

**Testimony of Donald E. Flannery, Executive Director, Maine Potato Board to the  
Committee on Labor and Housing  
April 7, 2021**

**LD 1022 – An Act To Make Agricultural Workers and Other Workers Employees under the Wage and Hour Laws**

Senator Hickman, Representative Sylvester and members of the Labor and Housing Committee; I am Donald Flannery, Executive Director of the Maine Potato Board (MPB) and would like to express the MPB's opposition to LD 1022: An act to make Agricultural workers and other workers employees under the wage and hour laws.

We are here in opposition to LD 1022, which if passed would have an enormous negative impact on the potato industry in Maine and we believe all agriculture in this state. The long standing exemption for overtime for agricultural workers was put in place recognizing the unique nature of agriculture production. In Maine we have a very limited time in which to raise and harvest crops; in the potato industry, that is approximately 120 days. Agriculture is also faced with factors we have no control over such as the weather; we can't plant a crop until ground conditions are suitable, we can't plant in wet soil conditions and if it rains, cultivation and management of the crop during the summer is impacted by weather and harvesting of the crop can only begin when it has reached maturity and again can't be done in wet conditions.

What this all means is that Mother Nature has more control over when we can do our work than the grower. Therefore, overtime is unavoidable if growers are to plant, manage and harvest a quality crop, which is the key to their success and sustainability. We would all enjoy being able to work five days a week, eight hours a day and produce a quality crop; we and our employees could have long weekends and spend more time with our friends and families. That just isn't an option when you are working in agriculture. I'm sure you have all heard about "making hay when the sun shines" well that applies to all sectors of agriculture.

Understanding the limitations agriculture has as it relates to when and how long you have to work giving various conditions, the elimination of the overtime exemption would have a huge negative impact on the potato industry in Maine. In preparing for this public hearing, we did survey of 12 potato growers across the state on what the impact would be for them, looking a very short period of time when overtime is needed; that being actual planting and harvest. We looked at this short window of time because it was the easiest for growers to actually determine, but it's not the only periods when overtime is needed. What we found out was very eye opening when you look at the cost for labor with and without overtime.

In surveying the 12 growers, we found that average weekly wages paid with overtime would increase by \$69,882 or \$419,293 annually for those 12 growers, keep in mind this is only for the very short window of time: planting and harvest. The 12 growers included in this survey represent an estimated 7,000 acres or 14.0% of the total potato production in Maine. There were 98 full-time and 279 part-time employees included in this survey with the average full-time wage being \$17.16 and an average part-time wage of \$14.08. The increase of \$419,293 annually would mean an increase of approximately \$59.90 per acre; if you use this increase cost per acre and apply it to total production of 50,000 acres, the impact of elimination of the overtime exemption

would cost potato growers in Maine an additional \$2,994,948; this increase would be devastating to our industry. Again, these numbers only represent a short period of time when overtime applies so the actual impact will be much more than the \$2,994,948. The estimated increase does not include the increased costs of benefits paid for by the grower such as Social Security, Medicare, workers compensation or unemployment all based on income.

Some may say that this additional cost can be either absorbed by the grower or passed on to the buyer, but that is just impossible; grower margins are not large enough to allow for this increase and agriculture producers are not price setters, they are price takers with very little control of market prices.

The potato industry in Maine has always taken great pride in what we do, how we take care of the land, and provide healthy quality food to Maine residents and beyond; this also includes taking care of our employees. If LD 1022 passes many potato growers will have to make hard business decisions to ensure they can continue to operate; in some cases that it will mean rather than paying more for labor they will invest in equipment that will allow them to hire fewer full and part-time employees.

We ask that you vote to not pass LD 1022 and show your continued support for agriculture in Maine. I will be happy to answer any questions you have; I will be available for the work session and can provide any additional information necessary.