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**Testimony of Michael Roland, Bureau of Labor Standards,
Maine Department of Labor
Neither For Nor Against LD 1022,
An Act To Make Agricultural Workers and Other Workers Employees under the Wage
and Hour Laws**

To the Joint Standing Committee on Labor and Housing
Public Hearing, Wednesday, April 7, 2021

Good morning Senator Hickman, Representative Sylvester and members of the Joint Standing Committee on Labor and Housing. I am Michael Roland, Director of the Bureau of Labor Standards for the Maine Department of Labor (Department). I am here today to speak on behalf of the Department neither for nor against LD 1022, "An Act To Make Agricultural Workers and Other Workers Employees under the Wage and Hour Laws."

The proposed legislation would extend certain wage and hour protections to certain currently exempt workers by removing language from the statute exempting them. Agricultural workers would be required to receive Maine's minimum wage; they and some workers in related industries would become eligible for overtime pay; and the number of hours agricultural and seasonal workers can be mandated to work would be limited. LD 1022 expands wage and hour protections to include all agricultural workers, food processing workers, warehouse workers, advertisers, drivers, and driver's helpers that perform certain duties.

We estimate that in 2019 approximately 30,000 employees who work for approximately 3,900 employers in Maine would be added to minimum wage and overtime protections with passage of this bill. Less than half of that number would be newly covered by extending only minimum wage requirements. Under the Fair Labor Standards Act (FLSA) as amended in 1966, most of those workers currently receive the federal minimum. Recently, a handful of other states including New York have extended partial or modified coverage to agricultural workers; and California extended full phased-in coverage of state minimum wage and overtime protections to farmworkers in 2016.

We agree broadly with the goal of this bill and believe that agricultural workers ought to enjoy the wage and hour protections long granted so many other workers. When the 29th Legislature considered a similar bill, the Labor and Housing Committee asked the Department to assemble a broad group of interested parties to discuss the potential impact of the proposed changes. The resulting meeting in November of 2019 was well-attended and a summary is attached. At that time there was considerable agreement that extending minimum wage protections to farmworkers would not significantly damage employers or the industry, for the simple reason that those workers almost universally already receive more than Maine's minimum wage. A more recent informal poll of the participants in that discussion has shown that there is still very little resistance to extending the minimum wage to farmworkers.

There was and is less agreement on whether imposing standard overtime requirements would be sustainable by employers in agricultural and related currently-exempt occupations. Not surprisingly, the Department found both strong support and considerable resistance. However, various participants suggested then and more

recently that a modified form of overtime protection—for instance with higher regular hours or with lower premium pay, perhaps phased in over time; and/or applicable to farms over a certain size—might be worth exploring.

Since the proposed legislation would significantly increase the number of workers eligible for wage and hour protections, the Department would need to increase its staff. Based on the numbers of workers and employers affected and the nature of the industry, we project that one additional Inspector would be required to enforce minimum wage protections alone, and two or more Inspectors if overtime protections are also expanded. This additional staff capacity was not requested in the Governor's budget.

Thank you for your time and attention. I would be happy to answer any questions you may have now or at a future work session.

The Maine Department of Labor is committed to serving Maine workers and businesses by helping employers recruit and train a talented workforce, providing workers with skills needed to compete in our economy, assisting individuals when jobs are lost, aiding people with disabilities reach career goals, ensuring safe and fair workplaces for people on the job and providing research and analysis of employment data to support job growth.