

Testimony in support of LD 357, "An Act to Establish a State Minimum Hourly Wage for Agricultural Workers," LD 588, "An Act to Enact the Agricultural Employees Concerted Activity Protection Act," and 589, "An Act to Make Agricultural Workers and Other Related Workers Employees Under the Wage and Hour Laws"

April 2, 2025
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Good afternoon, Senator Tipping, Representative Roeder, and Members of the Joint Standing Committee on Labor. My name is Arthur Phillips. I'm an analyst at the Maine Center for Economic Policy and I am here to testify in support of LDs 357, 588, and 589. While each of these bills would make different changes to current law, all of them would extend basic labor rights to farm workers and help make Maine's agricultural system more resilient.

Farmworkers have long been excluded from basic economic rights. Farmworkers in Maine do not have a right to the state minimum wage, a paystub, unpaid rest breaks, overtime pay, or the ability to decline to work more than 140 hours in a two-week period. Workers in Maine's agriculture industry — which employs a disproportionately large share of Black, Latino, Indigenous, and Asian American Mainers — are approximately 3.4 times more likely to live in poverty than all private sector workers.¹

While these exemptions have been enshrined in federal law for nearly 90 years, more than a dozen states have taken it upon themselves to eliminate them. Maine can join those states by ensuring farmworkers have the right to a minimum wage, overtime pay, and ability to talk about their working conditions without fear of retaliation.

Who are Maine's farmworkers?

The people who milk our cows, rake our blueberries, harvest our potatoes, and do the hard work to power Maine's agricultural sector come from all walks of life. According to the USDA's [2022 Census of Agriculture](#), some of these roughly 11,100 workers are full-time Maine residents, others are migrant workers, and around 1,300 are working in Maine on H-2A visas for temporary agricultural workers. Farmworkers were paid \$150 million in wages in 2022, accounting for approximately 17 percent of the total market value of agricultural products sold.

Where are they employed?

73% of Maine's approximately 7,000 farms do not hire any farm labor. Meanwhile, an estimated 278 farms employ nearly 60% of all farmworkers in the state. In other words, most farmworkers are employed by businesses that can manage to offer basic labor rights to which nearly all other employers are held accountable.

What do they want?

During the committee convened by the governor to explore a farmworkers minimum wage, Maine DOL facilitated listening sessions with farmworkers, in which 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 due to how strenuous their work is; its importance to our society; or the various ways they enjoy lesser rights than other workers. Farmers also overwhelmingly reported already paying the state minimum wage.

LD 589 – Minimum Wage and Overtime

Extending the minimum wage to agricultural workers, with access to the courts and a paystub, is the minimum the Committee should recommend; however, we urge the Committee not to overlook other important rights including overtime pay. While farmers assert they cannot afford the cost of overtime, we should note that several states currently have farmworker overtime statutes. Some states have done so along similar lines as LD 589 proposes, by setting a higher weekly threshold, for example 50 or 60 hours, and gradually lowering it over several years to align with the 40-hour threshold covering other workers. This process provides farmers and their employees plenty of time to implement those changes. 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}

LD 588 - Concerted Activity

LD 589 is not a complicated or far-reaching bill – it simply extends to farmworkers the right to talk about their working conditions without fear of retaliation. This is a small fraction of what nearly all other workers enjoy under state and federal law. To be clear, this bill does not extend to farmworkers the right to collectively bargain or strike. While we believe all workers should have those rights, and farmworkers enjoy them in several other states, those are not included in LD 588. Simply put, this bill allows farmworkers the legal right to discuss their working conditions among themselves, with their employer, and with the public without fear of losing their livelihoods. We know farmworkers face significant risks when coming forward to speak about their working conditions, and this bill would offer them some basic protections to help address issues at work.

LD 357 - Minimum Wage

MECEP was a member of the Governor's 2023 committee to explore a minimum wage for agricultural workers. Over the course of seven public meetings which lasted dozens of hours, we collectively explored the issues under discussion here today. That process resulted in the joint recommendation from the Department of Labor and the Department of Agriculture, Conservation and Forestry which is represented in LD 357. This bill simply ensures farmworkers are paid the minimum wage, receive a pay stub, and can pursue justice through the courts when their rights are violated. It imposes no costs on farmers except for those who would pay workers less than the minimum wage.

Conclusion

Farming is incredibly hard work and margins are tight. We all want Maine farms to continue providing us with good, healthy food, and the state has tools at its disposal to promote those goals, such as by increasing the share of locally produced food that state-funded institutions

procure. Those priorities, however, do not mean our farmworkers should be deprived of basic rights all other workers take for granted. Ensuring workers have these basic rights is long overdue and will help Maine's agricultural industry thrive in the years ahead. We urge you to support these bills.

Data from the 2022 Census of Agriculture (most recent available)ⁱⁱ

- # farms with hired labor: 1,883
- # farms total: 7,036
- # workers: 11,122
- Total wages paid: \$ 150,585,000
- Wages per worker (average): \$13,539
- Total market value of agricultural products sold: \$869,526,000

Other relevant data

- Nationally in 2022, farmworkers earned 40% less than comparable non-agricultural workers.ⁱⁱⁱ
- Nationally, 70% of investigations at farms by the US Dept of Labor Wage and Hour Division found violations of labor law, including wage theft. But the probability that the department will investigate any farm employer is about 1 in 100.^{iv}
- Foreign agricultural workers in the US on H-2A visas enjoy several protections not extended to Maine's farmworkers, including an "adverse effect wage rate" of \$18.83 per hour (\$4.18 higher than Maine's minimum wage and more than \$11.50 above the federal minimum wage), employer-provided transportation and housing, the right to concerted activity, and protections from being fired without cause.^v
- 98% of Maine farmworkers surveyed in 2024 by the Maine Department of Labor favored extending Maine's minimum wage protections.^{vi}
- Maine farmers who participated in minimum wage listening sessions report that they already pay at or above Maine's minimum wage. Some also provide transportation and housing.^{vii}
- A Maine worker who is paid less than the state minimum wage or does not receive a pay stub has no standing under Maine law.^{viii}

ⁱ MECEP analysis of US Census American Community Survey data, ten-year average, 2014-2023, comparing poverty rate for agricultural workers to all private sector workers.

ⁱⁱ USDA, Census of Agriculture, 2022, https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1_Chapter_1_State_Level/Maine/

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

^{iv} Daniel Costa, Philip Martin, and Zachariah Rutledge, Economic Policy Institute, "Federal labor standards enforcement in agriculture," <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/>

^v US Department of Labor, Final Rule: Improving Protections for Workers in Temporary Agricultural Employment in the United States, <https://www.dol.gov/agencies/whd/agriculture/h2a/final-rule>

^{vi} Agricultural Workers Minimum Wage Committee Meeting, November 27, 2023, <https://www.maine.gov/labor/docs/2023/mwaw/AWMWC%20Meeting%206%20Materials.pdf>

^{vii} Agricultural Workers Minimum Wage Committee Meeting, November 27, 2023, <https://www.maine.gov/labor/docs/2023/mwaw/AWMWC%20Meeting%206%20Materials.pdf>

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