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TESTIMONY BEFORE THE JOINT COMMITTEE ON LABOR AND HOUSING

Neither For Nor Against LD 1022

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

April 7, 2021

Senator Hickman, Representative Sylvester, and members of the Committee, I am Nancy McBrady, and I am the Director of the Bureau of Agriculture, Food and Rural Resources in the Department of Agriculture, Conservation and Forestry. I am here today to speak in Neither for Nor Against LD 1022, “*An Act To Make Agricultural Workers and Other Workers Employees under the Wage and Hour Laws.*”

Maine farmers produce a plethora 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. Most are small. According to the 2017 USDA Ag Census, 41% of farms (3,122) have farms sales of less than \$2,500/year. In contrast, 9% of farms (699) have sales of \$100k 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 health care costs and low food prices eat into already razor thin margins, if any. Given the differences in size 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 if they could afford it, or provide additional benefits to their employees.

Farming is not a perfect profession, however. Farming can require highly physical labor and long hours during a compressed harvest season. Many agricultural workers in Maine are migrant and seasonal workers, and depend upon employers for transportation and housing. As has been expressed to me, few agricultural workers end up settling into farming, or owning their own farm, and often instead move into other trades such as construction in order to achieve higher wages.

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The Department is aware of the concern that an overtime limit would 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 will be unable to do so due to market and commodity dynamics, such as dairy producers (where prices are set by federal pricing policies). These farms are price takers, not price makers.

However, the Department is also cognizant that other states across the country 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 would be a monumental shift in agricultural policy for the state. We encourage the Committee to consider these nuances and listen to the concerns of agricultural representatives and farmers that will be expressed in the course of this hearing to ensure that they fully understand the economic and labor impacts of this bill on farmers and farmworkers as well as the agricultural sector as a whole before voting to change this law.

Thank you for your time. I'm happy to answer any questions the Committee may have, and at the work season.