1000 An Act Concerning Transportation Network Company Drivers: SUPPORT

Employers in an increasing number of industries misclassify their employees as independent contractors, denying them basic worker protections. If undetected, employees miss out on fair pay, health and safety, access to workers' compensation and unemployment insurance, and the right to collectively bargain for better jobs. Misclassification also hurts law-abiding employers who play by the rules but are under-bid by their competitors.

Employee misclassification is a persistent problem in many growth industries and in the rapidly growing app-based "on-demand" economy. Ridesharing services like Uber and Lyft are among the most egregious employers who intentionally misclassify their employees.

While transportation network companies like Uber and Lyft make huge profits, these workers often make poverty level wages. In recent years, these companies have lowered fares charged to riders, decreasing drivers' earnings. Drivers must also pay for car maintenance, insurance, and other driving-related costs out of their own pockets. After these expenses, a majority of Uber drivers make less than minimum wage, especially during the COVID-19 pandemic when ridership has been unsteady at best.

We cannot allow technology to be used as an excuse to exploit workers. There is nothing new or innovative about businesses coming up with excuses to cheat working people out of the wages, tips and benefits we need and deserve. That is why it's important that these workers have the opportunity to join together and bargain for fair wages and working conditions.

SB 1000 establishes procedures to allow that to happen. It prohibits network companies from interfering with workers who seek to form a union and spells out that organizing process for this industry. Section 3 also permits sectorial bargaining when 18,000 workers have joined various unions. Sectorial bargaining allows workers in a particular industry to negotiate collective terms and conditions of employment together, setting minimum industry standards.

As we look forward to the future of work, the stakes could not be higher for working people and our economy. The way digital platform companies treat their workers will set an example for other companies, especially in new and emerging sectors. If we allow these companies to mistreat and misclassify their employees, others will follow their lead. We urge the Committee to support this bill.

SB 1002 & HB 6595 Acts Concerning Labor Issues Related to COVID-19, Personal Protective Equipment and Other Staffing Matters - SUPPORT

We are thankful that the Committee has recognized the tremendous toll the COVID-19 pandemic has taken on workers, especially essential workers. We support the components contained in SB 1002 and HB 6595, especially those highlighted below:

- **COVID-19 Workers' Compensation Presumption**

Throughout the pandemic, our state's public health and public safety have depended heavily on the efforts of frontline workers. Their jobs became essential and highly dangerous at the same time.

While most of Connecticut was under a stay-at-home order and the number of confirmed COVID-19 cases skyrocketed, these dedicated workers continued to care for patients, stock grocery store shelves, answer emergency calls, staff prisons, operate public transit systems, care for children and ensure taxpayers had continued access to other essential services. They have continued to perform their jobs under difficult circumstances and in extremely dangerous conditions for the last year. Despite the risks they have been asked to take, they showed up and did their jobs, while many of us worked comfortably from home.

Thousands of essential workers have gotten sick. More than 4,100 state employees alone were infected with the virus. Getting COVID-19 hasn't just been a scary experience for essential workers because they've been concerned about their health. Having COVID-19 has also put them in precarious financial positions.

Many essential employees, such as grocery and nursing home personnel, are mostly female, Black and Brown low-wage workers. If they are lucky enough to have health insurance, it likely comes with high deductibles and co-payments. While COVID-19 testing may be free, medical care and taking time from work to recover is not. It is extremely important that they be able to access the wage replacement and healthcare benefits that workers' compensation provides.

As of Monday, more than three thousand workers have filed workers' compensation claims for contracting COVID-19 on the job. Few have received any of the benefits they have earned. Most employer denials assert, without proof, that frontline workers have not contracted the virus in the course of their employment. Others claim that workers' pre-existing conditions have caused the infection. Those denials betray the workers who've protected us by putting themselves in harm's way. Without workers' compensation benefits, sick workers have had to exhaust their accumulated sick time, pay for treatment, and suffer wage losses while they've been forced to navigate a lengthy litigation process with the Workers' Compensation Commission.

Connecticut's workers' compensation statutes require workers to demonstrate that they have acquired an illness at work in order to be eligible for benefits. For a disease as highly contagious as COVID-19, requiring a worker to prove exactly how and when they contracted it is nearly impossible. Because the Lamont administration has implemented a number of important safety protections, such as mask mandates and safety standards for businesses, restaurants and other public venues, it's highly likely that essential workers who contracted COVID-19 did so on the job.

Section 3 in each of these bills creates a rebuttable presumption that exposure to COVID-19 is work-related. The bill still allows the employer the opportunity to prove that infection happened elsewhere. It just moves the burden of proof from the worker to the employer during this public health emergency and eliminates the need for employees to go through a protracted appeals process that could last several months or longer.

In July, Governor Lamont issued Executive Order 7JJJ¹, which created a presumption for essential workers who contracted COVID-19 between March 10 and May 20, 2020. While well intentioned, the executive order was too limited in its coverage window and doesn't recognize the course the virus has taken over the last year. Transmission rates have spiked several times since May, continuing to make workplaces dangerous. May 20, 2020 was an artificial deadline that the virus hasn't recognized or respected. It shouldn't be harder for essential workers who got sick after May 20, 2020, to receive benefits.

That's why essential workers need these bills. They expand the coverage window to reflect the hazards they've encountered for the duration of the public health and civil preparedness emergency.

In order to ensure the retroactivity of the overall presumption and provide the intended assistance to essential workers, we respectfully request that the following language be added to Section 3:

(h) It is further understood that the reapportioning the levels of burden of proofs between the parties is a procedural change intended to apply to all existing and future COVID-19 claims.

Now, Governor Lamont plans to lift most safety restrictions in many workplaces on March 19th. At the same time, he has denied many essential workers priority access to COVID-19 vaccines. He seems all too eager to continue risking the health and safety of these workers but will not extend the workers' compensation presumption in Executive Order 7JJJ. Governor Lamont has chosen to let a system rigged in favor of employers and insurance corporations "work" instead of standing with the workers he deemed essential. He's turned his back on them, preferring not to upset hospital CEOs, agency heads and business leaders who sit behind desks and pose for cameras.

¹ <https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7JJJ.pdf>

Of the 3,123 pending COVID-19 claims, 295 are “being litigated,” meaning that the employer has denied the initial claim and the worker has requested the Workers’ Compensation Commission to hold a hearing. Those cases are in various stages of the review process. Employers and Governor Lamont will likely suggest that the number of litigated claims is small compared to the overall number of cases, implying that the system is working. We cannot accept this false premise. The number of litigated claims is predicated upon the fact that employees are aware of their rights and have exercised those rights. In reality, the vast majority of workers do not understand the process. Many do not have a union to inform them of their rights and help them navigate the burdensome process. Fewer still have the capacity to seek out legal representation. Others have been discouraged by their employers from filing, or worse misinformed about their ability to file. Based on the data, it’s safe to assume that employers are not informing employees of their rights to appeal a decision that favors the employer.

Despite employer fears, establishing a COVID-19 presumption is unlikely to raise their costs. Connecticut workers’ compensation rates declined for six consecutive years leading up to the pandemic. There has also been a significant increase in telework and overall decrease in traditional claims. Most COVID-19 claims are fairly inexpensive, covering a few weeks of wage replacement. Workers’ compensation rate cuts and reduced overall claims will likely offset any COVID experience employers may encounter.

These bills also raise the workers’ compensation burial benefit from \$4,000 to \$20,000, indexes it to inflation beginning January 1, 2022 and makes it retroactive for essential workers who died from COVID-19. The burial benefit level has not been raised since the statute was passed in 1987. Funeral expenses have increased significantly over the last thirty-four years.

- **Workers’ Compensation For Treatment of Post-Traumatic Stress Injury (PTSI)**

Workers’ Compensation was established to provide a safety net for employees injured on the job. We often forget that injuries can be to a worker’s mental health or emotional wellbeing. We applaud the proponents of these bills who have long fought to have the traumas suffered by their colleagues recognized as workplace injuries and compensated as such.

We understand that there was an agreement made among stakeholders and legislative leaders in 2019 when Public Act 19-17 passed, providing workers’ compensation coverage for police officers and fire fighters suffering from PTSI, to extend those protections to Dispatchers, EMS personnel and Correctional Staff. Efforts to honor that agreement were stalled last March when the General Assembly ceased operations due to the public health and civil preparedness emergency declared by Governor Lamont.

The COVID-19 pandemic has reminded us about the importance of mental health and how mental health and emotional injuries cannot be avoided in the workplace. Essential workers continued to show up and do their jobs as many of us worked from home. They have worked on the frontlines of this public health emergency for almost a year now, forced to manage intense stress, soaring workloads and emotional challenges that have taken a toll on many.

Doctors, nurses and thousands of other healthcare workers have struggled to cope with the anxiety of working in close proximity to COVID-19 patients in hospitals, nursing homes and other healthcare settings. At times they lacked sufficient personal protective equipment and feared infecting themselves, their co-workers, other patients and their family members. They have watched a virus ravage their patients without having the tools to successfully treat them. They have had to be surrogate family members, as well as caregivers, as facilities limited visitation to prevent further spread of the virus. In too many cases, they were the only ones with dying patients as they took their last breaths while family members said goodbye on the phone or via Face Time. After their shifts, many undress in their garages, undergoing elaborate decontamination routines, before they can safely seek solace from their loved ones. These are the circumstances they have dealt with on every shift for the last eleven months.

First responders have always been on the front lines responding to serve their communities in times of crisis, but nothing could have prepared them for this pandemic. They have provided pre-hospital 911 emergency medical care, commonly the healthcare providers encountered by COVID-positive patients. They have transported thousands of patients, putting themselves at risk in the close quarters of an ambulance. They too have lacked

sufficient PPE at times, but police and fire departments have also been stretched thin, threatening their ability to respond to the pandemic as well as everyday emergencies.

Grocery store workers and other essential retail employees are subjected to similar stress and anxiety. They must contend with uncooperative and sometimes combative customers who refuse to comply with mask requirements and other safety rules. They constantly fear for their own health and fear the loss of pay if they are forced to leave work if they get sick or need to quarantine to prevent further spread.

The cumulative effect has been devastating for many. They are struggling with anxiety, depression, post-traumatic stress, sleeplessness and other mental health disorders. Unless the General Assembly passes legislation allowing these ailments to be recognized as the workplace injuries they are, these essential workers will be forced to dip into their own pockets to take time off to seek treatment. Or worse, they will not get the care they need, potentially putting themselves, their co-workers, their families and those they serve in danger. These injuries should be treated no differently for purposes of workers' compensation than a worker's physical injury.

The pandemic has reminded us that a workplace can be damaging to a worker's mental health and emotional well-being. Workers' compensation laws need to reflect that understanding.

- **Recall Rights**

Among those who have suffered the most during the pandemic are workers who have been laid off due to no fault of their own. Many of these are low-wage workers – most Black, Brown and women - not deemed essential. They have lost their jobs, and most likely their healthcare. They continue to struggle to find work, feed their families and keep a roof over their heads. When businesses begin to reopen, these workers deserve a fair opportunity to return to their jobs and restore their livelihoods. SB 658 could provide important protections to make sure they have that opportunity by requiring employers to offer the same or similar jobs for which they may be qualified to laid off employees based on seniority.

There is always a risk of discrimination and retaliation in the recall of workers from layoff, including the risk that an employer will hire an entirely new group of employees when reopening. After decades on the job, older workers feel employers will hire younger workers at lower rates of pay. Employees of subcontractors can be particularly vulnerable because properties where they work may decide to replace their contracts (e.g., hire a new cleaning contractor) as the work reopens, thus causing the contractor's employees to lose their jobs.

A growing number of local jurisdictions, including Los Angeles and New Haven, have enacted "Right of Recall" ordinances that require employers to call back their prior workforce and give them a first chance at positions as they reopen. A number of states, including New York and Massachusetts are considering similar legislation.

Recall rights are familiar to union workers who usually benefit from negotiated contract language that requires employers that lay off workers to rehire them when business picks up. But these rights are not currently afforded in non-union workplaces. SB 658 would protect non-union workers from being displaced again by new employees at lower wages and/or benefits.

It makes business sense to rehire skilled veteran workers when reopening. Doing so allows the employer to quickly return to pre-pandemic activities without the added stress, delay and expense of training new workers. These bills take the guesswork out of rehiring workers and ensures the process is fair for all.

- **Personal Protective Equipment**

Personal protective equipment (PPE) has been an essential role in containing COVID-19 and preventing spread. It was in desperately short supply in all kinds of workplace settings in March 2020. Individual employers were competing with each other, and the state, to procure enough PPE to protect the employees, patients, clients, etc. That competition drove up prices and allowed bad actors to flood the marketplace with fraudulent products that didn't provide the same levels of protection. This bill would ensure similar mistakes are not made in the future by making the State of Connecticut the central vendor for procuring PPE statewide. It would streamline the process and keep costs down by allowing the state to leverage its considerable buying power on behalf of users across Connecticut.

- **COVID-19 Data Reports**

These simple reporting measures provide transparency in order to facilitate decision making in hospitals and nursing homes. It also would help prioritize state assistance and inform workplace health and safety plans. John Dempsey Hospital at UConn Health Center has provided daily reports on all these data items throughout the pandemic. There is no reason to suggest that better resourced private hospitals and nursing homes are unable to provide the same information to the Department of Public Health and post it on its own website.

- **Essential Employees Pandemic Pay Grant Program**

Throughout the COVID-19 pandemic, essential workers have put their lives on the line to fight the virus and save the lives of others. Working from home has not been an option. The Essential Employees Pandemic Pay Grant Program established in these bills would compensate essential workers for staying on the job and putting themselves at higher risk during the pandemic.

The program would be created in the Department of Social Services and be funded with fifteen percent of the state's unrestricted federal funds for COVID-19 response. Employers of essential workers would be required to apply for grants for the purposes of providing hazard pay to their employees. Affected workers would receive an additional \$5 per hour for hours worked during the state's public health and civil preparedness emergency. Employees with specialized risk of contracting COVID-19 would receive \$10 more per hour.

Last year, Vermont similarly allocated a portion of its federal CARES Act to establish the Frontline Employee Hazard Pay Grant Program. The first round of the program distributed in July 2020 compensated an estimated 15,600 employees. The second round of the program took place in November 2020, providing about 20,000 frontline workers with hazard pay.

The Essential Employees Pandemic Pay Grant Program recognizes that essential workers' jobs have gotten more dangerous, making their work more valuable and gives employers a way to compensate essential workers for the risks they have experienced.

- **Paid Sick Days**

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.

These bills remove 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.

These bills allow 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.

- **Employer Unemployment Experience Rating**

These bills would codify Governor Lamont's Executive Order 7-W, which requires that:

"No base period contributing employer's account shall be charged with respect to benefits paid to a claimant due to partial or total unemployment that the Commissioner of Labor or his designee determines are attributable to COVID-19, including but not limited to benefits paid to a claimant who, through no fault of his or her own, becomes either partially or fully unemployed during the public health and civil preparedness emergency declared on March 10, 2020, and any period of extension or renewal."

Like many states, Connecticut's Unemployment Insurance (UI) program has been designed so that the employers that lay off employees with greater frequency face higher UI taxes than employers that maintain stable employment. Each employer's annual layoff history determines its experience rating. Employers who issue layoffs in any single year will see their UI tax rate negatively affected.

Under normal circumstances, business experience ratings make sense. Employers that contribute more to the utilization of the UI trust fund should contribute more to the funding of benefits. But, amid a global pandemic some non-essential businesses have been more heavily impacted than others. Layoffs related to COVID-19 were created by a public health emergency, not by poor management or other avoidable circumstances.

By freezing employer experience ratings at pre-pandemic levels, Connecticut can focus on reopening businesses when public health conditions warrant. These bills reduce burdens on struggling businesses and provide them the peace of mind to know pandemic-related UI claims will not cause their UI taxes to increase at a time when they can least afford to pay them.

- **Project Labor Agreements**

Infrastructure and capital investments are an important way the state can contribute to its own growth as the economy remains impacted by the COVID-19 pandemic. These projects put people to work in our struggling construction industry, which is experiencing high levels of unemployment. Requiring the use of Project Labor Agreements and prevailing wage standards on public projects valued at \$10 million or more will ensure the jobs created pay living wages and benefits.

Project Labor Agreements (PLAs) establish the basic terms and conditions of employment for all employees engaged in a building or renovation project. PLAs commonly include local hiring requirements, which can be adjusted by zip code or specific geographical area with commitments to hire workers of color and women. They also promote job opportunities and apprenticeship programs to ensure skilled job training within the local community.

Prevailing wage standards also uphold local wages, protecting local contractors and construction workers from low bids that reduce the market price for labor. They also support safety and skills training programs, improve economic outcomes for veterans and provide pathways into the middle class by supporting apprenticeship programs.

- **Paid Sick Days for Personal Care Attendants**

Section 31 of these bills makes Personal Care Attendants eligible to receive paid sick days. They were carved out of the original law. These are essential workers have worked throughout the pandemic to selflessly serve their clients. They perform important essential functions but are paid little more than minimum wage. They deserve to have paid time off if they are sick or need to care for a sick family member, as other workers can under the existing statute.

- **Hospital Nurse Staffing**

Responsible hospital nurse staffing levels are associated with lower patient mortality, fewer complications, high patient satisfaction scores, shorter lengths of stay, and fewer readmissions. Yet hospitals overwhelmed by COVID-19 patients pushed nurses and other caregivers to the brink of exhaustion and overwork, posing even further risks to public health. Many nurses and others delivering direct patient care quickly burned out in these understaffed conditions, reminding us all of the need for responsible staffing levels. These bills do not mandate minimum nurse-to-patient staffing ratios. Rather, they require to be transparent about their staffing levels and

nurse-to-patient ratios. This will allow for better, closer monitoring of staffing levels and provide much needed information to patients and their families.

We urge the Committee to support these bills.

Thank you for the opportunity to provide testimony today.