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TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON LABOR AND
HOUSING

NEITHER FOR NOR AGAINST LD 398

*An Act to Make Agricultural Workers and Other Related Workers
Employees Under the Wage and Hour Laws*

April 18, 2023

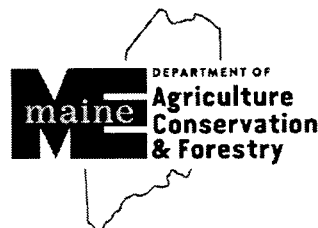
Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing, my name is Craig Lapine, and I am the Director of the Bureau of Agriculture, Food and Rural Resources within the Department of Agriculture, Conservation and Forestry (DACF). I am speaking on behalf of the Department as neither for nor against LD 398, *An Act to Make Agricultural Workers and Other Related Workers Employees Under the Wage and Hour Laws*.

Maine farmers produce an abundance of high-quality crops and products across the state. They are stewards of our natural resources, help preserve open space, and are economic engines in local rural communities. Farms vary in size and scope across the state, but most are small. According to the 2017 USDA Agricultural Census, 41% of Maine farms (3,122) have farm sales of less than \$2,500/year. In contrast, fewer than 700 or just 9% of farms have sales of \$100,000 or more.

Farming in Maine is highly variable and full of challenges, including ever-changing weather, short growing seasons, market dynamics, high costs of production, drought, pests, and the lack of a stable local labor force. External factors such as low food prices - recent inflation notwithstanding - eat into already razor-thin margins, if any. Given the differences in the types and sizes of farming operations, labor needs are not uniform across the state. The Department hears from farmers who pay competitive wages in order to attract workers in the tight labor market, and many would like to pay more or provide additional benefits to their employees if they could afford it.

The Department is aware of the concern that requiring overtime pay may result in some producers reducing hours for current workers. That could cut wages for current workers and be a disincentive to new workers, thus compounding the already difficult labor shortage that Maine agriculture faces. Further, although some farms may be able to pass increased labor costs onto the consumer, other producers (such as dairy producers, where prices are set by federal pricing policies) will be unable to do so due to market and commodity dynamics. These farms are price takers, not price makers.

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The Department is also aware that farmworkers are among the hardest working - and most sought after - workers in the state and that our agriculture industry must remain competitive. The Department is aware that other states across the country have or are beginning to phase in agricultural overtime protections in an effort to increase the earning capacity of workers. States such as California, Minnesota, Hawaii, and New York have approached phasing in higher agricultural overtime or crafted particular earning exclusions that Maine could potentially learn from.

This law would be a significant shift in agricultural policy for the state. We encourage the Committee to consider these nuances and listen to the concerns of farmers and farmworkers that will be expressed in the course of this hearing to ensure that the full economic and labor impacts of this bill on farmers and farmworkers as well as the agricultural sector as a whole are understood. The Department supports creating a stakeholder group to discuss these issues further and would be happy to work with the Committee and the bill's sponsor on the next steps.

Thank you for your time. I'm happy to answer any questions here or at the work session.