



Submitted to the House Committee on General and Housing

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Thank you for the opportunity to speak about this historic bill. My name is Liz Medina, and I am the Executive Director of the Vermont State Labor Council, AFL-CIO, which is a labor federation representing 20,000 AFL-CIO unions in this state. We are part of a coalition of over 25 unions and allied organizations supporting this bill, S.102, which is also known as the Vermont Protect the Right to Organize or PRO Act.

As we celebrated Martin Luther King Jr. Day earlier this month, I would like to begin with a few of his words to help frame this conversation.

At the 1965 Illinois AFL-CIO Convention, Martin Luther King, Jr. made the following remarks concerning the role of the labor movement in our society:

The labor movement was the principal force that transformed misery and despair into hope and progress. Out of its bold struggles, economic and social reform gave birth to unemployment insurance, old age pensions, government relief for the destitute, and above all new wage levels that meant not mere survival, but a tolerable life. The captains of industry did not lead this transformation; they resisted it until they were overcome. *When in the thirties the wave of union organization crested over our nation, it carried to secure shores not only itself but the whole society* [emphasis added].

As Dr. King recognized, history has shown us that progress is made when the people have power and organization. The labor movement and the unions which comprise it have been and are the greatest force for democracy and progress in this country. Data clearly shows that when union membership is high, inequality – and the misery, instability, and despair it sows – is low.¹ On the other hand, when union membership is low, as it is today, inequality and despair – including addiction, homelessness, and poverty – increase.²

¹ Farber, Henry S. et al. “Unions and Inequality Over the Twentieth Century: New Evidence from Survey Data.” *National Bureau of Economic Research (NBER)*, 2021, https://www.nber.org/system/files/working_papers/w24587/w24587.pdf. PDF download.

² Ibid

While the moral argument is clear, the labor movement also plays a central role in workforce development. Working Vermonters are the backbone of our economy: They not only produce the goods and services but also create the demand for those goods and services – that is, if their wages and benefits give them adequate purchasing power.

The Democratic Party and the Biden Administration understand this and have recently communicated this in no uncertain terms. In a White House statement on September 29th , 2023 titled “Good Jobs and Unions Will Help Build Our Workforce,” Biden’s Chief Economist Heather Boushey and Director for Labor Policy on the National Economic Council, Harin Contractor, stated the following:

The President believes that employers should prioritize ensuring that jobs are high-quality—including offering fair pay and benefits and quality working conditions—in order to attract and retain workers.

The challenge is that decades of offshoring, wage stagnation, lack of benefits, and increasingly aggressive anti-union activity on the part of some employers have left most workers without a sufficient support system to advocate for better benefits, safety, and voice. This has reduced the quality of jobs, including in the construction and manufacturing industries.

Reduced union density and lower job quality can have repercussions for hiring and retention. In the construction industry, trainees who leave cite a number of issues, including being on call and dealing with unpredictable schedules; low pay and poor management; not enough time for training; little attention to work-life balance; and a lack of health insurance in a hazardous industry.

Unions are already playing a central role in developing and training the workforce for the President’s investments in America. And firms that allow unions to form uninhibited send a message to potential employees that the employer will value their work and that they can be confident in a stable, steady job that they can raise as family on.³

The VT PRO Act, S.102, will help unions play a central role in workforce development by expanding the right to form a union to agricultural and domestic workers, protecting employee’s ability to exercise their Constitutional rights, and simplifying union elections in the public sector.

When Franklin Delanore Roosevelt ended the violent oppression of workers and enacted the National Labor Relations Act in 1935 (also known as the Wagner Act) – a key provision of U.S. labor law, guaranteeing workers in the private sector the right to join union – some workers were left out. The original bill, introduced by Senator Wagner, included agricultural and domestic

³ Boushey, Heather and Harin Contractor. “Good Jobs and Unions Will Help Build Our Workforce.” *The White House*, 29, September 2023. <https://www.whitehouse.gov/briefing-room/blog/2023/09/29/good-jobs-and-unions-will-help-build-our-workforce/>. Blog.

workers. However, as with the Social Security and Fair Labor Standards Acts at this time, which were passed during the same period, agricultural and domestic workers were excluded from the final bill.

Many historians and legal scholars have argued that systemic racism was a key factor in the exclusion of agricultural and domestic workers from the protections of the NLRA. Leon Keyserling, the principal drafter of the NLRA, noted at the time that the Senate disproportionately represented the interests of largely-white farm owners.⁴

Still, even those workers who have not been excluded from the NLRA have seen their rights undermined with impunity over the years. I know the other witnesses you will hear from today will be sharing a lot about their experiences with what we call “captive audience meetings,” but I would like to share with you one chilling example today.

A captive audience meeting is when an employer holds mandatory meetings, often for long periods of time and on a regular basis, to dissuade employees from exercising their right to form a union. Employees are “captive” because they often have no choice as to whether to attend or not, as their very livelihoods are on the line and the risk of retaliation for not attending is high.

Oftentimes, the employer engages in illegal practices during these meetings, such as interrogating employees. While interrogating, threatening, spying, and bribing employees are all considered unfair labor practices and are illegal, employers engage in these behaviors anyway because there are little to no consequences.

Thanks to our one-party consent state that protects whistleblowers, I am going to share with you an excerpt from a captive audience meeting that took place this past summer. Prior to this meeting, the workers had managed to get the majority of their coworkers to sign union cards and asked their employer for voluntary recognition. Unfortunately, instead of respecting their employees’ right to form a union and begin bargaining in good faith, the employer decided to bust their union and hire a famous union-busting lawyer from Boston. Instead of investing in their employees, the employer instead chose to spend thousands of dollars a week to help them get away with crushing their employees’ right to form a union.

After some small talk, the owner directly asks who is the problem, and why this drive is happening. This is a form of interrogation and an unfair labor practice.

I ask you to please put yourselves in the shoes of the workers in this situation. Your employer has the power to take away your ability to provide for your most basic needs. The subtext of intimidation and fear is apparent in the following exchange during a captive audience meeting.

Owner “There's obviously... Significant enough discontent where people who want to put an intermediary in between management and run by its side. That's, that's the perception

⁴ Perea, Juan F., *The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act*, 72 OHIO ST. L.J. 195 (2011).

I'm getting. Right? I don't want that to happen. I want to figure out how to address the problem. The root causes of why somebody would want to go to, like, union representation before they're going to come and ask me for help to solve this problem. That's what I want. That's what I want to figure out."

Manager: "Do you have any idea?"

Worker 1: "I haven't been here long enough to, no."

Worker 2: "I'm --- here come to work and everyone's cool, everything's chill and do my job and I got hurt. Not, not specifically due to this place, but I was allowed to come back and work. You know, and I just did, and I just do. That's it. Just [inaudible] get my day done. Work and work. I don't need to argue with nobody. Cause problems for nobody."

Owner 1: "That's my goal. That's my goal."

Owner 1: "Don't cause anybody any problems."

Several of these meetings were held during the drive. The owner also targeted and threatened workers whom they believed were leading the drive with discipline and termination. Furthermore, the owner bribed a worker on the fence by purchasing them a new, used car in exchange for voting no. Unfair labor practice charges were filed, but the damage was already done and there was nothing current labor law could do to rebuild what was already destroyed. Division and fear was sown and the workers got the clear message the owner was sending.

I want to be clear that this bill is in no way radical. In fact, employers will still have the right to hold meetings to communicate their political and religious preferences. The only thing this bill will do is give workers the option to not attend if they so choose. This bill simply takes out the "captive" part of captive audience meetings.

Last, S.102 will simplify union elections in the public sector by allowing for card check elections or majority sign-up. With majority sign-up, union recognition is granted on the basis of a majority of eligible workers signing union cards. The current process not only requires workers to demonstrate support by signing union cards, but it also makes them go through an election with the Vermont State Labor Board. The delay between signing cards and holding a board election gives employers ample opportunity to union bust.

Because of the delays in getting to a board election, sympathetic employers are increasingly voluntarily recognizing unions on the basis of a majority of cards signed. While these examples are from the private sector, the principle is the same. Soteria House, part of Pathways, voluntarily recognized their workers, who organized with the American Federation of State, County, and Municipal Employees (AFSCME). Ben and Jerry's voluntarily recognized Scoopers United, part of Workers United, as well as Waterbury production workers, who organized with the United Food and Commercial Workers (UFCW) Local 371. Our own State Representative,

Kate Logan, oversaw the card count for Scoopers United. Gaku Ramen on Church Street in Burlington also recognized Gaku United, part of Workers United, on the basis of a majority of union cards signed.

Thirty-nine out of 41 workers at the Ben & Jerry's scoop shop signed cards (95%) and 20 out of 22 workers at Gaku Ramen signed union cards (91%). With this overwhelming level of support, it is hard to argue that anyone was bullied into signing union cards. In fact, the amazing worker-organizer for these campaigns, Beka Mendelsohn, is now a member of our Labor Council's board. She is one of the nicest people you will ever meet. Listening is her main skill as an organizer – not bossing others around.

It is also worth noting that whereas a board election only requires a majority of those who vote to certify a union, a card check or majority sign-up election requires 50% plus one support for the union of the entire eligible bargaining unit to be certified, which is a higher threshold of participation than a board election.

Supporting our public sector workers in being able to protect themselves and earn a living here is also a key part of climate resiliency. I know climate resiliency is on the top of legislators' minds, especially after the devastating floods this past July.

Our public sector workers were on the frontlines in saving Vermonter's lives and providing flood relief. Many of them are municipal workers. Members of AFSCME Local 1369, which represents Barre City Department of Public Works workers, "slept at their worksites for weeks after the flooding began to guard against any possible dam failure and to make sure the public continues to have drinkable water."⁵

Donnell Dexter, who works at the Barre Streets Department, dove into the flood waters, putting his own life at risk, to save a man with a broken back. The man was evacuated by manually lifting him from his submerged house and placed into a loader. However, the equipment failed, and Dexter "swam to recover a boat that he then used to complete the rescue."⁶

While heroes like Dexter enjoy better wages and benefits because they are union, many municipal workers do not. Because those in this workforce are scattered throughout the state and isolated, it is much harder for them to form a union without fear of retaliation.

In conclusion, I ask you, "What message will Vermont send to the potential employees it wants to attract to this state?" Will we pass S.102, the Vermont PRO Act, and send a message that this state is proactive about ensuring you and your rights are protected? Or will we do nothing,

⁵ Cauley, Tim. "We salute AFSCME members' selfless dedication to help Vermont recover from flooding." *AFSCME*, 28, July 2023, <https://www.afscme.org/blog/we-salute-afscme-members-selfless-dedication-to-help-vermont-recover-from-flooding>
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⁶ Ibid

sending a message that we do not care, that we will not protect your right to organize and help you build a stable job and life here? Fourteen states currently guarantee farmworkers collective bargaining rights. Six states have already enacted a ban on captive audience meetings. Nine states have card check or the majority sign up. The younger generations are the most pro-union ever: 88% of Americans younger than 30 support unions.⁷ If these young folks have a choice about where to start a career and family, where do you think they will go?

Thank you for your time.

⁷ Chernikoff, Sara. "Majority of Americans support labor unions, new poll finds. See what else the data shows." *USA Today*, 30, August 2023, <https://www.usatoday.com/story/money/2023/08/29/majority-of-americans-support-labor-unions-poll-finds/70713278007/#:~:text=More%20than%20two%2Dthirds%20of.saying%20they%20support%20labor%20unions.>