

Testimony in support of LD 398, An Act to Make Agricultural Workers and Other Related Workers Employees Under the Wage and Hour Laws, LD 525, An Act to Protect Farm Workers by Allowing Them to Organize for the Purposes of Collective Bargaining, and LD 1483, An Act to Protect the Rights of Agricultural Workers.

Arthur Phillips, Maine Center for Economic Policy
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Good afternoon, Senator Tipping, Representative Roeder, and members of the Committee on Labor and Housing, my name is Arthur Phillips, and I am an analyst at the Maine Center for Economic Policy. I am here to testify in support of these three bills which would extend basic labor rights to farm workers and help make our agricultural system more resilient.

Our state recognizes workers' rights to fair wages and to bargain collectively, but farm workers have long been excluded from these basic economic freedoms. Workers in Maine's agriculture industry — which employs a disproportionately large share of Black, Latino, Indigenous, and Asian American Mainers — have been subject to exemptions from basic labor laws that leave them more likely to live in poverty and that make racial inequities worse.

While these exemptions have been enshrined in federal law for nearly 90 years, more than a dozen states have taken it upon themselves to right this injustice. Our state has the opportunity and moral responsibility to do that too, by ensuring farmworkers have the right to a minimum wage, overtime, and the freedom collectively bargain with their employers.

Currently, farmworkers are much more likely to live in poverty than other Mainers: about one-quarter of Maine farmhands live in poverty, making them roughly 4.5 times as likely to live below the poverty line as other Maine workers.ⁱ Nationally, farmworkers' wages are roughly 60 percent of what all other nonsupervisory workers are paid.

The USDA's last Census of Agriculture found that Maine had 2,230 farms with hired labor, paying a total of \$134 million in wages. Overall, farms employing at least five workers accounted for 77.3 percent of farmworkers.ⁱⁱ 335 farms hired 10 or more workers, employing nearly 60 percent of all farmworkers in the state. And as of 2021, Maine had 140 farms with sales of more than \$1 million, with an average acreage of 2,071.ⁱⁱⁱ So, while we know that many of Maine's farm establishments are small, most farmworkers are employed by larger enterprises that can manage to offer the most basic labor rights to which nearly all other employers are held accountable.

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Overall spending on farm labor in Maine was approximately unchanged from 2012 to 2017, the period between the two latest versions of the USDA's Census of Agriculture. The share of total farm expenses that wage labor accounted for rose from about 19% to 23%, as other expenditures, such as feed, livestock, interest payments and fuel, remained stable or declined.^{iv} (Rising costs and tight labor markets have presumably caused increased labor spending since then.)

Among farmworkers who are full-time US residents, data suggests that more than 70 percent usually work 40 hours or less. Around one-in-four workers work more than 40 hours but no more than 60 hours per week.^v Extending overtime protections to farmworkers would entail increased costs to agricultural employers; however, we believe they would be manageable. Studies from Massachusetts and New York found that extending overtime to farmworkers would increase production costs by between 2 and 9 percent, and that those costs could be managed through a combination of productivity improvements and increased prices.^{vi}

The right to collectively bargain is a first amendment right and a basic economic freedom. In response to federal exemptions, to date, more than a dozen states have extended collective bargaining rights to farm workers.^{vii} Collective bargaining is associated with better working conditions, greater economic stability and predictability, and less racial and gender discrimination. It should be noted that workers do not only organize in response to bad employers but do so to establish a standard in which they have a voice in shaping the conditions of their work. Unions are also associated with less turnover and greater productivity, and union contracts provide mutually beneficial systems for resolving disputes. Unionized workers share with their employers an interest in stability and long-term growth.

It should also be noted that, due to the many limitations of labor law, it is extremely hard for workers to successfully organize a union and reach a collective bargaining agreement with their employers. Workers organize on an employer-by-employer basis, and doing so takes significant time and effort. If LD 525 were passed into law, farmworkers would finally have a fundamental labor right, but their successful exercise of that right would be limited and gradual.

Without the rights under consideration, farmworkers are vulnerable to exploitation and are less likely to receive fair compensation for their labor. Data shows that violations of labor law are common in the limited areas where federal labor protections do apply, such as laws governing the treatment of migrant workers and the payment of the federal minimum wage. Nationally, 70 percent of US Department of Labor investigations at farms reveal violations of labor law. It seems even more likely that employees are being mistreated in areas where there are no legal consequences at all, such as those addressed by this bill.^{viii}

Farming is incredibly hard work, and the challenges of rising input prices and the outsized power of wholesale buyers make small farmers' margins particularly tight. However, these

facts do not mean farmworkers should be deprived of basic rights that we take for granted for all other forms of work. Ensuring workers have the right to collectively bargain and overtime pay is long overdue and will help Maine's agricultural industry thrive in the years ahead. We urge you to support the bills under discussion today.

ⁱ MECEP analysis of US Census Bureau, American Community Survey, public use microdata, 2015-2019 five-year average using the Integrated Public Use Microdata System (IPUMS). Farmhands were defined as non-supervisory workers in agriculture. This population was compared with all private-sector workers in Maine.

ⁱⁱ US Census of Agriculture, 2017, Table 7. Hired Farm Labor - Workers and Payroll, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_2_County_Level/Maine/st23_2_0007_0007.pdf

ⁱⁱⁱ United States Department of Agriculture, Farms and Land in Farms 2021, February 2022, available at https://www.nass.usda.gov/Publications/Todays_Reports/reports/fnlo0222.pdf

^{iv} US Census of Agriculture, 2017, Profile of Maine's Agriculture, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_2_County_Level/Maine/merefmap.pdf

^v MECEP analysis of 2015-2019, ACS 5-year sample, using IPUMS.

^{vi} Fiscal Policy Institute, May 2019, "Farm Workers' Overtime Pay Is Affordable and Long Overdue," <https://fiscalpolicy.org/wp-content/uploads/2019/05/Support-the-Farm-Worker-Fair-Labor-Practices-Act.pdf>; : Jeannette Wicks-Lim, "Estimates of the Potential Costs and Benefits of Extending Overtime Pay Eligibility to All Farmworkers in Massachusetts," Political Economy Research Institute, University of Massachusetts, Amherst, June 2020, <https://peri.umass.edu/publication/item/1300-estimates-of-the-potential-costs-and-benefits-of-extending-overtime-pay-eligibility-to-all-farmworkers-in-massachusetts>

^{vii} According to the National Agricultural Law Center, Arizona, California, Colorado, Hawaii, Kansas, Kentucky, Louisiana, Massachusetts, Nebraska, New Jersey, New York, Oregon, Washington, and Wisconsin all allow farm workers to collectively bargain. <https://nationalaglawcenter.org/collective-bargaining-rights-for-farmworkers/>

^{viii} Daniel Costa, Philip Martin, and Zachariah Rutledge, "Federal labor standards enforcement in agriculture," Economic Policy Institute, December 2022, <https://www.epi.org/publication/federal-labor-standards-enforcement-in-agriculture-data-reveal-the-biggest-violators-and-raise-new-questions-about-how-to-improve-and-target-efforts-to-protect-farmworkers/>