

Testimony in support of LD 2273, "An Act to Establish a State Minimum Hourly Wage for Agricultural Workers"

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Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing, my name is Arthur Phillips, and I am an analyst at the Maine Center for Economic Policy. I offer this testimony in support of LD 2273 to advance the economic rights of those who power our state's agricultural sector.

As you heard last session and in previous legislatures, despite their incredibly hard work, farmworkers are excluded from many of the most basic rights that nearly all other workers have. This has been true in Maine for nearly 90 years, when New Deal labor legislation carved out sectors of the economy in which, nationally, more than half of Black workers were employed at the time.¹ Since then, many states have taken the initiative to extend various labor rights to agricultural workers, including but not limited to the minimum wage. With this bill, we too can take important steps forward.

Workers in Maine's agriculture industry — who are disproportionately Black, Latino, Indigenous, and Asian American Mainers — 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.ⁱⁱ Nationally, farmworkers' wages are roughly 60 percent of what all other nonsupervisory workers are paid.ⁱⁱⁱ Some of this can be attributed to changes this bill seeks to address.

Over the past year, I have spent dozens of hours discussing the implications of a farmworker minimum wage as part of the Governor's committee and before that in a stakeholders group convened by the Department of Labor following last session's hearing on LD 398. Having sat around the table with advocates for farmers and farmworkers, I am encouraged by the consensus we reached that farmworkers should be covered by the statewide minimum wage, indexed to inflation. That is an important step forward. This bill would also guarantee farmworkers access to records of hours worked and pay, which is a basic requirement for workers to accurately confirm they're getting paid what they are owed.

Despite this progress, the bill as presented includes several exemptions that unnecessarily maintain a lesser standard for farmworkers, which we urge the committee to reconsider.

1. The bill does not include a basic requirement that farmworkers be offered an unpaid rest break after six hours of work. Many farm owners already extend this

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right to their workers, and in our committee and stakeholder group, we did not hear compelling reasons for why it would be unworkable for all farm owners to do the same.

2. The bill does not protect farmworkers from excessive overtime. This means a farmworker will still be exposed to discipline or termination for choosing not to work more than 160 hours in a two-week period. That's the equivalent of working nearly 11.5-hour days for 14 days straight. Farm owners regularly assert that workers want to work as many hours as they can during the growing season; the fear of discipline therefore shouldn't have any role to play here. As you know, farmworkers will continue to be exempt from any additional overtime pay.
3. The bill does not include a private right of action allowing farmworkers to defend their right to the minimum wage, which otherwise covers Maine's wage and hour laws. Our state's inspectors in the Bureau of Labor Standards do important work enforcing the minimum wage and other laws. However – as we have recently heard in this committee – a mere eight inspectors cannot come close to enforcing all instances of minimum wage violations, even before they gain the responsibility of doing so at the roughly 7,000 farms spread across Maine.^{iv} The minimum wage and other elements labor law require that all workers maintain the right to, when necessary, pursue enforcement on their own. While data on the number of cases alleging minimum wage violations is not available at this time, labor lawyers will confirm such lawsuits are a rarely used but critical tool to protect workers' rights.

In listening sessions facilitated by the DOL, the more than 80 workers who engaged supported being covered by the minimum wage. Many went further to assert they should have an even higher minimum wage for a variety of reasons: how strenuous their work is; its importance to our society; and the various ways they enjoy lesser rights than other workers. We support the proposed minimum wage in this bill while recognizing that those who grow and harvest our food deserve nothing less than other workers.

This bill represents a meaningful step toward extending basic labor rights to our most essential workers. With some small but important changes, which would align it with the Department of Labor's own recommendations, this legislation will set Maine on a path towards a more sustainable agricultural system.^v

Thank you and I welcome any questions you may have.

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ⁱ US Department of Commerce, "A Social-Economic Grouping of the Gainful Workers of the United States," 1938, available at <https://www2.census.gov/library/publications/decennial/1930/workers/workers-national.pdf>

ⁱⁱ 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.

ⁱⁱⁱ "The farmworker wage gap," Daniel Costa, Economic Policy Institute, October 2023, available at <https://www.epi.org/blog/the-farmworker-wage-gap-farmworkers-earned-40-less-than-comparable-nonagricultural-workers-in-2022/>

^{iv} See United States Department of Agriculture Census of Agriculture, 2022, state level data at https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_2_US_State_Level/

^v Committee to Develop and Implement a Minimum Wage Bill for Agricultural Workers, Co-Chairs' Report, February 2024, available at <https://www.maine.gov/labor/docs/2024/mwaw/AWMWCFinalReport.pdf>